



VIRGINIA

REGISTER OF REGULATIONS

VOL. 41 ISS. 2

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

September 9, 2024

TABLE OF CONTENTS

Register Information Page	243
Publication Schedule and Deadlines	244
Petitions for Rulemaking	245
Periodic Reviews and Small Business Impact Reviews	246
Notices of Intended Regulatory Action	247
Regulations	248
5VAC5-30. Uniform Commercial Code Filing Rules (Proposed)	248
8VAC20-23. Licensure Regulations for School Personnel (Final).....	253
8VAC20-23. Licensure Regulations for School Personnel (Fast-Track)	258
8VAC20-543. Regulations Governing the Review and Approval of Education Programs in Virginia (Fast-Track)	258
8VAC20-820. General Procedures and Information for Licensure (Proposed)	308
8VAC20-821. General Procedures for the Licensure of Child Day Programs and Family Day Systems (Proposed)	308
9VAC20-90. Solid Waste Management Permit Action Fees and Annual Fees (Forms).....	321
9VAC25-780. Local and Regional Water Supply Planning (Final).....	321
18VAC45-20. Board for Branch Pilots Regulations (Final)	337
18VAC60-21. Regulations Governing the Practice of Dentistry (Final)	339
18VAC60-21. Regulations Governing the Practice of Dentistry (Fast-Track)	339
18VAC60-25. Regulations Governing the Practice of Dental Hygiene (Fast-Track)	339
18VAC60-30. Regulations Governing the Practice of Dental Assistants (Fast-Track)	377
18VAC110-20. Regulations Governing the Practice of Pharmacy (Final)	377
18VAC110-20. Regulations Governing the Practice of Pharmacy (Final)	379
18VAC110-20. Regulations Governing the Practice of Pharmacy (Emergency)	382
18VAC110-20. Regulations Governing the Practice of Pharmacy (Forms)	393
18VAC115-50. Regulations Governing the Practice of Marriage and Family Therapy (Final)	394
18VAC120-30. Regulations Governing Polygraph Examiners (Final).....	395
18VAC135-20. Virginia Real Estate Board Licensing Regulations (Final).....	395
18VAC135-20. Virginia Real Estate Board Licensing Regulations (Final).....	398
18VAC135-20. Virginia Real Estate Board Licensing Regulations (Final).....	404
18VAC135-20. Virginia Real Estate Board Licensing Regulations (Final).....	407
20VAC5-340. Rules Governing Shared Solar Program (Proposed)	407
24VAC20-121. Virginia Driver Training Schools Regulations (Fast-Track)	420
24VAC20-121. Virginia Driver Training Schools Regulations (Fast-Track)	422
Guidance Documents	425
General Notices	427
Errata	427

Virginia Code Commission

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

THE VIRGINIA REGISTER OF REGULATIONS (USPS 001-831) is published biweekly for \$263.00 per year by Matthew Bender & Company, Inc., 3 Lear Jet Lane, Suite 102, P.O. Box 1710, Latham, NY 12110. Periodical postage is paid at Easton, MD and at additional mailing offices. POSTMASTER: Send address changes to The Virginia Register of Regulations, 4810 Williamsburg Road, Unit 2, Hurlock, MD 21643.

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: **Marcus B. Simon, Chair; Russet W. Perry, Vice Chair; Katrina E. Callsen; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougle; Michael Mullin; Christopher R. Nolen; Steven Popps; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade.**

Staff of the Virginia Register: **Holly Trice, Registrar of Regulations; Anne Bloomsburg, Assistant Registrar; Nikki Clemons, Managing Editor; Erin Comerford, Regulations Analyst.**

PUBLICATION SCHEDULE AND DEADLINES

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

September 2024 through October 2025

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
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
41:16	March 5, 2025	March 24, 2025
41:17	March 19, 2025	April 7, 2025
41:18	April 2, 2025	April 21, 2025
41:19	April 16, 2025	May 5, 2025
41:20	April 30, 2025	May 19, 2025
41:21	May 14, 2025	June 2, 2025
41:22	May 28, 2025	June 16, 2025
41:23	June 11, 2025	June 30, 2025
41:24	June 25, 2025	July 14, 2025
41:25	July 9, 2025	July 28, 2025
41:26	July 23, 2025	August 11, 2025
42:1	August 6, 2025	August 25, 2025
42:2	August 20, 2025	September 8, 2025
42:3	September 3, 2025	September 22, 2025
42:4	September 17, 2025	October 6, 2025

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF COUNSELING

Initial Agency Notice

Titles of Regulations: **18VAC115-20. Regulations Governing the Practice of Professional Counseling.**

18VAC115-50. Regulations Governing the Practice of Marriage and Family Therapy.

Statutory Authority: §§ 54.1-2400 and 54.1-3506 of the Code of Virginia.

Name of Petitioner: Sharon Watson.

Nature of Petitioner's Request: The petitioner requests that the Board of Counseling amend 18VAC115-20-52 C 2 and 18VAC115-50-60 C 3 to require that supervisors complete two hours of continuing education in residency and supervision requirements and related supervisory ethical issues as part of required annual continuing education for licensed professional counselors and licensed marriage and family therapists.

Agency Plan for Disposition of Request: The petition for rulemaking will be published in the Virginia Register of Regulations on September 9, 2024. The petition will also be published on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment, which opens September 9, 2024, and closes October 9, 2024. The board will consider the petition and all comments in support or opposition at the next meeting after the close of public comment. That meeting is currently scheduled for January 24, 2025. The petitioner will be notified of the board's decision after that meeting.

Public Comment Deadline: October 9, 2024.

Agency Contact: Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4406, or email jaime.hoyle@dhp.virginia.gov.

VA.R. Doc. No. PFR25-04; Filed August 12, 2024, 7:34 a.m.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 22. SOCIAL SERVICES

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department for Aging and Rehabilitative Services (DARS) conducted a periodic review and a small business impact review of **22VAC30-40, Protections of Participants in Human Research**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated August 16, 2024, to support this decision.

The Protections of Participants in Human Research regulation (22VAC30-40) establishes protocols to ensure adequate safeguards for the rights and welfare of individuals participating in human subject research. DARS, the Wilson Workforce and Rehabilitation Center (WWRC), the area agencies on aging (AAAs), sheltered workshops (or employment services organizations), and centers for independent living (CILs) that conduct or participate in human subject research are subject to these provisions as required by federal and state law. Universities and other external research organizations that partner with DARS, WWRC, AAAs, sheltered workshops, and CILs in conducting human subject research would also be subject to these provisions. DARS, WWRC, and the agency's affiliated providers conduct human subject research projects that involve older adults and individuals with disabilities, including youth with disabilities. The regulation is clearly written and understandable. The regulation is necessary to comply with § 51.5-132 of the Code of Virginia and to protect the health, welfare, and safety of older adults and individuals with disabilities, including youth with disabilities, who participate in research projects conducted by DARS, WWRC, and the agency's affiliated providers.

DARS has not received any complaints or concerns about the regulation.

Following the promulgation of the federal "Common Rule" in 2018, DARS updated the regulatory chapter to align with federal requirements in 2020. The regulation does not conflict with any federal laws or regulations or state laws. As a result of Chapter 728 of the 2020 Acts of Assembly, the regulation was revised in 2020 to include AAAs under the scope of the regulation.

There is no anticipated economic impact on these entities for this regulation. DARS does not charge fees for Homeless and Housing Resource Center (HHRC) reviews or oversight. Through this regulation, DARS aligns the agency's requirements with those that are expected through the

Common Rule for all research conducted using federal funding.

This alignment streamlines the review and approval process for researchers. Further, DARS is often able to defer to institutional review boards within universities as the primary reviewer and approver of human subject research, which minimizes burden and eliminates redundancy for the DARS HRRC as well as for researchers.

Contact Information: Charlotte Arbogast, Senior Policy Analyst, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, FAX (804) 662-7663, TDD (800) 464-9950, or email charlotte.arbogast@dars.virginia.gov.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-875, Virginia Erosion and Stormwater Management Regulation**. The purpose of the proposed action is to amend provisions of the regulation to change the statewide permit fee schedule for the Virginia Pollutant Discharge Elimination System Permit for Discharges of Stormwater from Construction Activities and municipal separate storm sewer system (MS4) permits in accordance with Item 363 J of Chapter 2 of the 2024 Acts of Assembly, Special Session I. The amendments would set fees at an amount representing no less than 60%, not to exceed 62%, of the direct costs for the administration, compliance, and enforcement of such MS4 permits.

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

Statutory Authority: § 62.1-44.15:28 of the Code of Virginia.

Public Comment Deadline: October 9, 2024.

Agency Contact: Rebecca W. Rochet, Deputy Director, Division of Water Permitting, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 801-2950, or email rebeccah.rochet@deq.virginia.gov.

VA.R. Doc. No. R25-8011; Filed August 20, 2024, 9:11 a.m.

Drug Enforcement Administration registration; (ii) establish requirements for required health care practitioners needed to maintain, audit, and dispense drug stock and requirements for prescribers connected to the CSR holder; (iii) provide certain allowances for EMS agencies and regional EMS councils regarding drug storage, alarm systems, and audits of drugs; and (iv) permit transfer of drugs between locations controlled by a hub CSR and between CSR holders.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Public Comment Deadline: October 9, 2024.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

VA.R. Doc. No. R25-7873; Filed August 16, 2024, 8:44 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Pharmacy intends to consider amending **18VAC110-20, Regulations Governing the Practice of Pharmacy**. The purpose of the proposed action is to align regulations with new federal requirements of the Drug Supply Chain Security Act (21 USC § 351 et seq.) and the Protecting Patient Access to Emergency Medications Act (21 USC § 823) that ensures emergency medical services (EMS) providers can provide drugs to patients as needed. The amendments being considered (i) allow EMS agencies and regional EMS councils to apply for a controlled substance registration (CSR) and use a hub-and-spoke model to service designated locations of the entity holding the CSR and federal

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 5. CORPORATIONS

STATE CORPORATION COMMISSION

Proposed Regulation

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

Title of Regulation: **5VAC5-30. Uniform Commercial Code Filing Rules (amending 5VAC5-30-20 through 5VAC5-30-70).**

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

Public Hearing Information: A public hearing will be held upon request.

Agency Contact: Bernard Logan, Clerk of the Commission, State Corporation Commission, 1300 East Main Street, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9834, or email bernard.logan@scc.virginia.gov.

Summary:

The proposed amendments require that Uniform Commercial Code (UCC) records shall only be communicated to the Clerk of the Virginia State Corporation Commission by the electronic delivery method provided by the clerk, unless in the case of hardship or other good cause, in which case the clerk may, at its discretion, allow for the communication of a UCC record by a method other than electronic filing. The proposed amendments include additional process revisions to update the regulation.

AT RICHMOND, AUGUST 20, 2024

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. CLK-2024-00005

Ex Parte: In the matter of Adopting Revisions

to Uniform Commercial Code Filing Rules

ORDER ESTABLISHING PROCEEDING

Section 12.1-13 of the Code of Virginia ("Code") provides that "[i]n the administration and enforcement of all laws within its jurisdiction, the [State Corporation Commission

("Commission")] shall have the power to promulgate rules and regulations[.]" Section 8.9A-526 of Virginia's Uniform Commercial Code ("UCC") – Secured Transactions, § 8.9A-101 et seq. of the Code, provides that the Commission shall promulgate and make available to the public such rules as it deems necessary to implement Title 8.9A of the Code in accordance with applicable law. The rules issued by the Commission pursuant to § 8.9A-526 of the Code are set forth in Title 5, Chapter 30 of the Virginia Administrative Code ("Chapter 30").¹

The Office of the Clerk ("Clerk") has submitted to the Commission proposed amendments to Chapter 30 to require that UCC records shall only be tendered to the Clerk by the electronic delivery method provided by the Clerk unless in the case of hardship or other good cause, in which case the Clerk may, at its discretion, allow for the communication of a UCC record by a method other than electronic filing. Additionally, the Clerk has proposed further process revisions to update the rules. Collectively, these are referred to as the "Proposed Amendments."

The Clerk has recommended to the Commission that the Proposed Amendments should be considered for adoption with an effective date of January 1, 2025.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that a proceeding should be established to amend the Rules. To initiate this proceeding, the Clerk has prepared the Proposed Amendments, which are appended to this Order. The Commission finds that notice of the Proposed Amendments should be given to the public, that interested persons should be provided an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Amendments for adoption with a proposed effective date of January 1, 2025.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. CLK-2024-00005.

(2) All comments and other documents and pleadings filed in this matter shall be submitted electronically to the extent authorized by Rule 5VAC5-20-150, Copies and format, of the Commission's Rules of Practice and Procedure.² Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and shall comply with Rule 5VAC5-20-170, Confidential information, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(3) On or before October 11, 2024, any interested person may comment on, propose modifications or supplements to, or request a hearing on the Proposed Amendments by following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments.

Those unable, as a practical matter, to submit such documents electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All documents shall refer to Case No. CLK-2024-00005. Any request for hearing shall state why a hearing is necessary and why the issues raised in the request for hearing cannot be addressed adequately in written comments.

(4) If a sufficient request for hearing is not received, the Commission may consider the matter and enter an order based upon the comments, documents or other pleadings filed in this proceeding.

(5) The Clerk shall provide notice of this Order Establishing Proceeding to any interested persons as the Clerk may designate.

(6) The Commission's Office of General Counsel shall forward a copy of this Order Establishing Proceeding, together with the proposed amendments to the rules, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

(7) Interested persons may download unofficial copies of the Order and the Proposed Amendments from the Commission's website: scc.virginia.gov/pages/Case-Information.

(8) This matter is continued.

A COPY hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, at MBrowder@oag.state.va.us, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424; and a copy hereof shall be delivered to the Commission's Office of General Counsel.

¹ Available at <https://law.lis.virginia.gov/admincode/title5/agency5/chapter30/>.

² 5VAC5-20-10 et seq. ("Rules of Practice").

5VAC5-30-20. Definitions.

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

"Amendment" means a UCC record that amends the information contained in a financing statement. Amendments also include (i) assignments and (ii) continuation and termination statements.

"Assignment" means an amendment that assigns all or a part of a secured party's power to authorize an amendment to a financing statement.

"Continuation statement" shall have the meaning prescribed by § 8.9A-102(a)(27) of the Code of Virginia.

"File number" shall have the meaning prescribed by § 8.9A-102(a)(36) of the Code of Virginia.

"Filing office" means the Clerk's Office of the State Corporation Commission.

"Filing officer" means the Clerk of the State Corporation Commission.

"Filing officer statement" means a statement entered into the UCC information management system to explain an action by the filing office.

"Financing statement" shall have the meaning prescribed by § 8.9A-102(a)(39) of the Code of Virginia.

"Individual" means a natural person, living or deceased.

"Information statement" means a UCC record that indicates a financing statement is inaccurate or wrongfully filed.

"Initial financing statement" means a UCC record containing the information required to be in an initial financing statement and that causes the filing office to establish the initial record of existence of a financing statement.

"Organization" means a legal person that is not an individual.

"Personal identifiable information" shall have the meaning prescribed by § 12.1-19 B of the Code of Virginia.

"Remitter" means a person who delivers a UCC record to the filing office for filing, whether the person is a filer or an agent of a filer responsible for delivering the UCC record for filing. ~~"Remitter" does not include a person responsible merely for the delivery of the UCC record to the filing office, such as the postal service or a courier service but does include a service provider who acts as a filer's representative in the filing process.~~

"Secured party of record" shall have the meaning prescribed by § 8.9A-511 of the Code of Virginia.

"Termination statement" shall have the meaning prescribed by § 8.9A-102(a)(80) of the Code of Virginia.

"Through date" means the most recent date that all submissions for a specified day have been indexed in the UCC information management system.

"UCC" means the Uniform Commercial Code - Secured Transactions (§ 8.9A-101 et seq. of the Code of Virginia).

"UCC information management system" means the information management system used by the filing office to store, index, and retrieve information relating to financing statements.

"UCC record" means an initial financing statement, an amendment, and an information or a filing officer statement,

Regulations

and shall not be deemed to refer exclusively to paper or paper-based writings.

5VAC5-30-30. General filing and search requirements.

A. UCC records ~~may be delivered to~~ shall only be tendered for filing at the filing office for filing as follows: 1. ~~By personal delivery, at the filing office street address;~~ 2. ~~By courier delivery, at the filing office street address;~~ 3. ~~By postal delivery, to the filing office mailing address;~~ or 4. ~~B~~ by electronic delivery method provided and authorized by the filing office.

B. ~~The filing time for a UCC record delivered to the filing office for filing by personal or courier delivery is the time the UCC record is date and time stamped by the filing office even though the UCC record may not yet have been accepted for filing and may be subsequently rejected. The filing time for a UCC record delivered to the filing office for filing by postal delivery is the next close of business following the time of delivery (even though the UCC record may not yet have been accepted for filing and may be subsequently rejected). A UCC record delivered to the filing office for filing after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business. The filing time for a UCC record delivered to the filing office for filing by authorized electronic delivery method is the date and time the UCC information management system receives the UCC record and determines that all the required elements of the transmission have been received in the required format.~~

C. ~~In the case of hardship or other good cause, the filing office may, at its discretion, allow for the communication of a UCC record by a method of communication other than electronic filing. Hardship delivery may only occur after the filer has received prior approval from the filing office. The filing office will determine the policy and procedure used to accept and process a UCC record under a hardship request.~~

D. UCC search requests may be delivered to the filing office by personal, courier, or postal delivery, or by electronic delivery method provided and authorized by the filing office.

5VAC5-30-40. Forms, fees, Fees and payments.

A. ~~Forms.~~ 1. ~~The filing office shall only accept forms for UCC records that conform to the requirements of this chapter.~~ 2. ~~The forms approved by the International Association of Commercial Administrators as they appear on the filing office's website (<http://www.sec.virginia.gov/elk/ucfile.aspx>) shall be accepted.~~ 3. ~~The filing office may approve other forms for acceptance, including additional forms approved by the International Association of Commercial Administrators.~~ B. ~~Fees.~~ Filing fees and fees for services provided under this chapter are as follows:

1. The fee for filing ~~and indexing~~ a UCC record is \$20.
2. The fee for submitting a UCC search request is \$7.00.

3. There is no fee for furnishing a paper copy of a UCC record of 25 or fewer pages. The fee for furnishing a paper copy of a UCC record that exceeds 25 pages is \$10.00. For certifying a copy, the fee for the certificate and affixing thereto the seal of the commission or a facsimile thereof is \$6.00.

~~C. Methods of payment.~~ B. Filing fees and fees for services provided under this chapter may be paid by the following methods:

~~1. Payment by debit or credit card of a type approved by the filing office and cash shall be accepted if paid in person at the filing office.~~

~~2. Personal check, cashier's check and money order made payable to the State Corporation Commission or Treasurer of Virginia shall be accepted for payment if drawn on a bank acceptable to the filing office or if the drawer is acceptable to the filing office.~~

~~3. 1. Payment by debit or credit card of a type approved by the filing office shall be accepted for the filing or submission of a document delivered to the filing office for filing by authorized electronic delivery method.~~

~~4. 2. The filing office may accept payment via electronic funds under National Automated Clearing House Association (NACHA) rules from remitters who have entered into appropriate NACHA-approved arrangements for such transfers and who authorize the relevant transfer pursuant to such arrangements and rules.~~

C. Fees for services provided under this chapter may be paid by the following methods:

1. Payment by debit or credit card of a type approved by the filing office for services requested by authorized electronic delivery method or in person at the filing office.

2. Personal check, cashier's check, and money order made payable to the State Corporation Commission or Treasurer of Virginia shall be accepted for services requested by personal, courier, or postal delivery, or in person at the filing office, if drawn on a bank acceptable to the filing office or if the drawer is acceptable to the filing office.

~~D. Overpayment and underpayment policies~~ In case of hardship or other good cause, the filing office may allow for the payment of fees by an alternate method of payment. Hardship or other good cause payment may only occur after the filer has received prior approval from the filing office.

~~4. E.~~ The filing office shall notify the remitter of the amount of any overpayment exceeding \$24.99 and send the remitter the appropriate procedure and form for requesting a refund. The filing office shall refund an overpayment of \$24.99 or less only upon the written request of the remitter. A request for a refund shall be delivered to the filing office within 12 months from the date of payment.

~~2.~~ **F.** Upon receipt of a hardship or other good cause UCC record with an insufficient filing fee, the filing office shall return the UCC record to the remitter with a notice stating the deficiency and may retain the filing fee.

~~E. Uncollected filing fee payment.~~ **G.** A filing may be voided by the filing office if the filing fee payment that is submitted by the remitter is dishonored, declined, refused, reversed, charged back to the commission, returned to the commission unpaid, or otherwise rejected for any reason by a financial institution or other third party, and after notice from the filing office, the remitter fails to submit a valid payment for the filing fee and any penalties.

~~F. Federal liens.~~ **H.** A notice of lien, certificate and other notice affecting a federal tax lien or other federal lien presented to the filing office pursuant to the provisions of the Uniform Federal Lien Registration Act (§ 55-142.1 et seq. of the Code of Virginia) shall be treated as the most analogous UCC record unless the Uniform Federal Lien Registration Act or federal law provides otherwise.

5VAC5-30-50. Acceptance and refusal of UCC records; continuation statements.

A. The duties and responsibilities of the filing office with respect to the administration of the UCC are ministerial. In accepting for filing or refusing to file a UCC record pursuant to this chapter, the filing office does none of the following:

1. Determine the legal sufficiency or insufficiency of a UCC record;
2. Determine that a security interest in collateral exists or does not exist;
3. Determine that information in the UCC record is correct or incorrect, in whole or in part; or
4. Create a presumption that information in the UCC record is correct or incorrect, in whole or in part.

B. The first day on which a continuation statement may be filed is the day of the month corresponding to the date upon which the related financing statement would lapse in the sixth month preceding the month in which the financing statement would lapse. If there is no such corresponding date, the first day on which a continuation statement may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse. The last day on which a continuation statement may be filed is the date upon which the financing statement lapses. ~~If the lapse date falls on a Saturday, Sunday, or other day on which the filing office is not open, then the last day on which a continuation statement may be filed, if delivered to the filing office for filing by personal, courier, or postal delivery, is the last day the filing office is open prior to the lapse date. An authorized electronic delivery method may be available to file a continuation statement on a Saturday, Sunday, or other day on which the filing office is not open. The~~

relevant anniversary for a February 29 filing date shall be March 1 in the fifth or 30th year following the date of filing.

C. Except as provided in 5VAC5-30-40 D, if the filing office finds grounds to refuse a UCC record for filing, including those set forth in § 8.9A-516 (b) of the Code of Virginia, the filing office shall return the UCC record to the remitter and may retain the filing fee.

D. Nothing in this chapter shall prevent the filing office from communicating to a filer or a remitter that the filing office noticed apparent potential defects in a UCC record, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so and may not, in fact, have the resources to identify potential defects. The responsibility for the legal effectiveness of filing rests with filers and remitters and the filing office bears no responsibility for such effectiveness.

E. The filing office may act in accordance with § 12.1-19 B of the Code of Virginia with respect to submissions that contain personal identifiable information.

F. If it is determined that the filing office refused to accept a UCC record in error, the filing office shall file the UCC record with the filing date and time that were assigned, ~~based on the method of delivery,~~ by the filing office after the record was originally delivered to the filing office for filing. The filing office shall also file a filing officer statement that states the effective date and time of filing, which shall be the date and time the UCC record was originally delivered to the filing office for filing.

5VAC5-30-60. Filing and data entry procedures.

A. The filing office may correct errors made by its personnel in the UCC information management system at any time. The filing office shall file a filing officer statement in the UCC information management system identifying the UCC record to which it relates, the date of the correction or other action taken, and an explanation of the corrective or other action taken. The filing officer statement shall be preserved as long as the UCC record of the initial financing statement is preserved in the UCC information management system.

B. An error by a filer or remitter is the responsibility of that person. It can be corrected by filing an amendment or it can be disclosed by filing an information statement pursuant to § 8.9A-518 of the Code of Virginia.

~~C. 1. A UCC record delivered to the filing office for filing shall designate whether a name is a name of an individual or an organization. If the name is that of an individual, the surname, first personal name, additional name or names, and any suffix shall be given. 2. Organization names are entered into the UCC information management system exactly as set forth in the UCC record, even if it appears that multiple names are set forth in the UCC record or if it appears that the name of an individual has been included in the field designated for an~~

Regulations

organization name. 3. The filing office will only accept forms that designate separate fields for individual and organization names and separate fields for the surname, first personal name, additional name or names, and any suffix. Such forms diminish the possibility of filing office error and help assure that filers' expectations are met. However, the inclusion of names in an incorrect field or the failure to transmit names accurately to the filing office may cause a financing statement to be ineffective. Only names entered in a designated name field through the system-to-system transfer method will be recorded as a name in the UCC information management system. This applies to all parties associated with a UCC record.

D. The filing office shall take no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor included in the UCC information management system.

5VAC5-30-70. Search requests and reports.

A. The filing office maintains for public inspection a searchable index for all UCC records. The index shall provide for the retrieval of all filed UCC records by the name of the debtor and by the file number of the initial financing statement.

B. Search requests shall be made only by electronic delivery method provided and authorized by the filing office or on the Information Request form (Form UCC11) and shall include:

1. The name of the debtor to be searched, specifying whether the debtor is an individual or organization. A search request will be processed using the exact name provided by the requestor.
2. The name and address of the person to whom the search report is to be sent.
3. Payment of the appropriate fee, which shall be made by a method set forth in this chapter.

C. Search requests may include:

1. A request that copies of UCC records found in the search be included with the search report; and
2. Instructions For requests made by personal, courier, or postal delivery, instructions on the mode of delivery desired, if other than by postal delivery, which shall be followed if the desired mode is acceptable to the filing office.

D. Search results are produced by the application of standardized search logic to the name presented to the filing office. The following criteria apply to searches:

1. There is no limit to the number of matches that may be returned in response to the search request.
2. No distinction is made between upper and lower case letters.
3. Punctuation marks and accents are disregarded.

4. "Noise words" are limited to "an," "and," "for," "of," and "the." The word "the" is disregarded. Other noise words appearing anywhere except at the beginning of an organization name are disregarded. Certain business words are modified to a standard abbreviation: company to "co," corporation to "corp," limited to "Ltd," incorporated to "inc."

5. All spaces are disregarded.

6. After using the preceding criteria to modify the name to be searched, the search will reveal names of debtors that are contained in unlapsed or all initial financing statements in an alphabetical list.

E. Reports created in response to a search request shall include the following:

1. The date and time the report was generated.
2. Identification of the name searched.
3. The through date as of the date and time the report was generated.
4. For an organization, the name as it appears after application of the standardized search logic.
5. Identification of each unlapsed initial financing statement or all initial financing statements filed on or prior to the report date and time corresponding to the search criteria, by name of debtor, by file number, and by file date and file time.
6. For each initial financing statement on the report, a listing of all related UCC records filed by the filing office on or prior to the report date.
7. Copies of all UCC records revealed by the search and requested by the requestor.

F. The filing office may provide access to the searchable index via the Internet that produces search results beyond exact name matches. Search results obtained via the Internet shall not constitute an official search and will not be certified by the filing office.

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, Fourth Floor, Richmond, Virginia 23219.

FORMS (5VAC5-30)

UCC Financing Statement, Form UCC1 (rev. 4/11).

UCC Financing Statement Addendum, Form UCC1Ad (rev. 4/11).

~~UCC Financing Statement Additional Party, Form UCC1AP (rev. 8/11).~~

~~UCC Financing Statement Amendment, Form UCC3 (rev. 4/11).~~

~~UCC Financing Statement Amendment Addendum, Form UCC3Ad (rev. 4/11).~~

~~UCC Financing Statement Amendment Additional Party, Form UCC3AP (rev. 8/11).~~

~~UCC Information Statement, Form UCC5 (rev. 7/12).~~

~~UCC Information Request, Form UCC11 (rev. 7/12).~~

[UCC Information Request, Form UCC11 \(rev. 7/2023\)](#)

VA.R. Doc. No. R25-8014; Filed August 20, 2024, 5:07 p.m.



TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Final Regulation

Title of Regulation: **8VAC20-23. Licensure Regulations for School Personnel (amending 8VAC20-23-130; adding 8VAC20-23-321 through 8VAC20-23-324).**

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

Effective Date: October 9, 2024.

Agency Contact: Maggie Clemmons, Director, Licensure and School Leadership, Department of Education, 101 North 14th Street, Richmond, VA 23219, telephone (804) 371-2471, or email maggie.clemmons@doe.virginia.gov.

Summary:

Pursuant to Chapter 391 of the 2018 Acts of Assembly, the amendments establish an endorsement in dual language instruction grades preK through 6.

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

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

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

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

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

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

2. Curriculum and instruction: ~~3~~ three semester hours.

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

(1) Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; varied and effective methods of communication with and among students; selection and use of materials, including media and contemporary technologies; and selection, development, and use of appropriate curricula, methodologies, and materials that support and enhance student learning and reflect the research on unique, age-appropriate, and culturally relevant curriculum and pedagogy.

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

(3) Instructional practices that are sensitive to culturally and linguistically diverse learners, including English learners, gifted and talented students, and students with disabilities, and appropriate for the preK-3 or preK-6 endorsement shall be included.

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

(5) Study in (i) methods of improving communication between schools and families; (ii) communicating with families regarding social and instructional needs of children; (iii) ways of increasing family engagement in student learning at home and in school; (iv) the Virginia Standards of Learning; ~~and~~ (v) English Language Development Standards (WIDA); and (vi) [~~Virginia Foundation Blocks for Early Learning: Comprehensive Standards for Four Year Olds~~ Virginia's Early Learning and Development Standards: Birth to Five Learning Guidelines] prepared by the Virginia Department of

Regulations

Education's Office of ~~Humanities and~~ Early Childhood [Learning] shall be included.

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

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

(8) Study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services and training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators shall be included. The certification or training program shall (i) be based on the current national evidenced-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

(9) Pre-student teaching experiences (field experiences) should be evident within these skills.

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

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

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

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

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

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

(6) Study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services and training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators shall be included. The certification or training program shall (i) be based on the current national evidenced-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

(7) Pre-student teaching experiences (field experiences) should be evident within these skills.

c. Dual language curriculum and instruction: three semester hours.

(1) Skills in this area shall contribute to an understanding of the principles of learning; dual language acquisition; theories of second language acquisition; the application of skills in discipline-specific methodology; varied and effective methods of communication with and among students; selection and use of materials, including media and contemporary technologies; and selection, development, and use of appropriate curricula, methodologies, and materials that support and enhance student learning and reflect the research on unique, age-appropriate, and culturally relevant curriculum and pedagogy.

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

(3) Instructional practices that are sensitive to culturally and linguistically diverse learners, including English learners, gifted and talented students, and students with disabilities and are appropriate for the preK-3 or preK-6 endorsement shall be included.

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

(5) Study in (i) methods of improving communication between schools and families; (ii) communicating with families regarding social and instructional needs of children; (iii) ways of increasing family engagement in student learning at home and in school; (iv) the Virginia

Standards of Learning; (v) English Language Development Standards (WIDA); and (vi) [~~Virginia Foundation Blocks for Early Learning: Comprehensive Standards for Four Year Olds~~ Virginia's Early Learning and Development Standards: Birth to Five Learning Guidelines] prepared by the Virginia Department of Education's Office of Early Childhood [Learning] shall be included.

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

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

(8) Demonstrated proficiency in the use of educational technology for instruction shall be required.

(9) Pre-student teaching experiences (field experiences) should be evident within these skills.

3. Classroom and behavior management: ~~3~~ three semester hours.

a. Skills in this area shall contribute to an understanding and application of research-based classroom and behavior management techniques, classroom community building, positive behavior supports, and individual interventions, including techniques that promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment.

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

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

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

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

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

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

summative assessments. Assessments designed and adapted to meet the needs of diverse learners shall be addressed.

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

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

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

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

5. Foundations of education and the teaching profession: ~~3~~ three semester hours.

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

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

c. Professionalism and ethical standards, as well as personal integrity shall be addressed.

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

6. Language and literacy: ~~6~~ six semester hours.

a. Early/primary preK-3 and elementary education preK-6 - language acquisition and reading and writing: ~~6~~ six semester hours. Skills listed for these endorsement areas represent the minimum competencies that a beginning teacher shall be able to demonstrate. These skills are not

Regulations

intended to limit the scope of a beginning teacher's program. Additional knowledge and skills that add to a beginning teacher's competencies to deliver instruction and improve student achievement should be included as part of a quality learning experience.

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

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

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

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

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

c. Dual language (English) preK-6 - language acquisition and reading and writing: six semester hours. Skills listed

for these endorsement areas represent the minimum competencies that a beginning teacher shall be able to demonstrate. These skills are not intended to limit the scope of a beginning teacher's program. Additional knowledge and skills that add to a beginning teacher's competencies to deliver instruction and improve student achievement should be included as part of a quality learning experience.

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

(2) Literacy development (reading and writing): three semester hours. Skills in this area shall be designed to impart a thorough understanding of strategies for integration of content, literacy, and language development, researched-based strategies for differentiating instruction for language development and language and cognitive support or scaffolding bases on the various strategies of the language and literacy acquisition process. Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning, as well as the reciprocal nature of reading and writing. Reading shall include phonemic and other phonological awareness, concept of print, phonics, fluency, vocabulary development, and comprehension strategies. Writing shall include writing strategies and conventions as supporting composing and written expression and usage and mechanics domains. Additional skills shall include proficiency in understanding the stages of spelling development and the writing process, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading.

d. Dual language (target language) preK-6 - language acquisition and bilingual literacy development: six semester hours. Skills listed for these endorsement areas represent the minimum competencies that a beginning teacher shall be able to demonstrate. These skills are not intended to limit the scope of a beginning teacher's program. Additional knowledge and skills that add to a beginning teacher's competencies to deliver instruction and improve student achievement should be included as part of a quality learning experience.

(1) Language acquisition: three semester hours. Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning, as well as the complex nature of language acquisition as a precursor to literacy. Language acquisition shall follow the typical development of linguistic

competence in the areas of phonetics, semantics, syntax, morphology, phonology, and pragmatics.

(2) Bilingual literacy development: three semester hours. Skills in this area shall be designed to impart a thorough understanding of strategies for integration of content, literacy, and language development, researched-based strategies for differentiating instruction for dual language and language and cognitive support or scaffolding bases on the various strategies of the second language acquisition process. Reading shall include phonemic and other phonological awareness, concept of print, phonics, fluency, vocabulary development, and comprehension strategies. Writing shall include writing strategies and conventions as supporting composing and written expression and usage and mechanics domains. Additional skills shall include proficiency in understanding the stages of spelling development and the writing process, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading.

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

8VAC20-23-321. Dual language (English) endorsement preK-6.

A. The dual language (English) endorsement is to teach dual language (English). Individuals who hold a valid Virginia teaching license with an elementary education endorsement may teach in dual language (English) in the corresponding grade levels noted on the license (such as Early/Primary Education PreK-3/Elementary Education Prek-6).

B. The candidate is subject to the elementary education content assessment and the reading for educators assessment prescribed by the State Board of Education for initial licensure. The State Board of Education prescribed reading and writing assessment is not required for an initial license with an endorsement in dual language (English).

C. Endorsement requirements for dual language (English) preK-6. The candidate shall have:

1. Graduated from an approved teacher preparation program in dual language elementary preK-6; or

2. Earned a baccalaureate degree from a regionally accredited college or university and completed the following semester-hour requirements:

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

b. Mathematics (shall include algebra, geometry, probability and statistics, and teaching elementary mathematics): 15 semester hours or complete six hours in mathematics, complete a methods course in teaching elementary mathematics course (three semester hours), and pass a rigorous elementary subject test prescribed by the State Board of Education;

c. Laboratory sciences: 15 semester hours in at least three science disciplines and at least a three credit science methods course or complete nine semester hours (in two science disciplines), complete a methods in teaching elementary science course (three semester hours), and pass a rigorous elementary subject test prescribed by the State Board of Education; and

d. History (shall include American history and world history): six semester hours and social science (shall include geography and economics): six semester hours or complete three semester hours in history, complete three semester hours in social science (geography or economics), complete a methods course in teaching elementary history and social sciences course (three semester hours), and pass a rigorous elementary subject test prescribed by the State Board of Education.

8VAC20-23-322. Dual language (English) preK-6 Add-on endorsement.

A. The dual language (English) preK-6 endorsement is to teach dual language (English). Individuals who hold a valid Virginia teaching license with an elementary education endorsement in the corresponding grade levels noted on the license (such as Early/Primary Education PreK-3 or Elementary Education Prek-6) may teach in dual language (English) without the add-on endorsement. However, the dual language (English) preK-6 add-on endorsement recognizes the candidate's additional preparation in dual language (English).

B. Endorsement requirements.

1. The candidate shall have earned a baccalaureate degree from a regionally accredited college or university and hold a license issued by the State Board of Education with a teaching endorsement in elementary education.

Regulations

2. The candidate shall have completed an approved teacher preparation program in dual language (English) preK-6 add-on endorsement or completed the following:

- a. Three semester hours in curriculum for dual language design and assessment; and
- b. A 45-clock-hour practicum in dual language (English) from a regionally accredited college or university. One year of successful, full-time teaching experience in a public school or accredited nonpublic school may be accepted in lieu of the practicum. The experience may be completed under a Provisional License.

8VAC20-23-323. Dual language (target language) endorsement preK-6.

A. The dual language (target language) [endorsement] preK-6 endorsement is to teach dual language in a world language other than English. The target language will be noted on the endorsement.

B. The State Board of Education prescribed reading and writing assessment is not required for an initial license with an endorsement in dual language (target language) endorsement preK-6.

C. Endorsement requirements for dual language (target language) endorsement preK-6. The candidate shall have:

1. Earned a baccalaureate degree from a regionally accredited college or university and graduated from an approved teacher preparation program in dual language (target language) endorsement; or
2. Earned a baccalaureate degree from a regionally accredited college or university, and completed the following requirements:
 - a. A major in the target language: 12 semester hours in the target language above the intermediate level that must include composition, literature, and conversation or a qualifying score on a foreign language assessment in the target language as prescribed by the State Board of Education;
 - b. Mathematics: nine semester hours in mathematics that must include methods of teaching elementary mathematics;
 - c. Laboratory sciences (in two science disciplines): nine semester hours that must include methods of teaching elementary science;
 - d. History and social sciences: three semester hours in United States history; three semester hours in geography, economics, or United States or comparative government; three semester hours in methods of teaching elementary history and social sciences; and
 - e. Culture and civilization: three semester hours.

8VAC20-23-324. Dual language (target language) preK-6 add-on endorsement.

A. The dual language (target language) preK-6 add-on endorsement is to teach dual language in a world language other than English. The target language will be noted on the endorsement.

B. Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from a regionally accredited college or university and hold a license issued by the State Board of Education with a teaching endorsement in a target language.

2. Completed an approved teacher preparation program in dual language (target language) preK-6 add-on endorsement or completed the following:

a. Three semester hours in curriculum for dual language design and assessment;

b. Passed the rigorous elementary education assessment prescribed by the State Board of Education or completed the following coursework:

(1) Mathematics: nine semester hours in mathematics that must include methods of teaching elementary mathematics;

(2) Laboratory sciences (in two science disciplines): nine semester hours that must include methods of teaching elementary science; and

(3) History and social sciences: three semester hours in United States history; three semester hours in geography, economics, or United States or comparative government; three semester hours in methods of teaching elementary history and social sciences; and

c. A 45-clock-hour practicum in dual language (target language) from a regionally accredited college or university. One year of successful, full-time teaching experience in a public school or accredited nonpublic school in dual language (target language) may be accepted in lieu of the practicum. The experience may be completed under a Provisional License.

VA.R. Doc. No. R19-5889; Filed August 21, 2024, 9:31 a.m.

Fast-Track Regulation

Titles of Regulations: 8VAC20-23. Licensure Regulations for School Personnel (amending 8VAC20-23-10, 8VAC20-23-40, 8VAC20-23-50, 8VAC20-23-90 through 8VAC20-23-120, 8VAC20-23-140 through 8VAC20-23-180, 8VAC20-23-200 through 8VAC20-23-710).

8VAC20-543. Regulations Governing the Review and Approval of Education Programs in Virginia (amending 8VAC20-543-10, 8VAC20-543-20, 8VAC20-543-60, 8VAC20-543-70, 8VAC20-543-80, 8VAC20-543-620, 8VAC20-543-630).

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 9, 2024.

Effective Date: October 24, 2024.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 25th Floor, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2540, or email jim.chapman@doe.virginia.gov.

Basis: The State Board of Education's overall regulatory authority is found in § 22.1-16 of the Code of Virginia. The board's regulatory authority over licensing requirements for school personnel is found in § 22.1-253.13:2 A of the Code of Virginia.

Purpose: The rationale for this regulatory action is that the changes will help align board regulations with federal requirements. This action is essential to protect the health, safety, and welfare of citizens by ensuring that board regulations are aligned with federal requirements.

Rationale for Using Fast-Track Rulemaking Process: The agency expects that this action will be noncontroversial because the agency is merely performing technical changes in order to align its regulations with federal requirements, and therefore the action is appropriate for the fast-track rulemaking process.

Substance: The amendments align Virginia regulations with changes in federal regulations. Those changes, effective July 1, 2020, no longer categorize accrediting agencies as "regional" or "national," but instead include them under the umbrella terms "institutional" or "nationally recognized."

Issues: This regulatory action's primary advantage to the public, the Commonwealth, and the regulated community is that it aligns board requirements with applicable federal requirements. This regulatory action has no disadvantages to the public, the Commonwealth, or the regulated community.

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 State Board of Education (board) proposes to amend Licensure Regulations for School Personnel (8VAC20-23) and Regulations Governing the Review and Approval of Education Programs in Virginia (8VAC20-543) to align with federal regulation (34 CFR 600)² concerning post-secondary institution accreditation.

Background. The Licensure Regulations for School Personnel set standards for the licensure of teachers, principals, superintendents, and other professional personnel in Virginia. The Regulations Governing the Review and Approval of Education Programs in Virginia set the requirements for institutions of higher education to offer state-approved teacher preparation programs that lead to licensure. Both regulations currently require accreditation for institutions of higher education by a "regional" accrediting agency and include the following definition: "'Accredited institution" means an institution of higher education accredited by a regional³ accrediting agency recognized by the United States Department of Education (USED)." The Regulations Governing the Review and Approval of Education Programs in Virginia also includes the following definition: "'Regional accrediting agency" means one of the six accrediting associations recognized by the United States Department of Education as follows: New England Association of Schools and Colleges, Middle States Association of Colleges and Schools, North Central Association of Colleges and Schools, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Schools, and Western Association of Schools and Colleges."

The United States Department of Education amended 34 CFR 600 to no longer categorize accrediting agencies as "regional" or "national," but instead includes them under a combined umbrella identified as "institutional" or "nationally recognized." Consequently, the board proposes to remove "regional" from both regulations in numerous references. Instead, it would be accredited by an accrediting agency recognized by the USED.

Estimated Benefits and Costs. All 36 education programs in the Commonwealth⁴ are accredited by regional accreditation agencies. Thus, the proposed amendments would not directly affect these institutions. Nevertheless, the proposed amendments may result in an increase in the number of individuals either initially or eventually eligible for a teaching license, and therefore available for hire by local school boards. Currently, individuals must have a degree from a regionally accredited institution in order to qualify for Virginia teacher licensure. There are education programs in other states that have national, but not regional accreditation as defined in the current Regulations Governing the Review and Approval of Education Programs in Virginia. Thus, some individuals who received their training in other states would newly become eligible for licensure in the Commonwealth.

Also, some institutions with branches in Virginia may choose to newly offer teacher preparation at those branches. According to the Virginia Department of Education, there are seven universities based outside of the Commonwealth⁵ that have education programs that are nationally approved, but do not offer those programs at their Virginia branch campuses. The proposed amendments may encourage some of these institutions to newly offer teacher training at their Virginia branches. This may also increase the supply of licensed

Regulations

teachers in the Commonwealth. As demonstrated by a September 2023 Joint Legislative Audit and Review Commission study (JLARC study),⁶ there are shortages of fully qualified teachers for many local school divisions in the Commonwealth, with some being particularly severe. An increase in the supply of fully qualified licensed teachers could thus be substantially beneficial.

Businesses and Other Entities Affected. The proposed amendments may affect all 131 local school divisions in Virginia by potentially increasing the supply of fully qualified licensed teachers. If this proposed change leads to an increase in the supply of licensed teachers in the Commonwealth, then those local school divisions with the highest teacher vacancy rates would likely be particularly affected in a positive direction. According to the JLARC study, the following school divisions had vacancy rates above ten percent for the 2023-2024 school year: Caroline County, Charles City County, Cumberland County, Essex County, Hampton City, Lancaster County, Lunenburg County, Norfolk City, Northampton County, Nottoway County, Poquoson City, Suffolk City, and Surry County.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁷ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁸ The proposed amendments do not appear to directly increase costs or reduce benefits. Thus, no adverse impact is indicated.

Small Businesses⁹ Affected.¹⁰ The proposed amendments do not adversely affect small businesses.

Localities¹¹ Affected.¹² The proposed amendments may particularly affect those localities with the highest vacancy rates for teachers. Those localities are listed above in the Businesses and Other Entities Affected section. The proposal does not appear to increase costs for local governments.

Projected Impact on Employment. The proposed amendments may increase employment in that a higher percentage of teacher positions may be filled.

Effects on the Use and Value of Private Property. The proposed amendments do not appear to directly affect the use and value of private property nor real estate development costs.

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

² See <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-600>.

³ Ibid.

⁴ The 36 institutions are: Averett University, Bluefield University, Bridgewater College, Christopher Newport University, Eastern Mennonite University,

Emory & Henry College, Ferrum College, George Mason University, Hampton University, Hollins University, James Madison University, Liberty University, Longwood University, University of Lynchburg, Mary Baldwin University, University of Mary Washington, Marymount University, Norfolk State University, Old Dominion University, Radford University, Randolph College, Randolph-Macon College, Regent University, University of Richmond, Roanoke College, Shenandoah University, Sweet Briar College, University of Virginia, University of Virginia's College at Wise, Virginia Commonwealth University, Virginia Polytechnic Institute & State University, Virginia State University, Virginia Union University, Virginia Wesleyan University, Washington and Lee University, and College of William and Mary.

⁵ Those seven universities are: American University, Catholic University of America, Central Michigan University, George Washington University, University of Oklahoma, Trine University, and Webster University.

⁶ See <https://jlarc.virginia.gov/pdfs/reports/Rpt576-3.pdf>.

⁷ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁸ 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁹ Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

¹⁰ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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.

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

Agency's Response to Economic Impact Analysis: The State Board of Education thanks the Department of Planning and Budget for its thorough economic impact analysis.

Summary:

The amendments make textual changes throughout the regulations reflecting changes to federal regulations effective July 1, 2020. Those changes no longer categorize accrediting agencies as "regional" or "national," but instead identifies them under the umbrella terms "institutional" or "nationally recognized."

8VAC20-23-10. Definitions.

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

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

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

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

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

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

"Career and Technical Education License" means a three-year license available to qualified individuals to teach, either full time or part time, high school career and technical education courses in specific subject areas who meet requirements set forth in this chapter. Individuals issued a three-year Career and Technical Education License shall not be eligible for continuing contract status while teaching under such license and shall be subject to the probationary terms of employment specified in § 22.1-303 of the Code of Virginia.

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

"Career and Technical Education or Dual Enrollment License" means a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools in the Commonwealth issued to any individual who (i) is employed as an instructor by an accredited institution of higher education ~~that is accredited by a nationally recognized regional accreditation body~~, (ii) is teaching in the specific career and technical education or dual enrollment subject area at such institution in which the individual seeks to teach at a public school, and (iii) complies with the requirements set forth in subdivisions D 1 and D 3 of § 22.1-298.1 of the Code of Virginia. The Virginia Board of Education shall require any such instructor to maintain

continuous employment in such position at the institution of higher education as a condition of continued license. The provisions of this regulation shall expire on July 1, 2021; however, any license issued pursuant to the act prior to July 1, 2021, shall remain in effect for three years from the date it was issued unless such license is revoked by the Virginia Board of Education.

"Collegiate Professional License" means a 10-year, renewable teaching license available to an individual who has satisfied all requirements for licensure set forth in this chapter, including an earned baccalaureate degree from ~~a regionally~~ an accredited ~~college or university~~ institution and the professional teacher's assessments prescribed by the Virginia Board of Education.

"Denial" means the refusal to grant a license.

"Division Superintendent License" means a 10-year, renewable license available to an individual who has completed an earned master's degree from ~~a regionally~~ an accredited ~~college or university~~ institution and meets the requirements specified in 8VAC20-23-630. The individual's name shall be listed on the Virginia Board of Education's list of eligible division superintendents.

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

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

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

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

"Mentor" means a classroom teacher hired by the local school division who has achieved continuing contract status or other instructional personnel including retired teachers who meet local mentor selection criteria. The mentor should work in the same building as the beginning teacher or be instructional personnel who is assigned solely as a mentor. A mentor should

Regulations

be assigned a limited number of teachers at any time. Instructional personnel who are not assigned solely as mentors should not be assigned to more than four teachers at any time. Mentors guide teachers in the program through demonstrations, observations, and consultations.

"One-Year High School License" means a license valid for ~~one year~~ one year and renewable thereafter in one-year increments to teach in public high schools for individuals who have met requirements for such license as set forth in this chapter.

"Online Teacher License" means a 10-year, renewable license valid only for teaching online courses. Teachers who hold a five-year or 10-year renewable license issued by the Virginia Board of Education may teach online courses for which they are properly endorsed and do not need to seek this license.

"Postgraduate Professional License" means a 10-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from ~~a regionally~~ an accredited college or university institution.

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

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

"Provisional License" means a nonrenewable license valid for a specified period of time not to exceed three years issued to an individual who has allowable deficiencies for full licensure as set forth in this chapter.

"Pupil Personnel Services License" means a 10-year, renewable license available to an individual who has earned an appropriate graduate degree from ~~a regionally~~ an accredited college or university institution with an endorsement as a school counselor, school psychologist, school social worker, or vocational evaluator. This license does not require teaching experience unless otherwise outlined under the specific endorsement's requirements.

"Renewable license" means a license issued by the Virginia Board of Education for 10 years, unless otherwise specified, to an individual who meets all requirements specified in this chapter.

"Reprimand" means a written admonishment of a license holder that does not result in the withdrawal of a license.

"Revocation" means the withdrawal of a license.

"School Manager License" means a 10-year, renewable license intended to provide for a differentiation of administrative responsibilities in a school setting. A school manager is licensed to administer noninstructional responsibilities in an educational setting. A school manager is restricted from evaluating teachers, supervising instruction, developing and evaluating curriculum, and serving as a school's student disciplinarian. The license is available to a candidate who holds a baccalaureate degree from ~~a regionally~~ an accredited college or university institution; has three years of successful managerial experience; and is recommended for the license by a Virginia school division superintendent.

"Suspension" means the temporary withdrawal of a license.

"Technical Professional License" means a 10-year, renewable license available to an individual who has graduated from a public or accredited nonpublic high school (or possesses a Virginia Board of Education-approved high school equivalency credential); has exhibited academic proficiency, technical competency, and successful occupational experience; and meets the requirements specified in 8VAC20-23-50 A 4.

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

8VAC20-23-40. Conditions for licensure.

A. Applicants for licensure shall:

1. Be at least 18 years of age;
2. Pay the appropriate fees as determined by the Virginia Board of Education and complete the application process;
3. Have earned a baccalaureate degree, with the exception of the Technical Professional License, from ~~a regionally~~ an accredited college or university institution and meet requirements for the license sought. Persons seeking initial licensure through approved programs from Virginia institutions of higher education shall only be licensed as instructional personnel if the education endorsement programs have approval by the Virginia Board of Education; individuals who have earned a degree from an institution in another country shall hold the equivalent of ~~a regionally~~ an accredited college or university institution degree in the United States, as verified by a Virginia Department of Education-approved credential evaluation agency, for the required degree for the license; and
4. Possess good moral character and be free of conditions outlined in Part VII (8VAC20-23-720 et seq.) of this chapter.

B. All candidates who hold at least a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and who seek an initial Virginia teaching license shall obtain passing scores on professional teacher's assessments prescribed by the Virginia Board of Education. With the

exception of the career switcher program that requires assessments as prerequisites, individuals shall complete the professional teacher's assessment requirements within the three-year validity of the initial provisional license. Candidates seeking a Technical Professional License, International Educator License, School Manager License, or Pupil Personnel Services License are not required to take the professional teacher's assessments. Individuals who hold a valid out-of-state license (full credential without deficiencies) and who have completed a minimum of three years of full-time, successful teaching experience in a public or an accredited nonpublic school, kindergarten through grade 12, outside of Virginia are exempt from the professional teacher's assessment requirements. Documentation shall be submitted to verify the school's status as a public or an accredited nonpublic school.

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

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

E. Individuals seeking initial licensure shall demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting ~~alternatives~~ alternative evaluation standards as prescribed by the board; complete study in attention deficit disorder; complete study in gifted education, including the use of multiple criteria to identify gifted students; and complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

F. Every person seeking initial licensure shall (i) complete awareness training, provided by the Department of Education on the indicators of dyslexia, as that term is defined by the board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia; (ii) complete study in child abuse recognition and intervention in accordance with curriculum guidelines, developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services; and (iii) provide evidence of completion of

certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (a) be based on the current national ~~evidenced-based~~ evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross; and (b) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Virginia Board of Education shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training.

G. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 of the Code of Virginia shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Virginia Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion.

H. The teacher of record for verified credit courses for high school graduation shall hold a Virginia license with the appropriate content endorsement.

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

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

K. Every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on ~~their~~ needs; (ii) understanding the role of general education teachers on individual education program teams; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.

L. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subsection F or G of this section as a condition of such licensure, but each teacher

Regulations

shall complete each such requirement during the first year of provisional licensure.

M. Every person seeking initial licensure of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

N. Every person seeking initial licensure or renewal of a license with an endorsement in history and social sciences shall complete instruction in African American history, which shall include (i) an understanding of African origins; (ii) the African diaspora; (iii) developments of the Black experience in North America; (iv) the institution of slavery in the United States, including historical perspectives of the enslaved; and (v) how African Americans helped shape and have been shaped by American society.

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

A. The following types of licenses are available:

1. Provisional License. The Provisional License is a nonrenewable license valid for a period not to exceed three years issued to an individual who has allowable deficiencies for full licensure as set forth in this chapter. The Provisional License will be issued for a three-year validity period, with the exception of the Provisional (Career Switcher) License that will initially be issued for a one-year validity period and the Provisional Teach For America License issued for a two-year validity period. Individuals shall complete all requirements for licensure, including passing all licensure assessments, for a renewable license within the validity period of the Provisional License. The individual shall have a minimum of an earned baccalaureate degree from ~~a regionally an accredited college or university institution~~, with the exception of those individuals seeking the Technical Professional License.

The Virginia Board of Education shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher upon receiving from the division superintendent (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year during the original three-year provisional license that such teacher was actually employed and received a filed performance evaluation.

The Virginia Board of Education shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher employed at an accredited private elementary, middle, or high school; or a school for students with disabilities that is licensed pursuant to Chapter 16 (§ 22.1-319 et seq.) of Title 22.1 of the Code of Virginia upon receiving from the school administrator of such a school (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year of the original three-year

provisional license. If a teacher employed in the Commonwealth under a provisional license is activated or deployed for military service within a school year (July 1 through June 30), an additional year shall be added to the teacher's provisional license for each school year or portion thereof during which the teacher is activated or deployed. The additional year shall be granted the year following the return of the teacher from deployment or activation.

The Virginia Board of Education shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the board if such individual (i) holds a provisional license that will expire within three months; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Virginia Board of Education; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

2. Collegiate Professional License. The Collegiate Professional License is a 10-year, renewable license available to an individual who has satisfied all requirements for licensure, including an earned baccalaureate degree from ~~a regionally an accredited college or university institution~~ and the professional teacher's assessments prescribed by the Virginia Board of Education.

3. Postgraduate Professional License. The Postgraduate Professional License is a 10-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from ~~a regionally an accredited college or university institution~~.

4. Technical Professional License. The Technical Professional License is a 10-year, renewable license available to a person who has graduated from a public or an accredited nonpublic high school or possesses a Virginia Board of Education-approved high school equivalency credential; has exhibited academic proficiency, skills in literacy and communication, technical competency, and successful occupational experience; has completed nine semester hours of specialized professional studies credit from ~~a regionally an accredited college or university institution~~; and has completed one year of successful, full-time teaching experience in a public school or accredited nonpublic school in the area of endorsement. The nine semester hours of professional studies coursework shall include three semester hours of human development and learning, three semester hours of curriculum and instruction,

and three semester hours of applications of instructional technology or classroom and behavior management. Individuals who seek a Technical Professional License may substitute the successful completion of an intensive, job-embedded, three-year program of professional development submitted by a Virginia employing educational agency and preapproved by the Department of Education for the nine semester hours of professional studies required. The Technical Professional License is issued at the recommendation of a Virginia employing educational agency in the areas of career and technical education, educational technology, and military science. Individuals seeking an endorsement to teach military science shall have the appropriate credentials issued by the United States military. Individuals holding a Technical Professional License may teach a military science leadership class with either the appropriate credentials issued by the United States military or (for non-Junior Reserve Officers' Training Corps) a recommendation from a Virginia employing educational agency. The employing Virginia educational agency shall ensure the credentials issued by the United States military are active during the period the individual is teaching. In addition to demonstrating competency in the endorsement area sought, the individual shall:

- a. Hold a valid license issued by the appropriate Virginia board for those program areas requiring a license and a minimum of two years of successful experience at the journeyman level or an equivalent. The employing Virginia educational agency shall ensure that the valid license issued by the appropriate Virginia board for the occupational program area is active during the period the individual is teaching;
- b. Have completed a registered apprenticeship program and two years of successful experience at the journeyman level or an equivalent level in the trade; or
- c. Have four years of successful work experience at the management or supervisory level or equivalent or have a combination of four years of training and successful work experience at the management or supervisory level or equivalent.

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

5. School Manager License. The School Manager License is a 10-year, renewable license intended to provide for the differentiation of administrative responsibilities in a school setting. A school manager is licensed to administer noninstructional responsibilities in an educational setting. A school manager is restricted from evaluating teachers, supervising instruction, developing and evaluating curriculum, and serving as a school's student disciplinarian. The license is available to a candidate who holds a baccalaureate degree from a ~~regionally~~ an accredited ~~college~~

~~or university~~ institution, has three years of successful managerial experience, and is recommended for the license by a Virginia school division superintendent.

6. Pupil Personnel Services License. The Pupil Personnel Services License is a 10-year, renewable license available to an individual who has earned an appropriate graduate degree from a ~~regionally~~ an accredited ~~college or university~~ institution with an endorsement for school counselor, school psychologist, school social worker, or vocational evaluator. This license does not require teaching experience, unless otherwise outlined under the specific endorsement's requirements.

7. Division Superintendent License. The Division Superintendent License is a 10-year, renewable license available to an individual who has completed an earned master's degree from a ~~regionally~~ an accredited ~~college or university~~ institution and meets the requirements specified in 8VAC20-23-630. The individual's name shall be listed on the Virginia Board of Education's list of eligible division superintendents.

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

- a. Be employed by a Virginia public or an accredited nonpublic school;
- b. Hold non-United States citizenship and be a nonpermanent resident; and
- c. Meet the following requirements as verified by a state-approved, ~~federally designated~~ federally designated Exchange Visitor Program (22 CFR Part 62):
 - (1) Be proficient in written and spoken English;
 - (2) Demonstrate competence in the appropriate academic subject area by meeting the credential requirements for a qualified teacher in the exchange country;
 - (3) Hold the United States equivalent of a baccalaureate degree or higher as determined by an approved credential evaluation agency; and
 - (4) Complete at least two years of successful full-time teaching experience that enables the educator to fulfill a similar assignment in the educator's home country or is comparable to those requirements for Virginia teachers.

If an individual meets requirements of subdivisions 8 a, 8 b, 8 c (1), 8 c (2), and 8 c (3) of this subsection and has completed at least one year; but less than two years; of

Regulations

successful full-time teaching experience that would enable the educator to fulfill a similar assignment in the educator's home country or is comparable to those requirements for Virginia teachers, the International Educator License will be issued for three years with an option to extend the nonrenewable International Educator License for the additional two years upon passing all teacher assessments prescribed by the Virginia Board of Education and a recommendation of the Virginia employing school division or accredited nonpublic school.

Individuals who have been issued an International Educator License who seek a 10-year, renewable license shall meet all licensure and endorsement requirements, including passing applicable assessments prescribed by the Virginia Board of Education.

9. Online Teacher License. The Online Teacher License is a 10-year, renewable license valid only for teaching online courses. Teachers who hold a five-year or 10-year renewable license issued by the Virginia Board of Education may teach online courses for which they are properly endorsed and do not need to seek this license.

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

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

b. Online teaching experience is not acceptable to meet the full-time teaching experience for other license types, such as a Division Superintendent License, or for endorsements, such as for the reading specialist, school counselor, or administration and supervision

endorsements. The Online Teacher License may be issued if requirements have been met as one of the following licenses to individuals teaching only online courses:

(1) Online Teacher (Postgraduate Professional) License - a 10-year, renewable license available to an individual who has qualified for the Online Teacher (Collegiate Professional) License and who holds an appropriate earned graduate degree from ~~a regionally~~ an accredited ~~college or university~~ institution.

(2) Online Teacher (Collegiate Professional) License - a 10-year, renewable teaching license available to an individual who has satisfied all requirements for licensure, including an earned baccalaureate degree from ~~a regionally~~ an accredited ~~college or university~~ institution, endorsement and professional studies requirements, and passed the professional teacher's assessments prescribed by the Virginia Board of Education, ~~or~~.

(3) Online Teacher (Technical Professional) License - a 10-year, renewable teaching license available to an individual who has graduated from a public or an accredited nonpublic high school or possesses a Virginia Board of Education-approved high school equivalency credential; has exhibited academic proficiency, technical competency, and occupational experience; and meets the requirements specified in subdivision 4 of this subsection. An individual seeking an Online Teacher (Technical Professional) License shall be recommended for the license by a Virginia public school, a Virginia accredited nonpublic school, or an accredited virtual school program.

c. A nonrenewable Online Teacher (Provisional) License may be issued for a period not to exceed three years to an individual who has allowable deficiencies for full licensure as set forth in 8VAC20-23-90 B. The Online (Provisional) License will be issued for three years. The individual shall have a minimum of an earned baccalaureate degree from ~~a regionally~~ an accredited ~~college or university~~ institution, with the exception of those individuals seeking the Technical Professional License. Individuals shall complete all requirements for a renewable Online Teacher License within the validity period of the license.

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

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

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

(2) Has met the requirements prescribed by the Virginia Board of Education for all endorsements sought or has met

the qualifying scores on the content area assessment prescribed by the board for the endorsements sought;

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

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

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

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

(7) Receives a recommendation from the employing school division for a Teach For America License in the endorsement area in which the individual seeks to be licensed.

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

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

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

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

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

11. Career and Technical Education License. The Career and Technical Education License is a three-year license.

a. This license is available to qualified individuals to teach, either full time or part time, high school career and technical education courses in specific subject areas.

b. The three-year license is issued to teach high school career and technical education courses in a specific subject area to an individual who:

(1) Submits an application to the Virginia Board of Education, in the form prescribed by the Virginia Board of Education, that includes a recommendation for such a license from the local school board;

(2) Meets certain basic conditions for licensure as prescribed by the Virginia Board of Education;

(3) Meets one of the following requirements:

(a) Holds, at a minimum, a baccalaureate degree from a ~~regionally an~~ accredited institution of ~~higher education~~ and has completed coursework in the career and technical education subject area in which the individual seeks to teach;

(b) Holds the required professional license in the specific career and technical education subject area in which the individual seeks to teach, where applicable; or

(c) Holds an industry certification credential, as that term is defined in § 22.1-298.1 of the Code of Virginia, in the specific career and technical education subject area in which the individual seeks to teach;

(4) Has at least four years of full-time work experience or its equivalent in the specific career and technical education subject area in which the individual seeks to teach; and

(5) If appropriate, has obtained qualifying scores on the communication and literacy professional teacher's assessment prescribed by the Virginia Board of Education.

c. The employing school board shall assign a mentor to supervise an individual issued a three-year license pursuant to this section during the individual's first two years of teaching.

d. Except as otherwise provided in subdivision A 11 e of this section, any individual issued a three-year license pursuant to this section may be granted subsequent three-year extensions of such license by the Virginia Board of Education upon recommendation of the local school board.

e. Any individual issued a three-year license pursuant to this section who completes (i) nine semester hours of

Regulations

specialized professional studies credit from ~~a regionally an accredited institution of higher education~~ or (ii) an alternative course of professional studies proposed by the local school board and approved by the Virginia Department of Education shall be granted a three-year extension of such license by the board and may be granted subsequent three-year extensions of such license by the board upon recommendation of the local school board. Any such specialized professional studies credit or alternative course of professional studies may be completed through distance learning programs and shall include human growth and development; curriculum, instructional, and technology procedures; and classroom and behavior management.

f. No three-year license issued by the board pursuant to this section shall be deemed a provisional license or a renewable license, as those terms are defined in § 22.1-298.1 of the Code of Virginia.

g. Individuals issued a three-year license pursuant to this section shall not be eligible for continuing contract status while teaching under such license and shall be subject to the probationary terms of employment specified in § 22.1-303 of the Code of Virginia.

h. The provisions of this section and of Virginia Board of Education regulations governing the denial, suspension, cancellation, revocation, and reinstatement of licensure shall apply to three-year licenses.

12. One-Year High School License. The One-Year High School License is for individuals seeking licensure through an alternate route. The license is a renewable, one-year license issued to teach in public high schools for individuals who:

a. Received a graduate degree from ~~a regionally an accredited institution of higher education~~;

b. Completed at least 30 credit hours of teaching experience as an instructor at ~~a regionally an accredited institution of higher education~~;

c. Received qualifying scores on the professional teacher's assessments prescribed by the Virginia Board of Education, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

d. Met the following requirements:

(1) Complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure route; and

(2) Provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall be (i) based on the current national evidence-based

emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Virginia Board of Education shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training.

The license may be renewed for one year by the submission of an application for renewal and verification from the division superintendent that the individual received a satisfactory performance evaluation.

13. Career and Technical Education or Dual Enrollment License. The Career and Technical Education or Dual Enrollment License is a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools in the Commonwealth issued to any individual who (i) is employed as an instructor by an institution of higher education that is accredited by a nationally recognized regional accreditation body, (ii) is teaching in the specific career and technical education or dual enrollment subject area at such institution in which the individual seeks to teach at a public school, and (iii) complies with the requirements set forth in subdivisions D 1 and D 3 of § 22.1-298.1 of the Code of Virginia. The Virginia Board of Education shall require any such instructor to maintain continuous employment in such position at the institution of higher education as a condition of continued licensure. Subsections E and F of 8VAC20-23-40 shall expire on July 1, 2021; however, any license issued pursuant to this chapter prior to July 1, 2021, shall remain in effect for three years from the date the license was issued unless such license is revoked by the Virginia Board of Education.

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

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

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

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

a. An application process;

- b. An earned baccalaureate degree from ~~a regionally~~ an accredited college or university institution;
- c. The completion of requirements for an endorsement in a teaching area or the equivalent through verifiable experience or academic study;
- d. At least three years of successful full-time work experience or its equivalent; and
- e. Virginia qualifying scores on the professional teacher's assessments as prescribed by the Virginia Board of Education.

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

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

a. Level I preparation. Intensive Level I preparation includes a minimum of 180 clock hours of instruction, including field experience. This phase includes human development and learning; curriculum and instruction, including technology; language and literacy; specific course content relating to the Virginia Standards of Learning; foundations of education and the teaching profession; classroom and behavior management; and assessment of and for learning.

b. Level II preparation during first year of employment.

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

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

(3) One year of successful, full-time teaching experience in a Virginia public or accredited nonpublic school under a one-year Provisional (Career Switcher) License. A trained mentor shall be assigned to assist the candidate during the first year of employment. Responsibilities of the mentor include the following:

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

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

(c) Share resources and materials;

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

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

(4) Upon successful completion of the Levels I and II preparation requirements of the career switcher alternate route to licensure program and submission of a recommendation from the employing Virginia educational agency, the candidate will be eligible to apply for a 10-year, renewable license. Renewal requirements for the regular license will be subject to current regulations of the Virginia Board of Education.

c. Level III preparation, if required.

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

(2) Upon successful completion of Levels I, II, and, if required, Level III of the career switcher alternate route to licensure program and submission of a recommendation from the employing Virginia educational agency, the candidate will be eligible to receive a 10-year renewable license.

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

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

B. An alternate route is available to individuals employed by a Virginia educational agency who seek teaching endorsements preK through grade 12. The employing Virginia educational agency may request a nonrenewable Provisional License on behalf of the individual if the individual has completed an allowable portion of professional studies and endorsement requirements. An employed teacher may demonstrate meeting the teaching endorsement requirements by passing a rigorous academic subject test for endorsements in which a test is prescribed by the Virginia Board of Education. This testing option does not apply to individuals (i) who are seeking an early/primary education preK-3 or elementary education preK-6 endorsement, special education endorsements, or a reading specialist endorsement or (ii) who

Regulations

hold a Technical Professional License, Vocational Evaluator License, Pupil Personnel Services License, School Manager License, or Division Superintendent License. This route also is available to individuals who are employed by a Virginia public school, a Virginia accredited nonpublic school, or an accredited virtual school or program and who are seeking the Online Teacher License that is issued to teachers who teach only online courses. The Provisional License will be issued for a validity period not to exceed three years. The Provisional License is a nonrenewable teaching license valid for a period not to exceed three years. Individuals shall complete all licensure requirements to become eligible for the 10-year, renewable license.

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

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

2. The professional studies requirements for the appropriate level of endorsement sought shall be completed. A Virginia educational agency may submit to the Superintendent of Public Instruction for approval an alternate program to meet the professional studies requirements. The alternate program shall include training such as seminar, internship, or coursework in human development and learning; curriculum and instruction, including technology; assessment of and for learning; classroom and behavior management; foundations of education and the teaching profession, including legal status of teachers and students, federal and state laws, and teacher evaluation as prescribed by the Virginia Board of Education's guidelines for performance standards and evaluation criteria established pursuant to § 22.1-253.13:5 B of the Code of Virginia; and language and literacy.

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

to assist the beginning teacher employed through the alternate route.

C. Alternate route in special education. The Provisional (Special Education) License is a nonrenewable teaching license issued for a validity period not to exceed three years to an individual employed as a special education teacher in a public school or a nonpublic school in Virginia who does not hold the appropriate special education endorsement. The Provisional (Special Education) License will be issued only with endorsements in special education. The Provisional License is a nonrenewable teaching license valid for a period not to exceed three years. This alternate route to special education endorsement is not applicable to individuals seeking the Online Teacher License. To be issued the Provisional (Special Education) License through this alternate route, an individual shall:

1. Be employed by a Virginia public or accredited nonpublic school as a special education teacher and have the recommendation of the employing educational agency;
2. Have earned a baccalaureate degree from ~~a regionally an accredited college or university institution~~;
3. Have an assigned mentor with an active Virginia teaching license with an endorsement in special education; and
4. Have a planned program of study in the assigned endorsement area, make progress toward meeting the endorsement requirements each of the three years of the license, and have completed at least three semester hours of coursework in the competencies of foundations for educating students with disabilities and have an understanding and application of the legal aspects and regulatory requirements associated with identification, education, and evaluation of students with disabilities. A survey course integrating these competencies would satisfy this requirement.

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

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

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

1. Have earned a baccalaureate degree from ~~a regionally an accredited college or university institution~~;
2. Have at least three years of documented successful full-time work experience that may include specialized training related to the endorsement sought; and
3. Have met the Virginia qualifying score on the content knowledge assessment prescribed by the Virginia Board of Education.

Experiential learning does not apply to individuals seeking special education and preK-3 and preK-6 endorsements or endorsements ~~in for~~ which there is no Virginia Board of Education ~~prescribed Education-prescribed~~ content or subject assessment.

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

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

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

C. Licensure by reciprocity is provided for any spouse of an active duty or reserve member of the Armed Forces of the United States or a member of the Virginia National Guard who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Virginia Department of Education. Each such individual shall establish a file in the Virginia Department of Education by submitting a complete application packet, which shall include official student transcripts and an official copy of the military permanent assignment orders of the individual's spouse. No service requirements or licensing assessments shall be required for any such individual. The Virginia Department of Education shall determine and communicate such individual's eligibility for licensure by reciprocity within 15 business days of receipt of the complete application packet.

D. Licensure by reciprocity is provided for individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Virginia Department of Education. Each such individual shall establish a file in the Virginia Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

E. For licensure by reciprocity, applicants may submit third-party employment verification forms.

F. For licensure by reciprocity, the board shall grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

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

A. The Division Superintendent, Postgraduate Professional, Collegiate Professional, Technical Professional, Pupil Personnel Services, Online Teacher, and School Manager Licenses may be renewed upon the completion of 270 professional development points within a 10-year validity period based on an individualized professional development plan that includes ongoing, sustained, and high-quality professional development. Individuals renewing a five-year renewable license must complete 180 professional development points. Every person seeking renewal of a license shall complete all renewal requirements, including professional development, in a manner prescribed by the Virginia Board of Education, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education.

B. An individual seeking renewal shall submit a completed licensure application at the time a renewal request is submitted.

C. Any individual licensed and endorsed to teach (i) middle school civics or economics or (ii) high school government or history who is seeking renewal of such license is required to demonstrate knowledge of Virginia history or state and local government by completing a module or professional development course specifically related to Virginia history or state and local government that has a value of five professional development points.

D. Every person seeking renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform

Regulations

cardiopulmonary resuscitation. The Virginia Board of Education shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training.

E. Every person seeking renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

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

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

H. Every person seeking renewal of a license with an endorsement in history and social science shall complete instruction in African American history, which shall include (i) an understanding of African origins; (ii) the African diaspora; (iii) developments of the Black experience in North America; (iv) the institution of slavery in the United States, including historical perspectives of the enslaved; and (v) how African Americans helped shape and have been shaped by American society.

I. Every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.

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

K. Professional development points may be accrued by the completion of professional development activities to improve and increase instructional personnel's knowledge of the academic subjects the teachers teach or the area assigned from one or more of the following eight options, in accordance with Virginia Board of Education guidelines set forth in the Virginia Licensure Renewal Manual.

1. College credit. Acceptable coursework offers content that provides new information and is offered on campus, off campus, or through extension by any regionally accredited two-year or four-year college or university institution.

College coursework shall develop further experiences in subject content taught, teaching strategies, uses of technologies, leadership, and other essential elements in teaching to high standards and increasing student learning. No person seeking renewal of a license shall be required to complete coursework and earn credit at an institution of higher learning.

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

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

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

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

6. Mentorship. Mentoring is the process by which an experienced professional who has received mentorship training provides assistance to one or more persons for the purpose of improving ~~their~~ the person's performance. Assistance may involve role modeling, direct instruction, demonstration, observation with feedback, developing of plans, and consultation to promote instructional excellence and increased student achievement. Mentoring may include the supervision of a field experience of a pre-service student teacher or an intern in an approved teacher or principal preparation program, as well as mentoring as part of the induction process for a beginning teacher or a first-year

administrator. Individuals serving in this role and submitting documentation for license renewal based on the mentorship option shall receive training as a mentor prior to the assignment and at least once during the 10-year renewal cycle.

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

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

L. The 270 points may be accrued by activities drawn from one or more of the eight renewal options. Individuals renewing a five-year renewable license must complete 180 professional development points as prescribed by the Virginia Board of Education. Renewal work is designed to provide licensed personnel with opportunities for professional development relative to the grade levels or teaching fields to which they are assigned or for which they seek an added endorsement. Such professional development encompasses (i) responsible remediation of any area of an individual's knowledge or skills that fails to meet the standards of competency and (ii) responsible efforts to increase the individual's knowledge of new developments in ~~his~~ the field and to respond to new curricular demands within the individual's area of professional competence.

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

N. Virginia school divisions and accredited nonpublic schools shall recommend renewal of licenses using the renewal point system.

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

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

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

Endorsement requirements. The candidate shall have:

1. An earned baccalaureate degree from ~~a regionally an~~ accredited college or university institution and hold a license issued by the Virginia Board of Education with an endorsement in elementary education, such as preK-3 or preK-6, or special education early childhood;
2. Completed 9 semester hours of graduate-level coursework in early childhood education; and
3. Completed a supervised practicum of at least 45 instructional hours in a preschool setting (three-year-olds and four-year-olds) in a public school, an accredited nonpublic school, or another program approved by the Virginia Board of Education. One year of successful, full-time teaching experience in a public or accredited nonpublic school may be accepted in lieu of the practicum.
4. The add-on endorsement to an elementary endorsement that includes preK is not required to teach preK (three-year-olds and four-year-olds), but the endorsement recognizes the candidate's additional preparation in early childhood education.

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

Endorsement requirements.

1. The candidate must have graduated from an approved teacher preparation program in early/primary education preK-3; or
2. The candidate for the early/primary education preK-3 endorsement must have earned a baccalaureate degree from ~~a regionally an~~ accredited college or university institution in the liberal arts or sciences, or equivalent, and completed coursework that covers the early/primary education preK-3

Regulations

competencies and meets the following semester-hour requirements:

- a. English (shall include composition, oral communication, and literature): 12 semester hours; or complete ~~6~~ six semester hours in English and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;
- b. Mathematics (shall include ~~algebra~~ Algebra, geometry, probability and statistics, and methods in teaching elementary mathematics): 12 semester hours; or complete ~~6~~ six semester hours in mathematics, complete a methods in teaching elementary mathematics course (~~3~~ three semester hours), and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;
- c. Laboratory sciences: 12 semester hours (in at least two science disciplines and methods in teaching elementary science); or complete ~~6~~ six semester hours in laboratory science (in two science disciplines), complete a methods in teaching elementary science course (~~3~~ three semester hours), and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;
- d. History (shall include American history and world history): ~~6~~ six semester hours, and Social Science (shall include geography and economics): ~~6~~ six semester hours; or complete ~~3~~ three semester hours in history, complete ~~3~~ three semester hours in social science (geography or economics), complete a methods in teaching elementary history and social sciences course (~~3~~ three semester hours), and pass a rigorous elementary subject test prescribed by the Virginia Board of Education; and
- e. Arts: ~~3~~ three semester hours.

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

Endorsement requirements.

1. The candidate shall have graduated from an approved teacher preparation program in elementary education preK-6; or
2. The candidate for the elementary education preK-6 endorsement shall have earned a baccalaureate degree from ~~a regionally an~~ an accredited college or university institution majoring in the liberal arts or sciences (or equivalent) and meet the following semester-hour requirements:
 - a. English (shall include composition, oral communication, and literature): 12 semester hours; or complete ~~6~~ six semester hours in English and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;
 - b. Mathematics (shall include ~~algebra~~ Algebra, geometry, probability and statistics, and teaching elementary mathematics): 15 semester hours; or complete ~~6~~ six hours in mathematics, complete a methods in teaching elementary mathematics course (~~3~~ three semester hours),

and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;

- c. Laboratory sciences: 15 semester hours in at least three science disciplines and at least a three credit science methods course; or complete ~~9~~ nine semester hours (in two science disciplines), complete a methods in teaching elementary science course (~~3~~ three semester hours), and pass a rigorous elementary subject test prescribed by the Virginia Board of Education;
- d. History (shall include American history and world history): ~~6~~ six semester hours, and Social Science (shall include geography and economics): ~~6~~ six semester hours; or complete ~~3~~ three semester hours in history, complete ~~3~~ three semester hours in social science (geography or economics), complete a methods in teaching elementary history and social sciences course (~~3~~ three semester hours), and pass a rigorous elementary subject test prescribed by the Virginia Board of Education; and
- e. Arts: ~~3~~ three semester hours.

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

Endorsement requirements.

1. The candidate shall have graduated from an approved teacher preparation discipline-specific program in middle education 6-8 with at least one area of academic preparation from the areas of English, mathematics, science, and history and social sciences; or
2. An applicant seeking the middle education 6-8 endorsement shall have earned a baccalaureate degree from ~~a regionally an~~ an accredited college or university institution in the liberal arts or sciences, or equivalent; and completed the minimum number of semester hours, as indicated, in at least one area of academic preparation (concentration) that will be listed on the license. The applicant will be restricted to teaching only in the area or areas of concentration listed on the teaching license.
 - a. English. English concentration (shall include coursework in language, such as history, structure, grammar, fiction and nonfiction texts, media literacy, advanced composition, and interpersonal communication or speech): 21 semester hours.
 - b. Mathematics. Mathematics concentration (shall include coursework in ~~algebra~~ Algebra, geometry, probability and statistics, applications of mathematics, and methods of teaching mathematics to include middle school mathematics content): 24 semester hours.
 - c. Laboratory sciences. Laboratory sciences concentration (shall include courses in each of the following: biology, chemistry, physics, and Earth and space science; and a laboratory course is required in each of the four areas): 24 semester hours.
 - d. History and social sciences. History and social sciences concentration (shall include a course in American history;

world history; economics; American government, including state and local government; and geography): 21 semester hours.

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

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

8VAC20-23-200. Adult education.

A. Endorsement requirements. The candidate shall have:

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

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

- a. Understanding of the nature or psychology of the adult learner or adult development;
- b. Understanding of the knowledge, skills, and processes needed for the selection, evaluation, and instructional applications of the methods and materials for adults to become college and career ready, including:
 - (1) Curriculum development in adult basic education or Virginia Board of Education-approved high school equivalency instruction;
 - (2) Literacy skills for adults;
 - (3) Numeracy skills for adults;
 - (4) Reading comprehension for adult education; and
 - (5) Other adult basic skills instruction.

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

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

Endorsement requirements. The candidate shall have:

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

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

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

- a. Methods for teaching adult English learners: ~~3~~ three semester hours;
- b. English linguistics: ~~3~~ three semester hours;
- c. Cross-cultural education: ~~3~~ three semester hours;
- d. Modern foreign language: ~~6~~ six semester hours; and
- e. Electives from the following areas: ~~6~~ six semester hours:
 - (1) Cross-cultural communication;
 - (2) Second language acquisition;
 - (3) General linguistics;
 - (4) Teaching reading to adults;
 - (5) Adult English learner instruction; or
 - (6) Adult English learner curriculum development.

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

A. Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from a ~~regionally an~~ accredited ~~college or university~~ institution and graduated from an approved teacher preparation program in agricultural education; or

2. Earned a baccalaureate degree from a ~~regionally an~~ accredited ~~college or university~~ institution and completed 39 semester hours of coursework in agriculture, including at least ~~3~~ three semester hours in each of the areas in subdivisions 2 a through 2 f of this subsection, as well as a minimum of ~~9~~ nine semester hours in one concentration area listed in subdivisions 2 a through 2 f:

- a. Plant science;
- b. Animal science;
- c. Agricultural mechanics and applied technology with a lab component;
- d. Agricultural economics and management;
- e. Forestry and wildlife management;
- f. Horticulture; and
- g. Supervised occupational experience, ~~3~~ three semester hours, or one year of successful, full-time or the equivalent (a minimum of 2,000 cumulative hours) relevant occupational experience within the past five years.

Regulations

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

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

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

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

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

A. Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally an~~ accredited ~~college or university~~ institution and graduated from an approved teacher preparation program in business and information technology; or
2. Earned a baccalaureate degree from ~~a regionally an~~ accredited ~~college or university~~ institution and completed a major in business education or 39 semester hours of coursework in business and information technology, including:

- a. Accounting: ~~6~~ six semester hours;
- b. Economics: 3 three semester hours;
- c. Business law, business principles, management, marketing, or finance: 9 nine semester hours;
- d. Communications and media to include oral, written, and presentation skills: 3 three semester hours;
- e. Information systems and technology to include computer software applications, such as word processing, spreadsheet, database, and presentation, information technology fundamentals, database management, communications systems, programming, software development, security, and networking: 12 semester hours;
- f. Input technologies to include touch keyboarding (required, or documented demonstrated mastery of the touch keyboarding skill), audio input devices, video input devices, pointing devices, touch screens, or other emerging input technologies: 3 three semester hours; and
- g. Supervised business experience: 3 three semester hours, or one year of successful full-time or the equivalent (a minimum of 2,000 cumulative hours) relevant occupational experience within the last five years.

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

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

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

3 three semester hours; and applications of instructional technology or classroom and behavior management: 3 three semester hours).

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

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

A. Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from a ~~regionally~~ an accredited ~~college or university~~ institution and graduated from an approved teacher preparation program in family and consumer sciences; or
2. Earned a baccalaureate degree from a ~~regionally~~ an accredited ~~college or university~~ institution and completed a major in family and consumer sciences education or 39 semester hours of coursework in family and consumer sciences distributed in the following areas:
 - a. Development of individuals through the lifespan and the family life cycle: 9 nine semester hours;
 - b. Resource management, personal and family finance, and consumer economics: 6 six semester hours;
 - c. Food, nutrition, dietetics, wellness, and food science: 9 nine semester hours;
 - d. Housing, home furnishing, and equipment: 3 three semester hours;
 - e. Apparel and textiles: 6 six semester hours;
 - f. Occupational program management: 3 three semester hours; and
 - g. Supervised occupational experience related to family and consumer sciences, 3 three semester hours, or one year of successful, full-time or the equivalent (a minimum of 2,000 cumulative hours) relevant occupational experience within the last five years.

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

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

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

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

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

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

A. Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from a ~~regionally~~ an accredited ~~college or university~~ institution and graduated from an approved program of study in a health care program of study and hold a current license or certification as a professional practitioner in the area in which one is to be teaching; or
2. Earned a baccalaureate degree from a ~~regionally~~ an accredited ~~college or university~~ institution and hold a current license or certification as a professional practitioner in the area in which one is to be teaching and completed two years of successful, full-time or the equivalent of occupational

Regulations

experience within the past five years in an area related to the teaching specialty sought.

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

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

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

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

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

A. Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited ~~college or university~~ institution and graduated from an approved teacher preparation program in marketing education; or

2. Earned a baccalaureate degree from ~~a regionally~~ an accredited ~~college or university~~ institution and completed a major in marketing education or a minimum of 39 semester hours of coursework in marketing to include:

- a. Marketing processes and environment: ~~3~~ three semester hours;
- b. Management and supervision: ~~6~~ six semester hours;
- c. Economics: ~~3~~ three semester hours;
- d. Merchandising and operations: ~~3~~ three semester hours;
- e. Advertising and promotion: ~~3~~ three semester hours;
- f. Sales and selling: ~~3~~ three semester hours;
- g. Communication theory and techniques: ~~3~~ three semester hours;
- h. Consumer behavior: ~~3~~ three semester hours;
- i. International (global) marketing: ~~3~~ three semester hours;
- j. Finance, accounting, or marketing mathematics: ~~3~~ three semester hours;
- k. Technology applications: ~~3~~ three semester hours; and
- l. Supervised marketing occupational experience, ~~3~~ three semester hours, or one year of successful full-time work experience in the field of marketing may be accepted in lieu of the supervised marketing internship.

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

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

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

If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and

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

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

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited ~~college or university~~ institution and graduated from an approved teacher preparation program in technology education; or
2. Earned a baccalaureate degree from ~~a regionally~~ an accredited ~~college or university~~ institution and completed a major in technology education or 33 semester hours in technology education distributed in the following areas:
 - a. The nature of technology. Experiences shall include those that promote an understanding of the characteristics, scope, and core concepts of physical, biological, and informational technologies, the relationships among these technologies, and their connections to other science, technology, engineering, and mathematics (STEM) fields: ~~6~~ six semester hours;
 - b. Technology and society. Experiences shall include those that develop a working knowledge of the cultural, social, economic, and political effects of technology, its effect on the environment, and the role of society in the history, development, and use of physical, biological, and informational technologies: ~~3~~ three semester hours;
 - c. Engineering. Experiences shall include those that develop comprehension of the attributes of technological design, inclusive of constraints, optimization, predictive analysis, problem solving, critical thinking, technical writing, and integrative mathematics and science: ~~6~~ six semester hours;
 - d. Abilities for a technological world. Experiences shall include those that develop the capacity to utilize the design process, to use and maintain technological products and systems, and to assess their impact: ~~9~~ nine semester hours; and
 - e. The designed world. Experiences shall include those that promote an understanding of current and emerging physical, biological, and informational technologies: ~~9~~ nine semester hours; or
3. Earned a baccalaureate degree from ~~a regionally~~ an accredited ~~college or university~~ institution with a major in one of the following fields of study: architecture, design, engineering, engineering technology, industrial technology,

or physics and completed a minimum of 15 semester hours of technology education content coursework, including at least ~~3~~ three semester hours in each of the following areas:

- a. The nature of technology;
- b. Technology and society;
- c. Engineering;
- d. Abilities for a technological world; and
- e. The designed world.

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

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

A. Endorsement requirements.

1. The candidate shall have graduated from an approved teacher preparation program with a minimum of a baccalaureate degree from ~~a regionally~~ an accredited ~~college or university~~ institution in trade and industrial education; or
2. A candidate who has graduated from an approved teacher preparation program that is not in the trade and industrial education program subject area for which the candidate is seeking endorsement shall have:
 - a. A current state license or industry certification based on the prescribed standard or examination, if applicable; and
 - b. Evidence of at least two years of successful full-time or equivalent occupational experience within the past five years in the teaching specialty for which the candidate is seeking endorsement. A candidate whose occupational experience has not been within the last five years shall participate in a supervised technical update related to the teaching specialty or area of endorsement or complete a supervised internship of work experience of not less than six weeks related to the area of endorsement or teaching specialty.

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

1. Been recommended by an employing Virginia educational agency;
2. A current license or is currently certified as a professional practitioner in the area in which the individual is to be teaching, if applicable, or can demonstrate competency in

Regulations

the area of trade and industrial education the individual is to be teaching;

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

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

C. Add-on endorsement requirements. A candidate shall:

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

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

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

4. Have completed two years or 4,000 clock hours of satisfactory, full-time occupational experience at the journeyman level or an equivalent level in the occupation within the last five years. Candidates whose occupational experience has not been within the last five years shall participate in a supervised technical update related to the teaching specialty or area of endorsement or complete a supervised internship of work experience of not less than six weeks related to the area of endorsement or teaching specialty; and

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

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

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and graduated from an approved teacher preparation program in transition and special needs education; or

2. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and completed a major in career and technical education or special education preK-12 with an endorsement in one area of career and

technical education or special education preK-12, including 12 semester hours distributed in the following areas:

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

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

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

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

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

8VAC20-23-300. Computer science.

A. Endorsement requirements. The candidate shall have:

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

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

a. Mathematics, including discrete mathematics;

b. Data structures and algorithm analysis;

c. Foundations of computer science; and

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

B. Add-on endorsement requirements in computer science. The candidate shall have:

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

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

a. Mathematics, including discrete mathematics;

b. Data structures and algorithm analysis;

c. Foundations of computer science; and

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

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

A. Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and graduated

from an approved teacher preparation program in dance arts; or

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

a. Development of movement language: ~~9~~ nine semester hours.

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

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

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

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

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

B. Add-on endorsement requirements in dance arts. The candidate shall have:

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

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

a. Development of movement language: ~~9~~ nine semester hours.

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

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

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

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

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

Endorsement requirements. The candidate shall have:

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

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

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

a. Driver Task Analysis, including instructional strategies as prescribed in the Curriculum and Administrative Guide for Driver Education in Virginia (http://www.doe.virginia.gov/instruction/driver_education/curriculum_admin_guide/index.shtml); understanding the highway transportation system; applying Virginia's motor vehicle laws; personal, legal, and emotional factors; visual and sensory perception; risk perception and risk management; space management and other defensive driving techniques; environmental, financial, and other vehicle ownership responsibilities; vehicle technologies; and the scientific principles of the driving tasks: ~~3~~ three semester hours; and

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

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

8VAC20-23-330. Engineering.

Endorsement requirements. The candidate shall have:

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

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

3. Earned a baccalaureate degree from a ~~regionally~~ an accredited college or university institution and completed an

Regulations

engineering technology, science, or technology education major with at least 12 semester hours of coursework in engineering courses, including:

- a. Introduction to engineering design;
- b. Statics or dynamics;
- c. Circuits or fluid mechanics; and
- d. Thermodynamics;

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

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

8VAC20-23-340. English.

Endorsement requirements. The candidate shall have:

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

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

a. Literacy and reading: 12 semester hours. Courses shall include:

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

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

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

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

d. Oral language: ~~3~~ three semester hours. Experiences shall include the teaching of public and presentation speaking, including nonverbal communication and the

role of communication in small group and mass communication.

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

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

Endorsement requirements. The candidate shall have:

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

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

a. Teaching of reading and writing. Courses shall include skills in phonemic and other phonological awareness; pre-reading, during reading, and post-reading strategies; vocabulary development; and guided reading. Ability to structure interactive tasks that engage students in using oral language to develop language and skills. Ability to determine students' reading levels and design instruction for multi-level classrooms by incorporating appropriate scaffolding or language supports; one course shall address teaching reading to English language learners: ~~6~~ six semester hours;

b. English linguistics: general and English linguistics ~~3~~ three semester hours;

c. Cross-cultural education: ~~3~~ three semester hours;

d. Second language acquisition: ~~3~~ three semester hours;

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

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

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

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

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

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

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

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

- a. Advanced grammar and composition;
- b. Conversation, culture and civilization, and literature; and
- c. In addition to the 30 semester hours, completed a minimum of three semester hours of methods of teaching foreign languages at the elementary and secondary levels.

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

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

- a. Achieve a qualifying score on a foreign language assessment in the appropriate language as prescribed by the Virginia Board of Education; and
- b. Earn a minimum of three semester hours of methods of teaching foreign languages at the elementary and secondary levels from ~~a regionally an~~ accredited ~~college or university~~ institution in the United States or obtain teacher certification in another country with at least three semester hours of methods of teaching foreign languages at the elementary and secondary levels at a foreign institution.

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

- 1. Earned a baccalaureate degree from ~~a regionally an~~ accredited ~~college or university~~ institution and graduated from an approved teacher preparation program in Latin; or
- 2. Earned a baccalaureate degree from ~~a regionally an~~ accredited ~~college or university~~ institution and completed 24 semester hours of Latin above the intermediate level. A maximum of six semester hours of Roman history, Roman life, Roman mythology, or Roman archaeology may be included in the total hours. A minimum of three semester hours of methods of teaching Latin at the elementary and secondary levels are required.

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

- 1. The candidate shall have (i) graduated from an approved teacher preparation program in a foreign language - American Sign Language or (ii) earned a baccalaureate degree from ~~a regionally an~~ accredited ~~college or university~~ institution and completed a major in American Sign Language or 24 semester hours above the intermediate level in American Sign Language. The program shall include (i)

courses in advanced grammar and syntax, conversation, and culture and (ii) a minimum of three semester hours of methods of teaching foreign languages at the elementary and secondary levels.

2. Native users or candidates who have learned American Sign Language without formal academic credit in a ~~regionally an~~ accredited ~~college or university~~ institution, as explained in subdivision 1 of this subsection, shall complete the following requirements:

- a. Competency in American Sign Language demonstrated by written documentation of one of the following:
 - (1) Hold a current, valid certification issued by the American Sign Language Teachers' Association;
 - (2) Hold a current, valid certification issued by the Registry of Interpreters for the Deaf; or
 - (3) Complete requirements by achieving a qualifying score on an assessment demonstrating proficiency in American Sign Language prescribed by the Virginia Board of Education.
- b. A minimum of three semester hours of methods of teaching foreign languages at the elementary and secondary levels from ~~a regionally an~~ accredited ~~college or university~~ institution in the United States; and
- c. A minimum of six semester hours in coursework, including grammar and syntax of American Sign Language.

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

Endorsement requirements. The candidate shall have:

- 1. Earned a baccalaureate degree from ~~a regionally an~~ accredited ~~college or university~~ institution and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area;
- 2. Earned a baccalaureate degree from ~~a regionally an~~ accredited ~~college or university~~ institution and completed an approved teacher preparation program in gifted education; or
- 3. Completed the following requirements:
 - a. Earned a baccalaureate degree from ~~a regionally an~~ accredited ~~college or university~~ institution and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and
 - b. Completed 12 semester hours of graduate-level coursework in gifted education distributed in the following areas:
 - (1) Introduction and identification of giftedness: ~~3~~ three semester hours;
 - (2) Social and emotional development and guidance of gifted learners: ~~3~~ three semester hours;
 - (3) Curriculum and instructional strategies for gifted learners: ~~3~~ three semester hours; and

Regulations

(4) Advanced course work in one of the following areas: ~~3~~ three semester hours:

- (a) Advanced curriculum, instruction, and assessment design;
 - (b) Advanced program development and evaluation; or
 - (c) Advanced study in underrepresented populations; and
- c. Completed a practicum of at least 45 instructional hours. This practicum shall include a minimum of 45 instructional hours of successful teaching experiences with gifted students in a public or an accredited nonpublic school. In lieu of the practicum, one year of successful, full-time teaching experience with gifted students in a public or an accredited nonpublic school may be accepted, provided the teacher is assigned a mentor holding a valid license with an endorsement in gifted education.

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

Endorsement requirements. The candidate shall have:

- 1. Earned a baccalaureate degree from a ~~regionally~~ an accredited college or university institution and graduated from an approved teacher preparation program in health and physical education; or
- 2. Earned a baccalaureate degree from a ~~regionally~~ an accredited college or university institution and completed a major in health and physical education or 45 semester hours of coursework distributed in the following areas:
 - a. Personal health, safety, and care of athletic injuries: ~~3~~ three semester hours;
 - b. Human anatomy, physiology, exercise physiology, and biomechanics of human movement: ~~9~~ nine semester hours;
 - c. General health and physical education theory, including curriculum design and development in health and physical education: ~~3~~ three semester hours;
 - d. Instructional methods and skills for secondary physical education: ~~3~~ three semester hours;
 - e. Concepts of motor learning, instructional methods, and skills for elementary physical education: ~~3~~ three semester hours;
 - f. Instruction methods for elementary and secondary school health: ~~3~~ three semester hours;
 - g. Health and physical education electives: ~~9~~ nine semester hours;
 - h. Instructional methods and strategies for adapted physical education: ~~3~~ three semester hours;
 - i. Technology in health and physical education: ~~3~~ three semester hours;
 - j. Principles of human nutrition: ~~3~~ three semester hours; and
 - k. Assessment and evaluation in the content area: ~~3~~ three semester hours.

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

A. Endorsement requirements. The candidate shall have:

- 1. Earned a baccalaureate degree from a ~~regionally~~ an accredited college or university institution and graduated from an approved teacher preparation program in history and social sciences; or
- 2. Earned a baccalaureate degree from a ~~regionally~~ an accredited college or university institution and completed 51 semester hours of coursework distributed in each of the following areas:
 - a. History: a major in history or 18 semester hours in history (shall include coursework in American history, Virginia history, and world history and may include African American history);
 - b. Political science: a major in political science or 18 semester hours in political science, which shall include coursework in American government (state and local government);
 - c. Geography: nine semester hours; and
 - d. Economics: six semester hours.

All candidates shall have also completed instruction in African American history, either as part of the degree program or through other department-approved alternatives, which shall include (i) an understanding of African origins; (ii) the African diaspora; (iii) developments of the Black experience in North America; (iv) the institution of slavery in the United States, including historical perspectives of the enslaved; and (v) how African Americans helped shape and have been shaped by American society.

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

- 1. Earned a baccalaureate degree from a ~~regionally~~ an accredited college or university institution and hold a teaching license with an endorsement in history, political science, geography, or economics;
- 2. Completed 21 semester hours of coursework in the additional social science area - history, political science, geography, or economics for which the add-on endorsement is sought; and
- 3. Completed instruction in African American history, either as part of the degree program or through other department-approved alternatives, which shall include (i) an understanding of African origins; (ii) the African diaspora; (iii) developments of the Black experience in North America; (iv) the institution of slavery in the United States, including historical perspectives of the enslaved; and (v) how African Americans helped shape and have been shaped by American society.

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

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and
2. Completed a minimum of 15 semester hours in journalism.

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

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and hold a license issued by the Virginia Board of Education with a teaching endorsement in a teaching area; and
2. Completed ~~6~~ six semester hours in keyboarding. Three of the six semester hours may be from either formal keyboarding instruction or documented demonstrated mastery of the touch keyboarding skill, and three semester hours shall include document formatting skills, word processing, and computer applications.

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

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and graduated from an approved preparation program in school library media; or
2. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and completed 24 semester hours distributed in the following areas:
 - a. Teaching for learning, including knowledge of learners and learning; effective and knowledgeable teaching; collaborative instructional partners; integration of learning standards and technologies; assessment of and for student learning; and the design and implementation of instruction that engages students interests and develops their ability to inquire, think critically, and gain and share knowledge: ~~3~~ three semester hours;
 - b. Literacy and reading, including familiarity with children's, young adult, and professional literature in multiple formats; use of a variety of strategies to promote reading for enjoyment and information; collection development to support diverse learning needs; and collaboration to reinforce reading instructional strategies: ~~6~~ six semester hours;
 - c. Information and knowledge, including efficient and ethical information-seeking behavior, ethical and equitable access to information, design and delivery of authentic learning through current and emerging

technology, and the use of evidence-based action research to create and share knowledge: ~~6~~ six semester hours;

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

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

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

8VAC20-23-430. Mathematics.

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and graduated from an approved teacher preparation program in mathematics; or
2. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and completed a major in mathematics or 36 semester hours of coursework distributed in each of the following areas:
 - a. Algebra. Experience shall include linear algebra (matrices, vectors, and linear transformations) and abstract algebra (ring, group, and field theory);
 - b. Geometry. Experience shall include Euclidean and non-Euclidean geometries;
 - c. Analytic geometry;
 - d. Probability and statistics;
 - e. Discrete mathematics. Experience shall include the study of mathematical properties of finite sets and systems and linear programming;
 - f. Calculus. Experience shall include multivariable calculus;
 - g. Mathematical modeling; and
 - h. Computer science, including two programming languages.

Regulations

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

Endorsement requirements. The candidate shall have:

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

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

Endorsement requirements. The candidate shall have:

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

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

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and graduated

from an approved teacher preparation program in music education - vocal/choral; or

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

8VAC20-23-470. Science – biology.

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and graduated from an approved teacher preparation program in biology;
2. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and completed a major in biology or 32 semester hours in biology and at least one course in each of the following areas: genetics, biochemistry/molecular biology, cell biology, botany, zoology, anatomy/physiology, ecology, and evolutionary biology and other preparation consistent with the competencies for the endorsement; or
3. Earned an endorsement in another science discipline and completed at least 18 semester hours in biology, including at least one course in each of the following areas: genetics, biochemistry/molecular biology or cell biology, botany, zoology, anatomy/physiology, and evolutionary biology or ecology.

8VAC20-23-480. Science – chemistry.

Endorsement requirements. The candidate shall have:

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

3. Earned an endorsement in another science discipline and completed at least 18 semester hours in chemistry, including at least one course in each of the following areas: inorganic chemistry, organic chemistry, physical chemistry, biochemistry, and analytical chemistry.

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

Endorsement requirements. The candidate shall have:

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

8VAC20-23-500. Science – physics.

Endorsement requirements. The candidate shall have:

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

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

Endorsement requirements: The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and graduated from an approved program in special education - adapted curriculum; or
2. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and completed 27

semester hours in the education of students with disabilities as distributed in the following areas:

a. Core coursework: 12 semester hours distributed among the following areas:

(1) Foundations: ~~3~~ three semester hours. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities;

(2) Assessment and evaluation: ~~3~~ three semester hours. Includes an understanding and application of the foundation of assessment and evaluation related to best practices in special education, including types and characteristics of assessment, introduction to formal and informal assessment, and the use of assessments and other information to determine special education eligibility, service delivery, curriculum, and instruction of students with disabilities. Understanding of the current legal and ethical issues related to assessment selection and use, including comprehensive evaluation requirements, students with disabilities participation in the state and local accountability systems, assessment options, appropriate grading and testing accommodations, and assessment of students from diverse backgrounds.

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

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

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

(1) Characteristics: ~~3~~ three semester hours. Skills in this area include the ability to demonstrate knowledge of the characteristics, including medical and health conditions, and learning and support needs of students with

Regulations

disabilities (K-12) whose cognitive and functional skills are significantly different from typically developing peers and therefore require adaptations to the general curriculum for an appropriate education, including, but not limited to, students with autism spectrum disorders, developmental delay, intellectual disability, traumatic brain injury, and multiple disabilities including sensory, deaf-blindness, speech-language, orthopedic, and other health impairments as an additional disability to those referenced ~~above~~ in this section.

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

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

(4) Instructional methods and strategies for the adapted curriculum: ~~3~~ three semester hours. An understanding and application of service delivery, curriculum, and instruction of students with disabilities who need an adapted curriculum. Knowledge of the general curriculum requirements and expectations and how to provide access to the curriculum based on student characteristics and needs. Skills in this area include the ability to understand and use a range of modifications, adaptations, special instructional strategies, and research-based interventions that reflect best practice in reading, writing, and mathematics instruction for students with more significant disabilities; ability to align the instructional practices and intervention with the Virginia Standards of Learning and

state assessments; knowledge of available assistive and instructional technologies, including alternative communication methods and systems to promote learning and independence for students with disabilities in the adaptive curriculum and the ability to evaluate its effectiveness; ability to develop and use curriculum-based and standardized assessment to conduct ongoing evaluations of instructional material and practices to determine effectiveness and assess student needs as they relate to curriculum design and delivery; ability to modify and adapt instructional content in a variety of settings and collaborate with general education content teachers to develop and implement instructional practices that meet the needs of students with disabilities in the adapted curriculum and monitor student progress.

(5) Individualized supports and specialized care of students with significant disabilities: ~~3~~ three semester hours. Knowledge of and ability to implement adapted strategies to address the positioning, handling, communication, personal care, and medical needs of students with significant disabilities. Knowledge and understanding of the roles of related disciplines and service providers in collaborative planning and service delivery. Demonstration of the ability to develop and utilize a blended curriculum design to address disability-specific or unique needs such as feeding and communication while addressing the adapted curriculum requirements.

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

Endorsement requirements. The candidate shall have:

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

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

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

b. Foundations: ~~3~~ three semester hours. Includes knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that

include understanding and application of the regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from a ~~regionally~~ an accredited college or university institution and graduated

Regulations

from an approved teacher preparation program in special education deaf and hard of hearing; or

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

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

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

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

d. Instructional planning: 3 three semester hours. Includes the following:

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

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

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

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

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

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

(7) Ability to model and directly teach instructional strategies in a variety of settings, collaborate with general educators to develop and implement instructional practices that meet the needs of students who are deaf and hard of hearing, and monitor student progress.

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

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

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

listening devices; and ability to foster development of listening skills.

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

i. Communication modalities: ~~3~~ three semester hours. Includes introduction to the various communication modalities used by students who are deaf and hard of hearing, including listening and spoken language, cued speech, speech reading, and through the air communication including use of American Sign Language (ASL) and contact varieties of signed language and coursework to learn ASL.

8VAC20-23-540. Special education early childhood (birth-age five years).

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally an accredited college or university institution~~ and graduated from an approved teacher preparation program in early childhood special education; or
2. Earned a baccalaureate degree from ~~a regionally an accredited college or university institution~~ and completed a major in early childhood special education or 27 semester graduate hours in early childhood special education, including at least one course in each of the following:
 - a. Foundations and legal aspects of special education: ~~3~~ three semester hours;
 - b. Assessment for diagnosis, program planning, and curriculum-based measurement to document progress for young children with typical development, disabling, and at-risk conditions: ~~3~~ three semester hours;
 - c. Curriculum and instructional programming for preschool: ~~3~~ three semester hours;
 - d. Speech and language development and intervention: ~~3~~ three semester hours;
 - e. Medical aspects: 3 semester hours;
 - f. Social and emotional skills and behavior management for early childhood: ~~3~~ three semester hours;
 - g. Consultation, co-teaching, coaching, and mentoring: ~~3~~ three semester hours;
 - h. Family-centered intervention: ~~3~~ three semester hours; and
 - i. Early childhood elective: ~~3~~ three semester hours.

8VAC20-23-550. Special education – general curriculum K-12.

Endorsement requirements: The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally an accredited college or university institution~~ and graduated from an approved program in special education - general curriculum; or
2. Earned a baccalaureate degree from ~~a regionally an accredited college or university institution~~ and completed 27 semester hours in the education of students with disabilities distributed in the following areas:
 - a. Core coursework: 12 semester hours distributed among the following areas:
 - (1) Foundations: ~~3~~ three semester hours. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.
 - (2) Assessment and evaluation: ~~3~~ three semester hours. Includes an understanding and application of the foundation of assessment and evaluation related to best practice in special education, including types and characteristics of assessment, introduction to formal and informal assessment, and the use of assessments and other information to determine special education eligibility, service delivery, curriculum, and instruction of students with disabilities. Understanding of the current legal and ethical issues related to assessment selection and use, including comprehensive evaluation requirements, students with disabilities participation in the state and local accountability systems, assessment options, appropriate grading and testing accommodations, and assessment of students from diverse backgrounds.
 - (3) Collaboration that includes skills in consultation, case management, co-teaching, and collaboration: ~~3~~ three semester hours. Includes understanding roles and responsibilities, knowledge and application of effective communication skills and of culturally responsive practices and strategies and the ability to develop home, school, and community partnerships to address the needs of students with disabilities.
 - (4) Management of classroom instruction and behaviors: ~~3~~ three semester hours. Includes an understanding and knowledge of research-based classroom management techniques, positive behavior support, and individual interventions and a demonstrated ability to create a safe, orderly classroom environment, including classroom organization, instructional design, and establishment of classroom routines and procedures. Knowledge of the elements of effective instructional planning, differentiation of instruction, and other instructional

Regulations

approaches to enhance student engagement and achievement. Understanding of behavior assessments, data collection and analysis, development, and monitoring of behavior intervention plans.

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

(1) Characteristics: \geq three semester hours. Skills in this area shall include the ability to demonstrate knowledge of definitions, characteristics, and learning and behavioral support needs of students with disabilities who are accessing the general education curriculum at the elementary, middle, and high school levels, including students with learning disabilities, emotional disability, and intellectual disabilities; developmental delay; autism; other health impairments; traumatic brain injury; and multiple disabilities.

(2) Individualized education program development and implementation: \geq three semester hours. Knowledge of the eligibility process and legal and regulatory requirements of IEP development, including timelines, components, team composition, and roles and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the Virginia Standards of Learning; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

(3) Transitioning: \geq three semester hours. Skills in this area include the ability to prepare students and work with families and community agencies to provide successful student transitions throughout the educational experience to include postsecondary education training, employment, and independent living that addresses an understanding of long-term planning, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

(4) Instructional strategies in reading and writing: \geq three semester hours. Skills in this area include:

(a) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

(b) Knowledge of the general curriculum, English requirements and expectations, and how to provide access

to the curriculum based on student characteristics and needs.

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

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

(e) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

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

(g) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

(5) Instructional strategies in mathematics: \geq three semester hours. Skills in this area include:

(a) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

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

(c) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

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

(e) Knowledge of and ability to utilize current mathematics related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

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

(g) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum, and monitor student progress.

8VAC20-23-560. Special education – general curriculum K-6 (add-on endorsement).

Endorsement requirements: The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and hold a license issued by the Virginia Board of Education with an endorsement in elementary education, such as early/primary education preK-3 or elementary education preK-6.

2. Completed 15 semester hours in the education of students with disabilities distributed in each of the following areas:

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

b. Individualized education program development and implementation: ~~3~~ three semester hours. Knowledge of the eligibility process and legal and regulatory requirements of IEP development, including timelines, components, team composition, and roles and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the Virginia Standards of Learning; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

c. Assessment and evaluation: ~~3~~ three semester hours. Includes an understanding and application of the foundation of assessment and evaluation related to best practice in special education, including types and

characteristics of assessment, introduction to formal and informal assessment, and the use of assessments and other information to determine special education eligibility, service delivery, curriculum, and instruction of students with disabilities. Understanding of the current legal and ethical issues related to assessment selection and use, including comprehensive evaluation requirements, students with disabilities' participation in the state and local accountability systems, assessment options, appropriate grading and testing accommodations, and assessment of students from diverse backgrounds.

d. Instructional strategies in reading and writing: ~~3~~ three semester hours. Skills in this area include:

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

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

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

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

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

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

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

e. Instructional strategies in mathematics: (~~3~~ three semester hours). Skills in this area include:

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

(2) Knowledge of the general curriculum mathematics requirements and expectations and how to provide access

Regulations

to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

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

(5) Knowledge of and ability to utilize current mathematics-related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

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

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum, and monitor student progress.

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

8VAC20-23-570. Special education – general curriculum middle grades 6-8 (add-on endorsement).

Endorsement requirements: The candidate shall have:

1. Earned a baccalaureate degree from a ~~regionally~~ an accredited college or university institution and hold a license issued by the Virginia Board of Education with an endorsement in middle education, such as middle education grades 6-8 English, middle education grades 6-8 history and social sciences, middle education grades 6-8 mathematics, or middle education-sciences.

2. Completed 15 semester hours in the education of students with disabilities distributed in each of the following areas:

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

b. Individualized education program development and implementation: 3 three semester hours. Knowledge of the eligibility process and legal and regulatory requirements of IEP development, including timelines, components, team composition, and roles and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the Virginia Standards of Learning; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

c. Transitioning: 3 three semester hours. Skills in this area include the ability to prepare students and work with families and community agencies to provide successful student transitions throughout the educational experience to include postsecondary education training, employment, and independent living that addresses an understanding of long-term planning, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

d. Instructional strategies in reading and writing: 3 three semester hours. Skills in this area include:

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

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

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

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

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized reading and writing assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as it relates to the curriculum design and delivery.

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

e. Instructional strategies in mathematics: (3 three semester hours). Skills in this area include:

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

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

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

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

(5) Knowledge of and ability to utilize current mathematics-related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

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

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of

students with disabilities in the mathematics general curriculum, and monitor student progress.

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

8VAC20-23-580. Special education – general curriculum secondary grades 6-12 (add-on endorsement).

Endorsement requirements: The candidate shall have:

1. Earned a baccalaureate degree from a ~~regionally~~ an accredited ~~college or university~~ institution and hold a license issued by the Virginia Board of Education with an endorsement in English, history and social sciences, mathematics, biology, chemistry, Earth science, or physics.

2. Completed 15 semester hours in the education of students with disabilities distributed in each of the following areas:

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

b. Individualized education program development and implementation: 3 three semester hours. Knowledge of the eligibility process and legal and regulatory requirements of IEP development, including timelines, components, team composition, and roles and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the Virginia Standards of Learning; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

c. Transitioning: 3 three semester hours. Skills in this area include the ability to prepare students and work with families and community agencies to provide successful

Regulations

student transitions throughout the educational experience to include postsecondary education training, employment, and independent living that addresses an understanding of long-term planning, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

d. Instructional strategies in reading and writing: ~~3~~ three semester hours. Skills in this area include:

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

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

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

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

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

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

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

e. Instructional strategies in mathematics: ~~(3~~ three semester hours). Skills in this area include:

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

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

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

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

(5) Knowledge of and ability to utilize current mathematics-related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

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

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum, and monitor student progress.

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

8VAC20-23-590. Speech communication (add-on endorsement).

Endorsement requirements. The candidate shall have:

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

2. Completed a minimum of 15 semester hours in speech communication.

8VAC20-23-600. Theatre arts preK-12.

A. Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally~~ an accredited college or university institution and graduated

from an approved teacher preparation program in theatre arts; or

2. Earned a baccalaureate degree from ~~a regionally an~~ accredited ~~college or university~~ institution and completed a major in theatre arts or 33 semester hours distributed among the following areas:

- a. Directing: ~~6~~ six semester hours;
- b. Technical theatre: ~~9~~ nine semester hours;
- c. Cultural context and theatre history: ~~3~~ three semester hours;
- d. Performance: ~~6~~ six semester hours; and
- e. Dramatic literature: ~~9~~ nine semester hours.

B. Add-on endorsement requirements in theatre arts preK-12. The candidate shall have:

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

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

- a. Directing: ~~3~~ three semester hours;
- b. Technical theatre: ~~3~~ three semester hours;
- c. Cultural context and theatre history: ~~3~~ three semester hours; and
- d. Performance: ~~6~~ six semester hours.

8VAC20-23-610. Visual arts preK-12.

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from ~~a regionally an~~ accredited ~~college or university~~ institution and graduated from an approved teacher preparation program in visual arts; or

2. Earned a baccalaureate degree from ~~a regionally an~~ accredited ~~college or university~~ institution and completed a major in visual arts or 36 semester hours in art distributed in the following areas:

- a. Two-dimensional media: 12 semester hours;
- b. Three-dimensional media: 12 semester hours;
- c. Cultural context and art history: ~~6~~ six semester hours;
- d. Evaluation and criticism and aesthetics: ~~3~~ three semester hours; and
- e. Related areas of the fine arts: ~~3~~ three semester hours.

8VAC20-23-620. Administration and supervision preK-12.

A. An endorsement in administration and supervision preK-12 consists of Level I, which is required to serve as a building-level administrator or central office instructional supervisor, and Level II, which is an optional endorsement to which an experienced building-level administrator may aspire.

Individuals shall meet the requirements for the administration and supervision preK-12 endorsement through one of the four options listed in this section. A school leader's assessment prescribed by the Virginia Board of Education shall be passed for all individuals who are seeking an initial endorsement authorizing them to serve as principals and assistant principals in the public schools. Individuals seeking an initial administration and supervision endorsement who are interested in serving as central office instructional personnel are not required to take and pass the school leaders assessment prescribed by the Virginia Board of Education.

B. Level I, Option I: Approved program route to Level I administration and supervision preK-12 endorsement. To become eligible for a Level I endorsement under this option, the candidate shall have:

1. Earned a master's degree from ~~a regionally an~~ accredited ~~college or university~~ institution;

2. Completed three years of successful, full-time experience in a public school or accredited nonpublic school in an instructional personnel position that requires licensure in Virginia;

3. Completed an approved program in administration and supervision from ~~a regionally an~~ accredited ~~college or university~~ institution;

4. Completed a deliberately structured and supervised internship that is focused on student academic progress for all students and that:

- a. Provides significant experiences within a school environment for candidates to synthesize and apply content knowledge and develop professional skills through school-based leadership experiences;
- b. Shall occur in a public or accredited nonpublic school;
- c. Provides exposure to five different multiple sites, such as elementary, middle, high, central office, and agency, with diverse student populations; and
- d. Documents a minimum of 320 clock hours, of which 120 clock hours are embedded as experiential field-based opportunities experienced during coursework; and

5. Satisfied the requirements for the school leaders licensure assessment prescribed by the Virginia Board of Education. Individuals seeking an initial administration and supervision endorsement who are interested in serving as central office instructional personnel are not required to take and pass the school leaders assessment prescribed by the Virginia Board of Education.

C. Level I, Option II: Alternate route to Level I administration and supervision preK-12 endorsement restricted to the Virginia school division in which the superintendent submitted the recommendation for endorsement. This endorsement is valid only in the designated Virginia school division and would not

Regulations

be portable or reciprocal. In order to be eligible for Level I endorsement under this option, the candidate shall have:

1. Earned a master's degree from ~~a regionally an~~ accredited college or university institution;
2. Completed graduate coursework in school law, evaluation of instruction, and other areas of study as required by an employing Virginia school superintendent. The graduate coursework shall be taken from ~~a regionally an~~ accredited college or university institution that has a state-approved administration and supervision program;
3. Completed three years of successful, full-time experience in a public school or accredited nonpublic school in an instructional personnel position that requires licensure in Virginia;
4. Satisfied the requirements for the school leaders licensure assessment specified by the Virginia Board of Education; and
5. Been recommended by the superintendent in the employing Virginia school division.

D. Level I, Option III: Alternate route to Level I administration and supervision preK-12 endorsement. In order to be eligible for Level I endorsement under this option, the candidate shall have:

1. Earned a master's degree from ~~a regionally an~~ accredited college or university institution;
2. Completed graduate coursework in school law, evaluation of instructional personnel, special education, school finance, educational leadership, and other areas of study as required by an employing Virginia school superintendent, and the graduate coursework shall be taken from ~~a regionally an~~ accredited college or university institution that has a state-approved administration and supervision program, or the candidate shall have completed school law, school finance, and a research-based program approved by the Virginia Department of Education that includes organizational leadership, instructional leadership, instructional practices in content areas, data utilization, evaluation and instructional coaching, and creating positive school cultures;
3. Completed three years of successful, full-time experience in a public school or accredited nonpublic school in an instructional personnel position that requires licensure in Virginia;
4. Satisfied the requirements for the school leaders licensure assessment specified by the Virginia Board of Education; and
5. Been recommended by the superintendent in the employing Virginia school division.

E. Level I, Option IV: Out-of-state administration and supervision endorsement. Virginia does not issue a stand-alone

license in administration and supervision. The endorsement is added to a license. The candidate shall have:

1. Earned a master's degree from ~~a regionally an~~ accredited college or university institution;
2. Completed three years of successful, full-time experience in a public school or accredited nonpublic school in an instructional personnel position;
3. Satisfied the requirements for the school leaders licensure assessment specified by the Virginia Board of Education; and
4. A current, valid out-of-state license, (with full credential), with an endorsement in administration and supervision or completed an approved program in administration and supervision from ~~a regionally an~~ accredited college or university institution leading to an endorsement as a building-level administrator.

F. Level II: Principal of Distinction endorsement in administration and supervision preK-12. A building-level administrator may seek the Principal of Distinction, Level II endorsement in administration and supervision preK-12 after successfully serving as a building-level administrator for at least five years in a public school or an accredited nonpublic school and successfully completing a formal induction program as a principal or assistant principal. In order to earn the Principal of Distinction, Level II endorsement, the candidate shall meet two or more of the following criteria as specified by the Virginia Board of Education and documented in a Virginia Department of Education approved format and be recommended by the employing Virginia school division superintendent:

1. Evidence of improved student achievement;
2. Evidence of effective instructional leadership;
3. Evidence of positive effect on school climate or culture;
4. Earned doctorate in educational leadership or evidence of formal professional development in the areas of school law, school finance, supervision, human resource management, and instructional leadership; or
5. Evidence of completion of a high-quality professional development project designed by the division superintendent.

8VAC20-23-630. Division Superintendent License.

An individual may be a candidate for the list of eligible division superintendents and the renewable Division Superintendent License through the completion of the requirements in one of the following four options:

1. Option I. The individual shall have:

- a. Earned a doctorate degree in educational administration or educational leadership from ~~a regionally~~ an accredited ~~college or university~~ institution; and
 - b. Completed five years of educational experience in a public or an accredited nonpublic school, two years of which shall be successful, full-time teaching experience at the preK-12 level and two years of which shall be in administration and supervision at the preK-12 level.
2. Option II. The individual shall have:
- a. Earned a master's degree from ~~a regionally~~ an accredited ~~college or university~~ institution and successfully completed 30 graduate semester hours beyond the conferral date of the master's degree;
 - b. Completed requirements for administration and supervision preK-12 endorsement that includes the demonstration of competencies in the following areas:
 - (1) Knowledge, understanding, and application of planning, assessment, and instructional leadership that builds collective professional capacity, including:
 - (a) Principles of student motivation, growth, and development as a foundation for age-appropriate and grade-appropriate curriculum, instruction, and assessment;
 - (b) Collaborative leadership in gathering and analyzing data to identify needs to develop and implement a school improvement plan that results in increased student learning;
 - (c) Planning, implementation, and refinement of standards-based curriculum aligned with instruction and assessment;
 - (d) Collaborative planning and implementation of a variety of assessment techniques, including examination of student work that yields individual, class, grade level, and school level data as a foundation for identifying existing competencies and targeting areas in need of further attention;
 - (e) Incorporation of differentiated and effective instruction that responds to individual learner needs, including appropriate response to cultural, ethnic, and linguistic diversity;
 - (f) Knowledge, understanding, and application of the federal and state regulatory requirements and expectations associated with identification, education, and evaluation of students with disabilities;
 - (g) Collaboratively working with parents and school personnel to ensure that students with disabilities are included as a valued part of the school community and that they receive effective and appropriately intensive instruction to assist them in meeting the standards set for all students, as well as individual goals outlined in their individualized education programs;
 - (h) Integration of technology in curriculum and instruction to enhance learner understanding;
 - (i) Identification, analysis, and resolution of problems using effective problem-solving techniques; and
 - (j) Development, articulation, implementation, and stewardship of a vision of excellence linked to mission and core beliefs that promote continuous improvement consistent with the goals of the school division.
 - (2) Knowledge, understanding, and application of leadership and organizations, including:
 - (a) The change process of systems, organizations, and individuals, using appropriate and effective adult learning models;
 - (b) Aligning organizational practice, division mission, and core beliefs for developing and implementing strategic plans;
 - (c) Understanding information sources and processing, including data collection and data analysis strategies;
 - (d) Using data as a part of ongoing program evaluation to inform and lead change;
 - (e) Developing a change management strategy for improved student outcomes;
 - (f) Developing distributed leadership strategies to create personalized learning environments for diverse schools; and
 - (g) Practicing effective two-way communication skills including consensus building, negotiation, and mediation skills.
 - (3) Knowledge, understanding, and application of management and leadership skills that achieve effective and efficient organizational operations and sustain an instructional program conducive to student academic progress, including:
 - (a) Alignment of curriculum and instruction and assessment of the educational program to achieve high academic success at the school and division or district level;
 - (b) Principles and issues of supervising and leading others to ensure a working and learning climate that is safe, secure, and respectful of a diverse school community;
 - (c) Management decisions that ensure successful teaching and learning, including, human resources management and development, theories of motivation, change in school culture, innovation and creativity, conflict resolution, adult learning, and professional development models;
 - (d) Knowledge, understanding, and application of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers and Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Principals;

Regulations

(e) Principles and issues related to fiscal operations of school management;

(f) Principles and issues related to school facilities and use of space and time for supporting high-quality school instruction and student learning;

(g) Legal issues impacting school operations and management;

(h) Technologies that support management functions; and

(i) Application of data-driven decision making to initiate and continue improvement in school and classroom practices and student achievement.

(4) Knowledge, understanding, and application of the conditions and dynamics impacting a diverse school community, including:

(a) Recognizing emerging issues and trends within school and community relations;

(b) Working collaboratively with staff, families, and community members to secure resources and to support the success of a diverse population;

(c) Developing appropriate public relations and public engagement strategies and processes for building and sustaining positive relationships with families, caregivers, and community partners; and

(d) Integrating technology to support communication efforts.

(5) Knowledge, understanding, and application of the purpose of education and the role of professionalism in advancing educational goals, including:

(a) Philosophy of education that reflects commitment to principles of honesty, fairness, caring, and equity in day-to-day professional behavior;

(b) Integration of high-quality, content-rich, job-embedded professional learning that respects the contribution of all faculty and staff members in building a diverse professional learning community;

(c) Reflective understanding of moral and legal consequences of decision making in the school setting;

(d) Intentional and purposeful effort to model professional, moral, and ethical standards, as well as personal integrity in all interactions; and

(e) Intentional and purposeful effort to model continuous professional learning and to work collegially and collaboratively with all members of the school community to support the school's goals and enhance its collective capacity.

(6) Knowledge, understanding, and application of leadership theories and influences that impact schools, including:

(a) Concepts of leadership, including systems theory, change theory, learning organizations, and current leadership theory;

(b) Ability to identify and respond to internal and external forces and influences on a school;

(c) Ability to identify and apply the processes of educational policy development at the state, local, and school level; and

(d) Ability to identify and demonstrate ways to influence educational policy development at the state, local, and school level; and

c. Completed five years of successful educational experience in a public or an accredited nonpublic school, two years of which must be full-time teaching experience at the preK-12 level and two years of which must be in administration and supervision.

3. Option III. The individual shall have:

a. Earned a master's degree from a ~~regionally~~ an accredited college or university institution;

b. A current, valid out-of-state license with an endorsement as a division or district superintendent; and

c. Completed five years of successful educational experience in a public or an accredited nonpublic school, two years of which must be full-time teaching experience at the preK-12 level and two years of which must be in administration and supervision.

4. Option IV. The individual shall have:

a. Earned a master's degree or its equivalent from a ~~regionally~~ an accredited college or university institution;

b. A minimum of three years of successful, full-time experience in a senior leadership position, such as chief executive officer or senior military officer; and

c. Be recommended by a Virginia school board interested in employing the individual as superintendent.

8VAC20-23-640. Mathematics specialist for elementary education.

Endorsement requirements. The candidate shall have:

1. Completed at least three years of successful, full-time teaching experience in a public or accredited nonpublic school in which the teaching of mathematics was an important responsibility; and

2. Either:

a. Graduated from a graduate-level approved mathematics specialist elementary education preparation program - master's degree from a ~~regionally~~ an accredited college or university institution required; or

b. Completed a graduate-level program in mathematics, mathematics education, or related education field - master's degree from a ~~regionally~~ an accredited college or university institution required - with at least 21 semester hours undergraduate or graduate mathematics coursework distributed in the following areas: (i) number and operations; (ii) rational numbers; (iii) geometry and

measurement; (iv) probability and statistics; (v) algebra and functions; and (vi) at least nine semester hours of graduate coursework pertaining to mathematics education in mathematics instructional leadership, evaluation of mathematics curriculum and instruction, mathematical learning theory, and student assessment for mathematics.

8VAC20-23-650. Mathematics specialist for elementary and middle education.

Endorsement requirements. The candidate shall have:

1. Completed at least three years of successful, full-time teaching experience in a public or accredited nonpublic school in which the teaching of mathematics was an important responsibility;
2. A Virginia license with a Mathematics – algebra I (add-on) or mathematics (secondary) teaching endorsement (grades 6-12); and
3. Either:
 - a. Graduated from a graduate-level approved mathematics specialist elementary and middle education preparation program - master's degree from ~~a regionally an~~ accredited college or university institution required; or
 - b. Completed a graduate-level program in mathematics, mathematics education, or related education field - master's degree from ~~a regionally an~~ accredited college or university institution required - with at least 21 semester hours of undergraduate or graduate mathematics coursework distributed in the following areas; (i) number and operations; (ii) rational numbers; (iii) geometry and measurement; (iv) probability and statistics; (v) algebra and functions; and (vi) at least nine semester hours of graduate coursework pertaining to mathematics education in mathematics instructional leadership, evaluation of mathematics curriculum and instruction, mathematical learning theory, and student assessment for mathematics.

8VAC20-23-660. Reading specialist.

Endorsement requirements. The candidate shall have:

1. Graduated from a state-approved graduate-level reading specialist preparation program - master's degree from ~~a regionally an~~ accredited college or university institution required - that includes course experiences of at least 30 semester hours of graduate coursework in the competencies for the endorsement, as well as a practicum experience in the diagnosis and remediation of reading difficulties;
2. Satisfied the requirements for the reading specialist assessment specified by the Virginia Board of Education; and
3. At least three years of successful classroom teaching experience in which the teaching of reading was an important responsibility.

8VAC20-23-670. School counselor preK-12.

Endorsement requirements.

1. Option I. The candidate shall have:
 - a. Earned a master's degree from ~~a regionally an~~ accredited college or university institution in a state-approved school counselor preparation program that shall include at least 100 clock hours of internship and practicum experiences in the preK-6 setting and 100 clock hours of internship and practicum experiences in the grades 7-12 setting; and
 - b. Two years of successful, full-time teaching experience or two years of successful, full-time experience in school counseling in a public or an accredited nonpublic school. Two years of successful, full-time experience in school counseling in a public or an accredited nonpublic school under a nonrenewable Provisional License may be accepted to meet this requirement.
2. Option II. The candidate shall have:
 - a. Earned a master's degree from ~~a regionally an~~ accredited college or university institution and completed an approved school counselor preparation program that shall include at least 100 clock hours of internship and practicum experiences in the grades preK-6 setting and 100 clock hours of internship and practicum experiences in the grades 7-12 setting; and
 - b. Two years of successful, full-time teaching experience or two years of successful, full-time experience in school counseling in a public or an accredited nonpublic school. Two years of successful, full-time experience in school counseling in a public or an accredited nonpublic school under a nonrenewable Provisional License may be accepted to meet this requirement.

8VAC20-23-680. School manager license.

A. The school manager license is intended to provide for the differentiation of administrative responsibilities in a school setting. A school manager is licensed to administer noninstructional responsibilities in an educational setting. For example, a school manager is restricted from evaluating teachers, supervising instruction, developing and evaluating curriculum, and serving as a school's student disciplinarian.

B. To earn a school manager license, the candidate shall:

1. Have earned a baccalaureate degree from ~~a regionally an~~ accredited college or university institution;
2. Have three years successful, full-time managerial experience; and
3. Be recommended for the license by a Virginia school division superintendent.

8VAC20-23-690. School psychology.

Endorsement requirements:

Regulations

1. Option I. The candidate shall:

- a. Complete an approved program in school psychology;
- b. Earn a baccalaureate degree from ~~a regionally an~~ an accredited college or university institution and complete 60 graduate-level hours, 54 of which are academic coursework, exclusive of field-based experiences, that culminate in at least a master's degree; and
- c. Complete an internship that is documented by the degree-granting institution. The internship experience shall occur on a full-time basis over a period of one year or on a half-time basis over a period of two consecutive years. The internship shall occur under conditions of appropriate supervision, that is, the school-based supervisor shall be licensed as either a school or clinical psychologist. The internship shall include experiences at multiple age levels, at least one half of which shall be in a public or accredited nonpublic school setting.

2. Option II. The candidate shall hold a currently valid certificate issued by the National School Psychology Certification Board.

8VAC20-23-700. School social worker.

Endorsement requirements. The candidate shall have:

1. Earned a master's of social work degree from ~~a regionally an~~ an accredited college or university institution with a minimum of 60 graduate-level semester hours; or earned an advanced standing master's of social work degree from ~~a regionally an~~ an accredited college or university institution with a minimum of 30 graduate-level semester hours;
2. A minimum of six graduate semester hours in education to include six semester hours from two of the following courses:
 - a. Foundations of education and the teaching profession (3 three semester hours);
 - b. Characteristics of special education (3 three semester hours);
 - c. Human development and learning (3 three semester hours); or
 - d. Classroom and behavior management (3 three semester hours).
3. Completed a supervised practicum or field experience of a minimum of 400 clock hours in a public or an accredited nonpublic school discharging the duties of a school social worker. One year of successful, full-time experience as a school social worker in a public or an accredited nonpublic school may be accepted in lieu of the school social work practicum.

8VAC20-23-710. Vocational evaluator.

Endorsement requirements:

1. Option I. The candidate shall be certified as a vocational evaluation specialist by holding a professional vocational evaluator (PVE) credential or a certified vocational evaluator (CVE) specialist credential, meeting all standards and criteria of the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists (CCWAVES).

2. Option II. The candidate shall have earned a master's degree in vocational evaluation, career and technical education, special education, or rehabilitation counseling from ~~a regionally an~~ an accredited college or university institution and completed 15 graduate semester hours distributed in the following areas:

- a. Tests and measurements: 3 three semester hours;
- b. Medical and educational aspects of disability: 3 three semester hours;
- c. Occupational information and job analysis: 3 three semester hours;
- d. Purposes and practices of vocational evaluation: 3 three semester hours; and
- e. Career, life planning, and transition services: 3 three semester hours.

8VAC20-543-10. Definitions.

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

"Accreditation" means a process for assessing and improving academic and educational quality through voluntary peer review. This process informs the public that an institution has a professional education program that has met national standards of educational quality.

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

"Accredited program" means a Virginia professional education program nationally accredited by the Council for the Accreditation of Educator Preparation (CAEP).

"Accrediting agency" means an accrediting association recognized by the U.S. Department of Education.

"Annual professional education program profile" means the Virginia Department of Education yearly data program profile required of all professional education programs in Virginia that offer approved programs for the preparation of school personnel.

"Biennial accountability measures" means those specific benchmarks set forth in 8VAC20-543-40 to meet the standards required to obtain or maintain education endorsement program approval status.

"Biennial accountability measurement report" means the compliance report submitted to the Virginia Department of Education every two years by an accredited ~~professional education~~ program.

"Candidates" means individuals enrolled in education programs.

"Department" means the Virginia Department of Education.

"Diversity" means the wide range of differences among groups of people and individuals based on ethnicity, race, socioeconomic status, gender, exceptionalities, language, religion, and geographical area.

"Education endorsement program" means a state-approved course of study, the completion of which signifies that an enrollee has met all the state's educational and training requirements for initial licensure in a specified endorsement area.

"Field experiences" means program components that are (i) conducted in off-campus settings or on-campus settings dedicated to the instruction of children who would or could otherwise be served by school divisions in Virginia or accredited nonpublic schools and (ii) accredited for this purpose by external entities such as ~~regional~~ accrediting agencies. Field experiences include classroom observations, tutoring, assisting teachers and school administrators, and supervised clinical experiences (i.e., practica, student teaching, and internships). Field experiences are required for all programs.

"Indicators" means operational definitions that suggest the kinds of evidence that professional education programs shall provide to demonstrate that a standard is met.

"Instructional technology" means the theory and practice of design, development, utilization, management, and evaluation of processes and resources for learning and the use of computers and other technologies.

"Licensing" means the official recognition by a state governmental agency that an individual has met state requirements and is, therefore, approved to practice as a licensed professional.

"Professional education program" or "education preparation program" means the Virginia institution, college, school, department, or other administrative body within a Virginia institution of higher education, or another Virginia entity, for a defined education program that is primarily responsible for the preparation of teachers and other professional school personnel, and for purposes of this chapter, includes four-year bachelor's degree programs in teacher education.

"Professional studies" means courses and other learning experiences designed to prepare candidates to demonstrate competence in the areas of human development and learning, curriculum and instruction, assessment of and for learning,

classroom and behavior management, the foundations of education and the teaching profession, reading, and supervised clinical experiences.

"Program approval" means the process by which a state governmental agency reviews an education program to determine if it meets the state's standards for the preparation of school personnel.

"Program completers" means individuals who have successfully completed all coursework, required licensure assessments, including those prescribed by the Board of Education, and supervised student teaching or the required internship.

"Program noncompleters" means individuals who have been officially admitted into an education program and who have taken, regardless of whether the individuals passed or failed, required licensure assessments and have successfully completed all coursework, but who have not completed supervised student teaching or the required internship. Program noncompleters shall have been officially released in writing from an education endorsement program by an authorized administrator of the program. Program noncompleters who did not take required assessments are not included in biennial reporting pass rates.

~~"Regional accrediting agency" means one of the six accrediting associations recognized by the United States Department of Education as follows: New England Association of Schools and Colleges, Middle States Association of Colleges and Schools, North Central Association of Colleges and Schools, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Schools, and Western Association of Schools and Colleges.~~

"Virginia Standards of Learning for Virginia public schools" means the Commonwealth's expectations for student learning and achievement in grades K-12 in English, mathematics, science, history/social science, technology, fine arts, foreign language, health and physical education, and driver education.

8VAC20-543-20. Accreditation and administering this chapter.

A. Institutions of higher education seeking approval of an education endorsement program shall be accredited by a ~~regional~~ an accrediting agency.

B. Professional education programs in Virginia shall obtain and maintain national accreditation from the Council for the Accreditation of Educator Preparation (CAEP). Professional education programs in Virginia seeking accreditation through CAEP shall adhere to procedures and timelines established by CAEP and the CAEP/Virginia Partnership Agreement. Professional education programs shall ensure and document that programs are aligned with standards set forth in 8VAC20-

Regulations

543-40 through 8VAC20-543-50 and meet competencies outlined in 8VAC20-543-60 through 8VAC20-543-640.

C. If a professional education program fails to maintain accreditation, enrolled candidates shall be permitted to complete their programs of study. Professional education programs that fail to maintain accreditation shall not admit new candidates. Candidates shall be notified of the education endorsement program's approval status.

D. Teacher candidates may complete academic degrees in the arts and sciences, or equivalent. "Education preparation program" includes four-year bachelor's degree programs in teacher education. Candidates in early/primary education (preK-3), elementary education (preK-6), middle education (6-8), and special education programs may complete a major in interdisciplinary studies or its equivalent. Candidates seeking a secondary endorsement area must have earned a major, or the equivalent, in the area sought.

E. Professional studies coursework and methodology, including field experiences, required in this chapter shall be designed for completion within an approved program.

F. Professional education programs shall ensure that, as a condition of degree completion, each student enrolled in the education preparation program receives instruction on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with the regulations of the State Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion; ensure that candidates demonstrate proficiency in the use of educational technology for instruction; complete study in child abuse recognition and intervention; and complete training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. Candidates in education endorsement programs must demonstrate an understanding of competencies, including the core concepts and facts of the disciplines and the Virginia Standards of Learning, for the content areas they plan to teach. Professional education programs shall ensure that candidates demonstrate skills needed to help preK-12 students achieve college and career performance expectations.

G. Each education preparation program graduate in a K-12 general education endorsement area is required to demonstrate proficiency in (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.

H. Standards and procedures for the review and approval of each education endorsement program shall adhere to procedures for administering the chapter as defined in this section and in 8VAC20-543-40, 8VAC20-543-50, and

8VAC20-543-60. These procedures shall result in biennial recommendations to the State Board of Education for one of the following three ratings: "approved," "approved with stipulations," or "approval denied."

I. Education endorsement programs shall be approved under this chapter biennially based on compliance with the criteria described in 8VAC20-543-40, 8VAC20-543-50, and 8VAC20-543-60.

J. The Department of Education will determine the timeline and procedures for applying for education endorsement program approval.

K. Education endorsement programs in Virginia shall address the competencies set forth in this chapter, and the curriculum for each program must be documented and submitted to the Department of Education for approval.

L. Professional education programs shall submit to the Department of Education on behalf of each education endorsement program under consideration a biennial accountability measurement report and an annual professional education program profile to include data prescribed by the State Board of Education on education endorsement programs in accordance with department procedures and timelines.

M. The professional education program authorized administrator shall maintain copies of approved education endorsement programs and required reports.

N. The Department of Education may conduct onsite visits to review education endorsement programs and verify data.

O. The Advisory Board on Teacher Education and Licensure (ABTEL) is authorized to review and make recommendations to the State Board of Education on approval of Virginia education endorsement programs for school personnel. The Board of Education has final authority on education endorsement program approval.

P. In administering this chapter, licensure requirements for Virginia are outlined in the Licensure Regulations for School Personnel (8VAC20-23). This document should be referenced for detailed information regarding requirements for Virginia licensure. An individual must meet licensure requirements set forth in the Code of Virginia.

Q. Modifications may be made by the Superintendent of Public Instruction in the administration of this chapter. Proposed modifications shall be made in writing to the Superintendent of Public Instruction, Commonwealth of Virginia.

R. ~~Upon the effective date of this chapter~~ As of August 23, 2018, the State Board of Education grants colleges and universities two years to align their existing approved programs with this chapter and allows only college and universities that ~~on the effective date of this chapter~~ as of August 23, 2018, are accredited by the State Board of

Education process four years to become accredited by the Council for the Accreditation of Educator Preparation (CAEP) with the option of submitting a progress report to the Superintendent of Public Instruction to request an additional year, if needed.

8VAC20-543-60. Biennial accountability measurement report.

The accredited ~~professional education~~ program shall report, every two years, in accordance with Virginia Department of Education procedures, those specific criteria set forth in 8VAC20-543-40 to meet the standards required to obtain or maintain education endorsement program approval status.

8VAC20-543-70. Annual professional education program profile.

The accredited ~~professional education~~ program shall submit to the Virginia Department of Education a yearly program profile on the preparation of professional school personnel. The professional education program profile shall be published on the department's website. The information required on the professional education program profile shall be approved by the State Board of Education and shall include the following:

1. Institution's accreditation status;
2. Education endorsement program status;
3. Number of candidates admitted in education endorsement programs;
4. Comparison of candidates, admitted to education endorsement programs to overall college or university population;
5. Number of program completers for each endorsement program;
6. Number of program noncompleters for each endorsement program;
7. Biennial accountability data results;
8. Satisfaction ratings by school administrators and clinical experience supervisors of student teachers;
9. Satisfaction ratings by employers of program graduates;
10. Satisfaction ratings of program graduates within two years of employment;
11. Recognition of other program achievements; and
12. Other data as required by the State Board of Education.

8VAC20-543-80. Competencies and requirements for professional education programs.

A. The professional education program develops, maintains, and continuously evaluates high quality education endorsement programs that are collaboratively designed and based on identified needs of the preK-12 community.

Candidates in education endorsement programs shall demonstrate competence in the areas in which they plan to practice and complete professional studies requirements and applicable assessments, in addition to meeting requirements for specific licenses, pursuant to the Licensure Regulations for School Personnel (8VAC20-23). The Licensure Regulations for School Personnel set forth the required degrees from ~~regionally an accredited colleges or universities~~ institution for licenses, endorsements, and prerequisite licenses or endorsements for add-on endorsements.

B. All educator preparation programs must ensure that graduates of candidates in general education teacher preparation programs for kindergarten through 12th grade demonstrate proficiency in (i) differentiating instruction for students depending on their needs; (ii) understanding the role of general education teachers on the individualized education program team; (iii) implementing effective models of collaborative instruction, including co-teaching; and (iv) understanding the goals and benefits of inclusive education for all students.

C. All education endorsement programs in early/primary education preK-3, elementary education preK-6, middle education 6-8, and history and social sciences must include local government and civics instruction specific to Virginia.

D. Candidates in education endorsement programs demonstrate an understanding of competencies, including the core concepts and facts of the disciplines and the Virginia Standards of Learning, for the content areas in which they plan to teach where required.

E. Candidates in early/primary education preK-3, elementary education preK-6, and special education complete a minimum of six semester hours of reading coursework as outlined in the reading competencies.

F. Candidates seeking an early/primary education preK-3 or an elementary education preK-6 endorsement must complete a minimum of 12 semester hours each in English, history and social sciences, mathematics, and science addressing competencies set forth in this chapter or complete the following:

1. English: complete six semester hours in English and pass a rigorous assessment in elementary English prescribed by the Board of Education.
2. History and social sciences: complete six semester hours in history and social sciences, complete a methods of teaching elementary history and social sciences course, and pass a rigorous assessment in elementary history and social sciences prescribed by the Board of Education.
3. Mathematics: complete six semester hours in mathematics, complete a methods of teaching elementary mathematics course, and pass a rigorous assessment in

Regulations

elementary mathematics prescribed by the Board of Education.

4. Science: complete six semester hours in laboratory sciences in two science disciplines, complete a methods of teaching elementary science course, and pass a rigorous assessment in elementary science prescribed by the State Board of Education.

G. Candidates seeking a middle education endorsement must have an area of concentration in English, history and social sciences, mathematics, or science with 21 semester hours in the concentration area.

H. Candidates seeking an endorsement in history and social sciences must complete instruction in African American history, which shall include (i) an understanding of African origins; (ii) the African diaspora; (iii) developments of the Black experience in North America; (iv) the institution of slavery in the United States, including historical perspectives of the enslaved; and (v) how African Americans helped shape and have been shaped by American society.

8VAC20-543-620. School psychology.

The school psychology program shall ensure that the candidate has demonstrated the following competencies:

1. Knowledge of basic teaching and learning principles and the conditions under which they operate maximally, including academic environment and instructional match.
2. Knowledge and application of psychological foundations of human functioning, including biological bases of behavior; cultural diversity; infant, child, and adolescent development; effects of poverty and lack of opportunity on learning; interplay between behavior, learning and motivation; personality theory; human learning; and social bases of behavior and mental health, to ensure student academic achievement, student growth and development, and mental health.
3. Knowledge of and skill at applying educational foundations of schooling, including education of exceptional learners; evidence-based instructional and remedial interventions, techniques, and strategies; formative and summative evaluation; evidence-based behavioral interventions; and organization and operations of schools, to ensure effective collaboration with other school professionals toward implementing school practices that promote learning and mental health.
4. Knowledge of various methods for assessing students' cognitive processes and abilities and skill in administering a variety of such methods; knowledge of various methods for assessing student academic strengths and weaknesses and skill in administering a variety of such methods; knowledge of various methods for assessing student interpersonal emotional and social and behavioral functioning and skill in administering a variety of such methods; and knowledge of

universal screening measures designed for early and tiered academic and behavioral intervention. Knowledge of a variety of progress monitoring tools, especially student growth percentiles and skill in implementing at least two such tools.

5. Understanding and knowledge of direct and indirect methods of academic and behavioral intervention, and proficiency in delivering such interventions, including:

- a. Counseling on an individual, group, and family basis;
- b. Consulting with administrators, teachers, parents, and other professionals about student problems and appropriate change strategies;
- c. Designing and implementing individual and group behavior change programs; designing, implementing, and evaluating crisis intervention and threat, such as self-directed and other-directed assessment programs; and
- d. Designing and implementing academic and instructional interventions.

6. Statistics and research design, measurement, and program evaluation.

7. The profession of psychology applied to schools, including:

- a. Basic knowledge of the standards of practice promoted by the National Association of School Psychologists (NASP);
- b. Knowledge of and skill with several basic problem-solving schemes;
- c. Knowledge of and ability to identify the variety of mental health problems exhibited by infants, children, and adolescents through age 21 years, including the ability to collaborate with other community-based professionals and private practitioners in providing wraparound services to the extent possible or considered as systems of care philosophy;
- d. History and foundations of school psychology;
- e. Legal and ethical issues of practicing in schools;
- f. Professional issues and standards related to practicing as a psychologist in a public school setting; and
- g. Knowledge of the roles of all individuals practicing and working in a public school setting.

8. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

9. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

10. The candidate shall have earned a baccalaureate degree from a ~~regionally an~~ accredited ~~college or university~~ institution and completed 60 graduate hours, 54 of which are

academic coursework, exclusive of field-based experiences, that culminate in at least a master's degree.

11. The candidate shall complete an internship in school psychology that is documented by the degree granting institution. The internship experience shall occur on a full-time basis over a period of one year or on a half-time basis over a period of two consecutive years. The internship shall occur under conditions of appropriate supervision, such as the school-based supervisor shall be licensed as either a school or clinical psychologist. The internship shall include experiences at multiple age levels, at least one half of which shall be in an accredited schooling setting.

8VAC20-543-630. School social worker.

The school social worker program shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes for direct and indirect intervention, including:
 - a. Facilitating integrated intervention efforts that emphasize primary prevention, early screening, and multi-tiered interventions that target multiple risk factors in various settings;
 - b. Identifying approaches that seek to improve individual and system factors contributing to academic success and data-informed decision making and intervention fidelity;
 - c. Counseling on an individual, group, or family basis;
 - d. Consulting with administrators, teachers, parents, and other professionals about student problems and appropriate change strategies;
 - e. Networking and brokering with school programs and community agencies to provide essential services for families and children; and
 - f. Collaborating with and facilitating collaboration among students, parents, members, administrators, teachers, and staff to identify ways to intervene early, reduce barriers to learning, and improve student outcomes.
2. Understanding of child development, psychopathology, social and environmental conditioning, cultural diversity, and family systems, including:
 - a. Acknowledgment of the interrelatedness of various ecological systems such as education, juvenile justice, family and children's health, mental health, and child protective services; and
 - b. Knowledge of social problem impact on student performance and behaviors.
3. Understanding of the knowledge, skills, and processes for effective casework practice, including:
 - a. Examining factors in home, school, and community that impact students' educational performance and success; and
 - b. Assisting in reducing identified barriers to learning.

4. Specialized knowledge and understanding of the organization and operations of school systems, including:
 - a. Historical and current perspectives of public school education at the local, state, and national levels, including educational reform and legislation; and
 - b. Identifying and conveying the impact social problems, within ecological systems of home, school, and community, have on student performance in the educational setting.
5. Understanding of the knowledge, skills, and processes involved with assessing and programming for exceptional students, including:
 - a. Skills in implementing systematic assessment, data gathering and interpretation at multiple levels, and developing action plans to address the areas of need;
 - b. Identifying and utilizing research-based interventions to enhance the educational opportunities and school performance of vulnerable and at-risk populations;
 - c. Providing leadership in developing prevention programs and policies with administrators that impact school climate, student learning, and academic success; and
 - d. Ability to facilitate team decision-making and problem-solving strategies.
6. Understanding of the school social work profession, including:
 - a. History and foundations of school social work;
 - b. Legal and ethical issues;
 - c. Professional issues and standards; and
 - d. The role and function of the school social worker to include contextual variables influencing school social work roles and functions, such as political, legal, ethical, and value-based issues that confront schools.
7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.
8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.
9. The candidate shall have earned a master's of social work degree from ~~a regionally an~~ an accredited college or university institution school of social work with a minimum of 60 graduate semester hours or earned an advanced standing master's of social work degree from ~~a regionally an~~ an accredited college or university institution with a minimum of 30 graduate-level semester hours.
10. The candidate shall complete a minimum of six graduate semester hours in education to include six semester hours from two of the following courses:

Regulations

- a. Foundations of education and the teaching profession (3 three semester hours);
- b. Characteristics of special education (three semester hours);
- c. Human development and learning (three semester hours); or
- d. Classroom and behavior management (three semester hours).

11. The candidate shall complete a school social worker supervised practicum or field experience of a minimum of 400 clock hours in a public or accredited nonpublic school. One year of successful, full-time experience as a school social worker in a public or accredited nonpublic school may be accepted in lieu of the school social work practicum.

VA.R. Doc. No. R25-7125; Filed August 21, 2024, 8:46 a.m.

Proposed Regulation

Titles of Regulations: **8VAC20-820. General Procedures and Information for Licensure (repealing 8VAC20-820-10 through 8VAC20-820-500).**

8VAC20-821. General Procedures for the Licensure of Child Day Programs and Family Day Systems (adding 8VAC20-821-10 through 8VAC20-821-330).

Statutory Authority: §§ 22.1-16 and 22.1-289.046 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: November 8, 2024.

Agency Contact: Tatanishia Armstrong, Legislative Consultant, Department of Education, James Monroe Building, 16th Floor, 101 North 14th Street, Richmond, VA 23219, telephone (804) 382-5047, or email tatanishia.armstrong@doe.virginia.gov.

Basis: The State Board of Education's overall regulatory authority is found in § 22.1-16 of the Code of Virginia. The board's regulatory authority over child day programs and family day systems is found in § 22.1-289.046 of the Code of Virginia.

Purpose: The board has determined that a comprehensive revision of this regulation is necessary in order to implement statutory requirements, clarify existing regulatory requirements, and update practices and procedures. A comprehensive review of the regulation will provide clear, understandable, and updated requirements for licensees and ensure the sufficiency of care provided to children and adults receiving services. This regulatory action is essential to protecting the health, safety, and welfare of citizens because the licensing population subject to the chapter is involved in the care, supervision, and education of young children. State policy requires a licensing scheme that imposes minimum qualifications upon child care provider to ensure the safety of children. The Commonwealth is best served when the

regulations governing licensure are organized and succinct and when licensees clearly understand the standards to which they are held. This regulatory action is designed to solve the problems of lack of clarity and lack of organization, as well as inefficiencies in enforcement processes.

Substance: The major goal of this regulatory action is to improve clarity by using more direct language; removing nonregulatory, informational text; and leverage organization to provide clarity. As a result, significant amounts of text have been removed and the entire chapter has been restructured. The primary objective of the new organization is to provide clear directions related to each "phase" of the licensing cycle so that a licensee can find requirements easily. Part I provides definitions necessary to understand the language of the chapter. Part II focuses on the process for initial licensure or changing an initial license (i.e., through license modifications or variances). Part II also clearly states all requirements for initial licensure in a single section (8VAC20-821-40), as well as expectations for the license process. Part III provides the standards for renewal. Part IV integrates the fee structure into the General Procedures. Fees are currently stated in a separate chapter. Part V integrates the background check process into the General Procedures. Background checks are also currently regulated in a separate chapter. Part VI sets out standards of conduct for licensees. The proposed 8VAC20-821-270 is designed to increase the enforcement capacity of the agency by setting clear expectations with respect to the conduct of licensees. Part VII offers a new approach to what are currently called problem-solving conferences, which is a regulatory process designed to facilitate communication regarding disagreements on agency application of regulations and statutes. The proposed 8VAC20-821-280 consolidates the first-step and second-step reviews into a single review process. Although not outlined in the regulatory text, the agency intends to implement the regulation in a manner that allows for greater oversight and consistency across licensing regions. In implementing the proposed regulation, when an applicant initiates the review process, the request will be sent to the licensing administrator in a different region for review and a determination made in conjunction with the central office. Part VIII addresses sanctions, including administrative sanctions, revocation, summary suspension, and consent agreements. In most cases, the agency is deferring to the statutory structure. The proposed 8VAC20-821-320 states that consent agreements are not restricted to instances where the agency intends to revoke or deny a license. Part IX provides licensees notice of the statutory rights of appeals. This section has significantly reduced procedures related to administrative hearings. The agency has no basic law requiring administrative hearings other than when the agency pursues a summary suspension, and this is an exceedingly rare case. The agency has found that, should an administrative hearing be warranted or required, the procedures for the hearing will be communicated to the licensee in consultation with the Office

of the Attorney General and in accordance with applicable laws.

Issues: The primary advantage of this regulatory change to the public, the agency, the Commonwealth, and the regulated community is that the General Procedures will be easier to read, better organized, clearer with respect to responsibilities, and more comprehensive in scope due to the consolidation of three chapters into a single chapter. There are no disadvantages to the public, the agency, the Commonwealth, or the regulated community.

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 State Board of Education (board) proposes to repeal 8VAC20-820 and establish 8VAC20-821.²

Background. Among the differences between 8VAC20-821 and 8VAC20-820 are changes pertaining to early compliance, enforcement processes, license length, and background checks.

Early Compliance: In addition to a regular license, the Department of Education (DOE) may also issue conditional and provisional licenses. Under both the current and proposed regulations, DOE may issue a conditional license to a new facility or agency in order to permit the applicant to demonstrate compliance with specified standards. A conditional license may be renewed, but the issuance of a conditional license and any renewals shall be for no longer a period than six successive months. When the conditional period is over, the facility or agency must substantially meet the standards or be denied a license. Under both the current and proposed regulations, when an applicant applies to renew a regular license but the applicant is temporarily unable to comply with the requirements of the regulation, DOE may issue a provisional license for any period not to exceed six months. A provisional license cannot be issued to a facility or agency immediately following a conditional license. At the conclusion of the provisional licensure period, the facility or agency must be in substantial compliance with licensing standards or be denied a license to continue operation. Under the current regulation, a conditional or provisional license may be voided and a regular license issued prior to the expiration date when (i) the facility or agency complies with all standards listed on the face of the provisional or conditional license prior to the mid-point of the licensure period or within 90 days of the expiration date of the provisional or conditional license, whichever comes first, and the facility or agency is in substantial compliance with all other standards; (ii) compliance has been verified by an on-site observation by the department's licensing representative or, when applicable, by

written evidence provided by the licensee; or (ii) the licensee makes a formal written request to the licensing representative for replacement of a provisional or conditional license with a regular license. Under the proposed regulation, the conditional or provisional license may be voided and a regular license issued prior to the expiration date any time compliance is verified. Additionally, a formal written request is not required.

Enforcement Processes: When a violation has been found and the applicant or licensee disputes the violation, the applicant or licensee or licensing staff may request a problem-solving conference. Under the current regulation, there are two steps to the process. The first-step review is with the licensing administrator of the local office that oversaw the inspection. According to DOE, often times this administrator was closely involved in the decision to find the violation in dispute, which arguably undermines the value of this first step. The agency indicates that progress is rarely made at this first step. If after the first step review, the applicant or licensee still believes that "the laws, regulations, or departmental policies have been applied or interpreted in a manner that was unreasonable, arbitrary or capricious," the applicant or licensee may request a second-step review by program supervisory personnel as assigned by DOE. Under the proposed regulation, there would be a single review that occurs in coordination with the central office. The central office would receive a request for a violation review and have a licensing administrator in a different jurisdiction review the case file before communicating results with the central office. A "consent agreement" is an agreement between the licensee and DOE that the licensee will perform specific actions for the purpose of correcting violations to come into compliance with standards or statutes. Under the current regulation, consent agreements can only occur after the applicant or licensee has received a letter of denial or revocation. Under the proposed regulation, consent agreements can occur earlier, such as when a violation is first found. Under the current regulation, all applicants or licensees who are aggrieved by an agency decision, such as license denial or revocation, are granted a formal administrative hearing if requested. Specifically, 8VAC20-820-420 states that "Upon receipt of the written request from the aggrieved party for a formal administrative hearing," a hearing will be scheduled in the locality where the aggrieved party operates. This statement is not retained in the proposed regulation. Instead, 8VAC20-821-330 B just states that, "Whenever the superintendent refuses to issue a license or to renew a license or revokes a license for any child day program or family day system other than a child day program or family day system operated by an agency of the Commonwealth, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall apply." According to DOE, under the proposed regulation, not all who are aggrieved by an agency decision, such as license denial or revocation, would be guaranteed a formal administrative hearing if requested.

License Length: The current regulation has tiered licensing terms based on whether a licensee "substantially exceeds"

Regulations

(three-year license term), "routinely meets and maintains compliance with minimum standards" (two-year license term), or has an "inconsistent level of compliance" (one-year license term). The proposed regulation has a standard two-year license term for all regular licensees. On a per-annum basis, there is no change in fees.

Background Checks: Currently, background check requirements are in a separate regulation, 8VAC20-770 Background Checks for Child Day Programs and Family Day Systems. The board proposes to include background check requirements in 8VAC20-821, and in a separate action proposes to repeal 8VAC20-770 in its entirety. Under 8VAC20-770, persons 14 years of age and older who reside in a home where child day programs occur must have a Department of Social Services (DSS) Central Registry³ check within 30 days of moving into the home or within 30 days of turning 14 years of age. The board proposes to maintain this requirement in 8VAC20-821, except with shortening the time within which Central Registry check must occur to seven days. The proposed 8VAC20-821 also adds that "The child day program or family day system, the department, or the registering or approving authority may require a new background check if there is reason to suspect that a person required to have a background check has a disqualifying background."

Estimated Benefits and Costs. Early Compliance: As described, under the current regulation, a conditional or provisional license can be voided and a regular license issued if the licensee demonstrates compliance only at specified times. Also, the licensee must produce a formal written request. Under the proposed regulation, a conditional or provisional license can be voided and a regular license issued any time compliance can be verified. This may result in some conditional and provisional licenses becoming regular licenses sooner. Since some potential clients may be wary of placing children in child day programs that are only conditionally or provisionally licensed, such businesses may benefit from obtaining regular licensure sooner.

Enforcement Processes: DOE believes that converting the problem-solving conference from a two-step process to a single-step process would save approximately 10 to 15 hours of staff time each occurrence. Removing the first step would also save the applicant's or licensee's time on an endeavor (the first step) that has historically been unproductive. Allowing consent agreements to be made earlier can be beneficial in that it may result in earlier remedy or correction of violations that put children at risk. Similarly, according to DOE, no longer guaranteeing formal administrative hearings may enable the agency to take action as much as six to eight months sooner in cases where children can be endangered. However, it may also reduce the ability of some aggrieved parties to obtain a formal hearing.

License Length: According to DOE, the primary rationale for eliminating the tiered licensing system and moving to a

standard two-year license term is that the agency prefers to enact minimum standards for licensure and the care and safety of children rather than make potentially subjective determinations about a licensee "substantially exceeding" the minimum standards. Also, the agency believes it can better account for the issuance of a one-year license to those with "inconsistent levels of compliance" through a provisional license or consent agreement.

Background Checks: As the Central Registry is the record of founded complaints of child abuse and neglect maintained by DSS, shortening from one month to one week the time within which checks of the Registry must occur for residents of a home where child day programs occur may help reduce the likelihood or time length with which child day programs are allowed to operate with a resident with a history of child abuse. Similarly, allowing new background checks if there is reason to suspect that a person required to have a background check has a disqualifying background may also help prevent or limit children's exposure to people with a history child abuse or other serious crimes at child day programs or family day systems. According to DOE, background checks are paid for with federal funds through DSS.

Businesses and Other Entities Affected. The proposed amendments potentially affect the 1,418 licensed child day centers; 1,356 licensed family day homes; and one licensed family day system in the Commonwealth.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁵ As noted, under the proposed regulation, applicants or licensees who are aggrieved by an agency decision, such as license denial or revocation, would no longer be guaranteed a formal administrative hearing if requested. As is also noted above, this could be substantively beneficial as it may enable the agency to take action as much as six to eight months sooner in cases where children can be endangered. From the point of view of the aggrieved applicants and licensees, though, losing the guarantee of an administrative hearing can be viewed as reduced benefit. Thus, an adverse impact is indicated.

Small Businesses⁶ Affected.⁷ Types and Estimated Number of Small Businesses Affected: DOE does not have data concerning how many of the 1,418 licensed child day centers, 1,356 licensed family day homes, and one licensed family day system qualify as small businesses, but expects most would qualify.⁸

Costs and Other Effects: The costs and other effects for small child day programs would be the same as described for all such firms.

Alternative Method that Minimizes Adverse Impact: There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

Localities⁹ Affected.¹⁰ The proposed amendments neither disproportionately affect any particular locality, nor introduce costs for local governments.

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

Effects on the Use and Value of Private Property. The proposed changes to early compliance may enable some firms to gain regular licensure sooner, which may help in attracting clients sooner. This may increase the value of such affected firms. The proposed amendments do not affect real estate development costs.

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

² Child day program is defined as a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child younger than the age of 13 years for less than a 24-hour period.

³ The Central Registry is the record of founded complaints of child abuse and neglect maintained by DSS.

⁴ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁵ 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

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

⁷ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁸ Data source: Virginia Employment Commission.

⁹ "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.

¹⁰ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency's Response to Economic Impact Analysis: The State Board of Education thanks the Department of Planning and Budget for its thorough economic impact analysis.

Summary:

The proposed action repeals General Procedures and Information for Licensure (8VAC20-820) and replaces it with a new chapter, General Procedures for the Licensure of Child Day Programs and Family Day Systems (8VAC20-821), which, in addition to implementing statutory requirements, clarifying existing requirements, and updating practices and procedures, also establishes requirements for initial licensure and renewal, application fees, background checks, standards of conduct, and how violations of such standards will be reviewed, sanctions levied, and appeals processed.

Chapter 821

General Procedures for the Licensure of Child Day Programs and Family Day Systems

Part I

General

8VAC20-821-10. Definitions.

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

"Applicant" means any person that has applied for any license to operate or maintain a child day program or family day system.

"Background check" means (i) a sworn statement or affirmation, (ii) a fingerprint-based national criminal background check, (iii) a Virginia child protective services central registry check, and (iv) a check of the child abuse and neglect registry and criminal history record report for any state an individual has resided in within the past five years.

"Barrier crime" means a conviction defined as a barrier crime in § 19.2-392.02 of the Code of Virginia and shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth.

"Board" means the Virginia Board of Education.

"Child day center" means a child day program offered to (i) two or more children 13 years of age or younger in a facility that is not the residence of the provider or any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent

Regulations

or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child 13 years of age or younger for less than a 24-hour period.

"Conditional license" means a license that may be issued to a new facility to operate in order to permit the applicant to demonstrate compliance with licensing standards.

"Consent agreement" means a written agreement between an applicant or licensee and the department that the applicant or licensee will perform specific actions for the purpose of correcting violations to come into compliance with licensing standards or laws.

"Day" means a calendar day, unless otherwise specified.

"Denial" means the act of refusing to approve an initial application for license or a license renewal application for violations of any provision of Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1 of the Code of Virginia or failure to comply with the limitations and licensing standards set forth in a license.

"Department" means the Virginia Department of Education.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for at least one but no more than 12 children 13 years of age or younger, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed family day home shall disclose to the parents or guardians of children in the provider's care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving at least five but no more than 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children younger than two years of age, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. A family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangements, may provide central administrative functions, including training of operators of family day homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Functional design" means the design features of buildings and grounds not regulated by the building code that are subject to licensing standards.

"Good character and reputation" or "good moral character and reputation" means a determination by the superintendent that an individual (i) maintains business or professional, family, and community relationships that are characterized by honesty, fairness, truthfulness, and dependability and (ii) is able to transact business in the Commonwealth and suitable to administer a program for the care, supervision, and protection of children.

"License" means a license that is issued pursuant to § 22.1-289.011 of the Code of Virginia to any person who constitutes, or who operates or maintains, a child day program or family day system.

"Licensee" means any person to whom a conditional license, a license, or a provisional license has been issued and who is legally responsible for compliance with the licensing standards related to the operation or maintenance of the child day program or family day system.

"Licensing standards" or "standards" means the standards of care and safety for operation of a child day program or family day system as set forth in this chapter, Chapter 14.1 of Title 22.1 of the Code of Virginia, the Standards for Licensed Child Day Centers (8VAC20-780), the Standards for Licensed Family Day Homes (8VAC20-800), or the Minimum Standards for Licensed Family Day Systems (8VAC20-810).

"Living in" means staying at a child day center or family day home for more than 30 days out of a 45-day period.

"Person" means any individual; corporation; partnership; association; limited liability company; local government; state agency, including any department, institution, authority, instrumentality, board, or other administrative agency of the Commonwealth; or other legal or commercial entity that operates or maintains a child day program or family day system.

"Provisional license" means a license that may be issued when a licensee is temporarily unable to comply substantially with all of the requirements of the licensing standards.

"Registered" means a family day home that has met the standards for voluntary registration set forth in Voluntary Registration of Family Day Homes (8VAC20-850).

"Revocation" means the act of terminating a license during its effective dates for violations of any provision of Chapter 14.1 of Title 22.1 of the Code of Virginia or failure to comply with the limitations and standards set forth in a license.

"Superintendent" means the Superintendent of Public Instruction at the Department of Education and, except when prohibited by law, includes the superintendent's representatives.

"Sworn statement or affirmation" means a signed statement completed by a person attesting to whether the person has ever been (i) convicted of or the subject of pending charges of any

crime within or outside the Commonwealth or an equivalent offense outside the Commonwealth or (ii) the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth.

"Variance" means a written determination by the superintendent that (i) a licensee or applicant for licensure as a child day program or family day system has demonstrated that implementation of a regulation promulgated by the board would impose a substantial financial or programmatic hardship and (ii) the suspension or modified implementation of such regulation would not adversely affect the safety and well-being of children in care.

Part II

Licensure Requirements

8VAC20-821-20. Necessity for license.

Every person that constitutes or that operates or maintains a child day program or family day system shall obtain the appropriate license from the superintendent, which may be renewed.

8VAC20-821-30. License.

A. A license is issued to a specific person. A license is not transferable from one person to another.

B. A license issued under this chapter shall expire two years from the effective date of the license. The superintendent may extend or shorten the duration of licensure periods for a child day program or family day system whenever, at the superintendent's sole discretion, it is administratively necessary to redistribute the workload for greater efficiency in staff utilization.

C. A license shall be issued on a form prescribed by the superintendent.

D. The license and any other documents required by the superintendent shall be posted in a conspicuous place on the licensed premises.

E. A license shall be issued with the following terms:

1. The name of the person to whom the license is issued;
2. The date the license is effective and the date the license expires;
3. The name in which the licensee is doing business;
4. The physical location of the facility;
5. The maximum number of children who may be in care at any time;
6. The age range of children for whom care may be provided; and
7. Any other stipulations or conditions that the superintendent may prescribe within the context of the licensing standards or laws.

F. Any administrative sanction imposed by a special order or any sanction imposed by a final order shall be considered a term of the license.

8VAC20-821-40. Qualifications for licensure.

A. Each application for licensure shall be made to the superintendent, in such form as the superintendent may prescribe, and shall include the following information:

1. The name and address of the applicant;
2. If the applicant is an association, partnership, limited liability company, or corporation, the names and addresses of its partners, members, officers, directors, or agents;
3. A description of the activities proposed to be engaged in;
4. A description of the facilities and services to be employed; and
5. Additional information as required by the superintendent.

B. The applicant shall submit a completed application, including all required documentation, and fee to the superintendent. No applicant may begin operations for which a license is required prior to being issued a license or a conditional license by the superintendent.

C. Every applicant for licensure as a child day program, family day home, or family day system shall have the following qualifications:

1. The applicant and any of the applicant's partners, members, officers, directors, or agents shall be of good character and reputation.
2. The applicant and any of the applicant's partners, members, officers, directors, or agents shall submit to a background check in accordance with licensing standards.
3. The applicant shall disclose whether the applicant or any of the applicant's partners, members, officers, directors, or agents has ever had a license issued by any local, state, or national regulatory body that has been revoked, suspended, denied, or surrendered in lieu of an adverse action.
4. The applicant and any of the applicant's partners, members, officers, directors, or agents shall be at least 18 years of age.
5. The applicant shall demonstrate financial responsibility.
6. The applicant shall have completed a prelicensure orientation offered through or approved by the superintendent that focuses on health and safety standards, application processes, background check requirements, and general licensure requirements.
 - a. The superintendent may, at the superintendent's discretion, waive the prelicensure orientation requirement or issue a license conditioned upon the applicant's completion of the prelicensure orientation program.

Regulations

b. Applicants who have previously completed the preclicensure orientation program training and have not been subject to a license denial or revocation shall not be required to complete the preclicensure orientation program a second time.

7. The applicant shall demonstrate compliance with all applicable licensing standards.

D. Applicants for licensure as a child day center shall meet the requirements of 8VAC20-821-50 regarding buildings and functional design.

E. The applicant shall at all times allow the superintendent reasonable access and opportunity to make on-site inspection of the facility in order to determine compliance with applicable licensing standards.

F. The applicant shall allow the superintendent reasonable opportunity to inspect the applicant's records. Records that contain confidential proprietary information furnished to the department pursuant to this section shall be exempt from disclosure pursuant to subdivision 4 of § 2.2-3705.5 of the Code of Virginia.

G. The applicant shall allow the superintendent to interview the applicant's agents and employees and any person living or participating in the applicant's facilities or under the applicant's custody, control, direction, or supervision in accordance with subsection A of § 22.1-289.018 of the Code of Virginia.

H. It is the responsibility of the applicant to demonstrate qualifications for licensure and compliance with licensing standards. All such determinations of qualification and compliance shall be at the discretion of the superintendent. Failure to demonstrate qualifications and compliance for licensure may constitute grounds for denying a license.

I. No license shall be issued to an applicant that does not constitute a child day program or family day system.

8VAC20-821-50. Buildings and functional design.

A. Buildings for applicants as child day programs or family day systems shall be classified by and meet the specifications for the proper Use Group as required by the Virginia Uniform Statewide Building Code (13VAC5-63).

B. An applicant for licensure as a child day center shall submit inspection reports from state or local fire authorities, as applicable, to determine compliance of the building with the Virginia Statewide Fire Prevention Code (13VAC5-51).

C. An applicant for licensure as a child day center shall submit inspection reports from state or local health authorities that shall include approval of general sanitation and, if applicable, water supply, sewage disposal systems, and food service operations for the building in which the facility is operated.

D. The building used by an applicant as a child day center shall meet all functional design requirements.

E. Applicants are encouraged to consult as early as possible with the department regarding building plans and licensing standards in order to avoid noncompliance.

8VAC20-821-60. Modification of the terms of the license.

A. A licensee may submit a written request to the superintendent for a modification of the terms of the license at any time during the license period.

B. If the superintendent grants a modification, the department will issue a modified license reflecting the changes.

C. No modification shall be granted to change or replace the person to whom the license was granted.

8VAC20-821-70. Variances.

A. Any request for a variance shall be made to the superintendent and shall be in writing on a form prescribed by the superintendent. The request for a variance shall include the following:

1. The specific requirements for which the applicant or licensee is requesting a variance;

2. A detailed description of the substantial programmatic or financial hardship that will be caused by the applicant or licensee's compliance with the requirements for which the variance is requested; and

3. The proposed alternative to the requirement that will protect the safety and well-being of the children in care.

B. When requested by the superintendent, the applicant or licensee requesting the variance shall obtain additional information to substantiate either (i) that compliance with the requirements will cause substantial programmatic or financial hardship or (ii) that the proposed alternative to the requirement will protect the safety and well-being of the children in care. Such additional information may include the opinions of professionals in the field, research, or studies.

C. The superintendent may attach conditions to a variance upon approval.

D. A variance may be rescinded or modified upon a change in the facts upon which the superintendent relied in granting the variance.

E. A variance is not transferable between persons.

F. The superintendent shall review each approved variance at least annually.

G. No applicant or licensee shall make the programmatic change for which the variance was requested prior to receiving written approval from the superintendent. Initiating the programmatic change prior to receiving approval for the

variance shall be grounds for denying the request for the variance and may constitute grounds for adverse action.

8VAC20-821-80. Conditional license.

A. The superintendent may issue a conditional license to an applicant in order to permit the applicant to demonstrate compliance with the requirements for licensure. A conditional license may be issued for a term not to exceed six months. A conditional license may be renewed, but a conditional license may not be held for longer than six months from the original issuance of the conditional license.

B. If, at the end of the conditional license, the applicant is still unable to demonstrate compliance with all of the licensure requirements, the application for initial licensure shall be denied.

C. A conditional license may be voided and a license issued if the superintendent determines that the applicant meets the qualifications for licensure.

8VAC20-821-90. Refusal of license issuance.

When issuance of a license for a child day program or family day system has been refused by the superintendent, the applicant shall not, for a period of six months, apply again for such license, unless the superintendent in the superintendent's sole discretion believes that there has been such a change in the conditions on account of which the license was refused as to justify considering a new application. When an appeal is taken by the applicant pursuant to subsection A of § 22.1-289.024 of the Code of Virginia, the six-month period shall be extended until a final decision has been rendered on appeal.

Part III

Renewal

8VAC20-821-100. Renewal required.

Every person issued a license that has not been suspended or revoked shall renew such license prior to its expiration.

8VAC20-821-110. Qualifications for renewal.

A. Prior to the expiration date shown on the license, a licensee desiring to renew a license shall return to the superintendent a completed renewal application and appropriate fee. Failure to receive notices from the superintendent regarding license renewal does not relieve the licensee of the obligation to renew.

B. The renewal applicant shall have met the requirements of 8VAC20-821-50 regarding the approval of buildings and functional design.

C. The renewal applicant shall demonstrate compliance with licensing standards.

D. As required by Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1 of the Code of Virginia, the renewal applicant and any of the applicant's partners, members, officers, directors, or agents shall submit to a background check in accordance with licensing standards.

E. The renewal applicant shall at all times allow the superintendent reasonable access and opportunity to make on-site inspection of the proposed facility in order to determine compliance with licensing standards. Such on-site inspections may occur at any time during the license term and may be unannounced.

F. The renewal applicant shall at all times allow the superintendent reasonable opportunity to inspect the renewal applicant's records. Records that contain confidential proprietary information furnished to the department pursuant to this section shall be exempt from disclosure pursuant to subdivision 4 of § 2.2-3705.5 of the Code of Virginia.

G. The renewal applicant shall at all times allow the superintendent to interview any person under the renewal applicant's custody, control, direction, or supervision. Interviews shall be (i) authorized by the person to be interviewed or the person's legally authorized representative and (ii) limited to discussion of issues related to the applicant's compliance with applicable laws and licensing standards.

H. It is the responsibility of the renewal applicant to demonstrate that the licensee meets all qualifications for renewal. All determinations of qualifications shall be at the discretion of the superintendent. Failure to demonstrate qualifications for licensure shall constitute grounds for denying a license renewal.

I. No license will be renewed for a licensee that does not constitute a child day program or family day system during the licensure period immediately preceding renewal.

8VAC20-821-120. Refusal of renewal.

A. The superintendent may refuse a renewal application for (i) failure to meet the qualifications for renewal or violation of licensing standards or (ii) failure to comply with the terms of an order by the superintendent.

B. When renewal of a license for a child day program or family day system has been refused by the superintendent, the applicant shall not, for a period of six months, apply again for such license, unless the superintendent in the superintendent's sole discretion believes that there has been such a change in the conditions on account of which the license was refused as to justify considering a new application. When an appeal is taken by the applicant pursuant to subsection A of § 22.1-289.024 of the Code of Virginia, the six-month period shall be extended until a final decision has been rendered on appeal.

8VAC20-821-130. Provisional license.

A. The superintendent may issue a provisional license to a renewal applicant when the applicant is temporarily unable to comply with all of the licensure requirements. A provisional license may be issued for a term not to exceed six months. A provisional license may be renewed, but a provisional license may not be held for longer than six months from the original issuance of the provisional license.

Regulations

B. If, at the end of the provisional license, the renewal applicant is still unable to comply with all of the licensure requirements, the application for renewal shall be denied.

C. A provisional license may be voided and the license renewed if the superintendent determines that the renewal applicant meets the qualifications for renewal.

Part IV

Application Fees

8VAC20-821-140. Application fees nonrefundable; application date.

A. All application fees for licenses are nonrefundable.

B. The date that the application fee is received by the superintendent shall be the date that the application was received.

C. An applicant for initial licensure shall submit a completed application to the superintendent within six months of the date that the application was received. Applications that remain incomplete after six months of the date the application was received will be closed, and the applicant will be required to submit a new application with a new fee.

D. An applicant for license renewal shall submit a completed renewal application prior to the date the applicant's license expires.

E. Application fees shall not be applicable to facilities, centers, or agencies operated by federal entities.

8VAC20-821-150. Application fees.

A. The fee required for each child day program will be based upon its licensed capacity. The following fee schedule applies to child day programs that operate at least 12 weeks of a 12-month period:

<u>Capacity</u>	<u>Two-year licensing fee</u>
<u>1-12</u>	<u>\$28</u>
<u>13-25</u>	<u>\$70</u>
<u>26-50</u>	<u>\$140</u>
<u>51-75</u>	<u>\$210</u>
<u>76-200</u>	<u>\$280</u>
<u>201 or more</u>	<u>\$400</u>

B. The following fee schedule applies to child day programs that operate less than 12 weeks of a 12-month period:

<u>Capacity</u>	<u>Two-year licensing fee</u>
<u>1-50</u>	<u>\$50</u>
<u>51 or more</u>	<u>\$110</u>

C. Family day systems will be subject to a license fee of \$140.

D. A fee will be charged for checks that must be returned to the applicant because of insufficient funds.

Part V

Background Checks

8VAC20-821-160. Scope of background check regulations.

This part applies to any person required to have a background check by Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1 of the Code of Virginia.

8VAC20-821-170. Background checks required.

A. Any person required to have a background check shall follow the provisions of Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1 of the Code of Virginia regarding background checks.

B. Any person 14 years of age or older living in the home of a licensed or registered family day home shall request a Virginia child protective services central registry check within seven days of reaching 14 years of age or beginning to live in the home.

8VAC20-821-180. Disqualifying background checks; prohibitions.

A. No child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure pursuant to § 22.1-289.031 of the Code of Virginia, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the department or its agents or designees to provide child care services funded by the Child Care and Development Block Grant shall hire for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 of the Code of Virginia or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth.

B. Notwithstanding the provisions of subsection A of this section, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 of the Code of Virginia, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

C. If any person specified in subsection A of § 22.1-289.036 of the Code of Virginia (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, and such person has not been granted a waiver by the superintendent pursuant to § 22.1-289.038 of the

Code of Virginia, no license as a child day center, family day home, or family day system or registration as a family day home shall be granted by the superintendent and no approval as a family day home shall be granted by the family day system.

D. No person specified in subsection A of § 22.1-289.036 of the Code of Virginia shall be involved in the day-to-day operations of the child day center, family day home, or family day system, or shall be alone with, in control of, or supervising one or more children, without first having completed any required background check.

E. Dissemination of background check information is prohibited other than to the superintendent or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

8VAC20-821-190. Out-of-state child abuse and neglect registry and criminal history record searches.

A. If any individual required to get a background check has lived in another state in the past five years and the results of the request to search the child abuse and neglect registry or criminal history record maintained by that state has not been returned, the individual shall obtain the following before the background check may be considered complete:

1. Documentation of the refusal from the state if no search was performed; or
2. Documentation showing that the individual contacted the state in writing to obtain the results of the child abuse and neglect registry or criminal record history at least 45 days after the initial request.

B. Any documentation obtained pursuant to subsection A of this section shall be maintained as part of the background check record.

8VAC20-821-200. New background checks.

The child day program or family day system, the department, or the registering or approving authority may require a new background check if there is reason to suspect that a person required to have a background check has a disqualifying background.

8VAC20-821-210. Maintenance of background check records.

A. A child day program or family day system shall keep background check records at its place of business for at least two years after the background check is required, unless federal or state law or regulation requires the records to be kept for longer. If multiple child day programs are owned by the same entity, such records may be kept at a single location and shall be made available to the superintendent upon request.

B. Background check records shall be kept in locked files or a secure electronic file, and access to such files should be restricted according to a principle of least privilege.

C. Family day systems shall keep background check records for family day homes approved by the system.

8VAC20-821-220. Waiver of criminal convictions.

A. Any person who seeks to operate, volunteer, or work at a child day program or family day system and who is disqualified because of a criminal conviction or a criminal conviction in the background check of any other adult living in a family day home regulated by the department, pursuant to § 22.1-289.035, 22.1-289.036, or 22.1-289.039 of the Code of Virginia, may apply in writing for a waiver from the superintendent. The superintendent may grant a waiver if the superintendent determines that (i) the person is of good moral character and reputation and (ii) the waiver would not adversely affect the safety and well-being of children in the person's care.

B. The superintendent shall not grant a waiver to any person who has been convicted of any barrier crime.

C. The superintendent may grant a waiver to a family day home licensed or registered by the department if any other adult living in the home of the applicant or provider has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2 of the Code of Virginia, or any substantially similar offense under the laws of another jurisdiction, provided that (i) five years have elapsed following the conviction and (ii) the department has conducted a home study that includes (a) an assessment of the safety of children placed in the home and (b) a determination that the offender is now a person of good moral character and reputation. The waiver shall not be granted if the adult living in the home is an assistant or substitute provider or if such adult has been convicted of a misdemeanor offense under both §§ 18.2-57 and 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction.

D. The request for a waiver shall be submitted on a form prescribed by the superintendent.

E. Waivers are granted at the discretion of the superintendent and are not subject to appeal.

F. A waiver is granted to a specific person and shall include the following:

1. The name of the individual who is the subject of the waiver;
2. The name and location of the child day program or family day system;
3. The effective date of the waiver;
4. Any stipulations or conditions upon which the waiver is granted;

Regulations

5. The criminal conviction for which the waiver is granted;
6. The date of the criminal conviction; and
7. The signature of the superintendent.

G. A person to whom a waiver is granted shall notify the superintendent if any of the terms, stipulations, or conditions upon which the waiver was granted have changed and shall request a modification from the superintendent if appropriate.

H. The superintendent may rescind a waiver if the superintendent determines that (i) the waiver application contained materially false or misleading information, (ii) the stipulations or conditions upon which the waiver was granted have been violated, or (iii) the person no longer meets the criteria for a waiver.

I. A waiver automatically expires when the individual who is the subject of the waiver no longer lives in the home.

8VAC20-821-230. Public notification of waivers.

A. The child day program or family day system shall post any waiver granted by the superintendent in a conspicuous place at the location listed on the waiver.

B. Any waiver granted under this section shall be available for inspection by the public. The child day program or family day system shall notify in writing every parent of the children in its care of any waiver granted by the superintendent, as well as notify in writing the parent of any child subsequently enrolled for as long as the waiver remains effective.

Part VI

Standards of Conduct

8VAC20-821-240. Determination of continued compliance.

A. In order to determine continued compliance with licensing standards during the effective dates of the license, the superintendent will perform inspections in accordance with § 22.1-289.018 of the Code of Virginia.

B. The licensee is responsible for correcting any areas of noncompliance found during any inspection.

8VAC20-821-250. Maintenance of license.

A. An applicant or licensee shall at all times keep the superintendent informed of its current mailing address, telephone number, and email address.

B. An applicant or licensee shall notify the superintendent immediately of any change of ownership or business formation.

8VAC20-821-260. Provision of records to the superintendent.

An applicant or licensee shall produce any records to the superintendent during an inspection or within the timeframe specified by the superintendent if an extension is granted. Records produced for the superintendent pursuant to this

section that contain confidential or proprietary information shall be exempt from disclosure pursuant to subdivision 4 of § 2.2-3705.5 of the Code of Virginia.

8VAC20-821-270. Prohibited acts.

The following are prohibited acts by an applicant or licensee and may be subject to enforcement and sanctions:

1. Furnishing substantially inaccurate or incomplete information to the superintendent in obtaining, renewing, reinstating, or maintaining a license;

2. Making any materially false or misleading statement to the superintendent with respect to the operation of any child day program or family day system;

3. Failure to operate within the terms of a license or variance;

4. Failure to obtain from the superintendent a modification pursuant to 8VAC20-821-60 or variance pursuant to 8VAC20-821-70 prior to making programmatic or operational changes for which a modification or variance is required;

5. Failure to obtain a background check in accordance with Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1 of the Code of Virginia;

6. Failure to post the following documents in a conspicuous location on the premises of each facility:

a. The most recently issued license. Any conditional or provisional license shall be posted at each public entrance of the facility and a notice shall be prominently displayed next to the license that states that a description of specific violations of licensing standards to be corrected and the deadline for completion of such corrections is available for inspection at the facility or on the facility's website, if applicable;

b. Notice of the superintendent's intent to revoke or deny renewal of the license of a child day program or family day system. Such notice will be provided by the department and shall be posted in a prominent place at each public entrance of the facility to advise consumers of serious or persistent violations;

c. A copy of any final order of summary suspension of all or part of a license for a child day program or family day system operated by an agency of the Commonwealth shall be prominently displayed by the provider at each public entrance of the facility, or the provider may display a written statement summarizing the terms of the order, printed in clear and legible size and typeface, in a prominent location and identifying the location within the facility where the final order of summary suspension may be reviewed;

d. Any notice of the superintendent's intent to take any of the actions enumerated in subdivisions B 1 through B 6 of § 22.1-289.023 of the Code of Virginia. Such notice will

be provided by the department, and a copy of the notice shall be posted in a prominent place at each public entrance of the facility to advise consumers of serious or persistent violations;

e. A copy of any special order issued by the department shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations; and

f. Any other documents required by the superintendent;

7. Failure to correct any area of noncompliance found during any inspection;

8. Permitting, aiding, or abetting the commission of any illegal act in the licensed facility or agency;

9. A licensee being convicted of any barrier crime as defined in § 19.2-392.02 of the Code of Virginia or being the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

10. Hiring for compensated employment, continuing to employ, or permitting to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 of the Code of Virginia or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

11. Failure to notify the superintendent that anyone required to have a background check under § 22.1-289.036 of the Code of Virginia has been convicted of a barrier crime as defined in § 19.2-392.02 of the Code of Virginia or is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

12. Engaging in conduct or practices that are in violation of laws or regulations relating to abuse, neglect, or exploitation of children;

13. Interfering with the superintendent in the discharge of the superintendent's licensing duties, which includes forbidding the superintendent access to a location when at least one child is in care; and

14. Failure to comply with the terms of an order issued by the superintendent.

Part VII

Violation Review

8VAC20-821-280. Review process.

A. If an applicant or licensee believes that a licensing standard has been applied or interpreted in a manner that is arbitrary or capricious, the applicant or licensee may request a review by program supervisory personnel.

B. A request for review shall be in writing and shall be made within five business days of receiving a notice of violation. The request shall contain the following information:

1. The date that the application of the licensing standard that is being challenged was made;

2. The reasons why the applicant or licensee believes that the application of the licensing standard was arbitrary or capricious; and

3. All relevant documentation supporting the rationale of the applicant or licensee that the application of the licensing standard was arbitrary or capricious.

C. Nothing in this section shall be construed to prohibit the superintendent from exercising the superintendent's responsibility and authority, including proceeding directly to the imposition of administrative sanctions, summary suspension, or recommending petitions for injunction.

Part VIII

Sanctions

8VAC20-821-290. Administrative sanctions.

A. Notwithstanding any other provision of law, following a proceeding as provided in § 2.2-4019 of the Code of Virginia, the superintendent may issue a special order for (i) violation of any of the provisions or any regulation adopted under the provisions of Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1 of the Code of Virginia or § 54.1-3408 of the Code of Virginia for which violation adversely affects or is an imminent and substantial threat to the health, safety, or welfare of the person cared for or (ii) permitting, aiding, or abetting the commission of any illegal act in a child day program or family day system. Notice of the superintendent's intent to take any of the actions enumerated in subdivisions B 1 through B 6 of this section shall be provided by the department, and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations. The issuance of a special order shall be considered a case decision as defined in § 2.2-4001 of the Code of Virginia. Actions set forth in subsection B of this section may be appealed by (a) a child day program or family day system operated by an agency of the Commonwealth in accordance with § 22.1-289.025 of the Code of Virginia or (b) any other child day program or family day system in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). The superintendent shall not delegate the superintendent's authority to impose civil penalties in conjunction with the issuance of special orders.

B. The superintendent may take the following actions regarding child day programs and family day systems through the issuance of a special order and may require a copy of the special order provided by the department to be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations:

1. Place a licensee on probation upon finding that the licensee is substantially out of compliance with the terms of

Regulations

the license and that the health and safety of children is at risk;

2. Reduce the licensed capacity or prohibit new admissions when the superintendent concludes that the licensee cannot make necessary corrections to achieve compliance with regulations except by a temporary restriction of its scope of service;

3. Mandate training for the licensee or licensee's employees, with any costs to be borne by the licensee, when the superintendent concludes that the lack of such training has led directly to violations of regulations;

4. Assess civil penalties of not more than \$500 per inspection upon finding that the child day program or family day system is substantially out of compliance with the terms of its license and the health and safety of children is at risk; however, no civil penalty shall be imposed pursuant to this subdivision on any child day program or family day system operated by an agency of the Commonwealth;

5. Require licensees to contact parents, guardians, or other responsible persons in writing regarding health and safety violations; and

6. Prevent licensees who are substantially out of compliance with the licensure terms or in violation of the regulations from receiving public funds.

8VAC20-821-300. Revocation.

The superintendent may revoke the license of any child day program or family day system that violates any provision of this chapter, Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1 of the Code of Virginia, or fails to comply with the limitations and standards set forth in its license.

8VAC20-821-310. Summary suspension.

The superintendent may, in accordance with the provisions of § 22.1-289.022 of the Code of Virginia, issue a notice of summary suspension of the license of any child day program or family day system, in conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist in the child day program or family day system that pose an immediate and substantial threat to the health, safety, and welfare of the children receiving care, and the superintendent believes the operation of the child day program or family day system should be suspended during the pendency of such proceeding.

8VAC20-821-320. Consent agreements.

A. Instead of an adverse action, an applicant or licensee may enter into a consent agreement with the superintendent.

B. A consent agreement between an applicant or licensee and the superintendent shall include the following:

1. Dates of key actions and events and the names of the parties;

2. An assertion that all violations detailed in the notice of intent have been corrected;

3. A description in detail of the case-specific systemic solution proposed that addresses the causes of the past history of violations, including the methods the licensee has in place to prevent violations and to monitor results;

4. A stipulation by the licensee to the validity of the violations enumerated in the specified correspondence and a waiver of all rights to an informal conference or hearing under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) related to those violations;

5. A statement by the licensee that all determinations as to whether the terms of the agreement are being implemented and the intended results achieved are at the sole discretion of the superintendent;

6. The duration of the consent agreement. The consent agreement will be effective once signed by both parties;

7. A statement that when the superintendent signs the agreement, signifying final acceptance, the superintendent is also agreeing to rescind the outstanding adverse action, and that the licensee is agreeing to withdraw all appeals to that action; and

8. A statement outlining conditions for termination of the consent agreement and the nature of the licensee's appeal rights in that event.

C. Throughout the duration of the consent agreement, licensing staff will make frequent inspections to determine (i) whether the terms of the consent agreement are being implemented and (ii) whether the intended results of the consent agreement are being achieved.

Part IX

Appeals

8VAC20-821-330. Appeal from renewal, denial of renewal, or revocation of license.

A. Whenever the superintendent refuses to issue a license or to renew a license or revokes a license for a child day program or family day system operated by an agency of the Commonwealth, the provisions of § 22.1-289.025 the Code of Virginia shall apply.

B. Whenever the superintendent refuses to issue a license or to renew a license or revokes a license for any child day program or family day system other than a child day program or family day system operated by an agency of the Commonwealth, the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall apply.

C. However, those appeals from notice of the superintendent's intent to refuse to issue or renew or to revoke a license shall be received in writing from the child day program or family day system operator within 15 days of the date of receipt of the

notice. Judicial review of a final review agency decision shall be in accordance with the provisions of the Administrative Process Act and any applicable Rules of the Supreme Court of Virginia. No stay may be granted upon appeal to the Supreme Court or the Court of Appeals.

VA.R. Doc. No. R22-7028; Filed August 21, 2024, 8:47 a.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

Title of Regulation: **9VAC20-90. Solid Waste Management Permit Action Fees and Annual Fees.**

Agency Contact: Sanjay Thirunagari, Programs Manager, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 659-1532, or email sanjay.thirunagari@deq.virginia.gov.

FORMS (9VAC20-90)

[Solid Waste Information and Assessment Program Reporting Table, Form DEQ 50-25 with Statement of Economic Benefits Form and Instructions \(rev. 12/2018\)](#)

~~[Solid Waste Annual Permit Quarter Payment Form PF001 \(rev. 6/2023\)](#)~~

[Solid Waste Annual Permit Quarter Payment Form PF001 \(rev. 6/2024\)](#)

VA.R. Doc. No. R25-8042; Filed August 21, 2024, 11:18 a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Final Regulation

Title of Regulation: **9VAC25-780. Local and Regional Water Supply Planning (amending 9VAC25-780-10, 9VAC25-780-20, 9VAC25-780-30, 9VAC25-780-50 through 9VAC25-780-120, 9VAC25-780-140, 9VAC25-780-150, 9VAC25-780-160, 9VAC25-780-180; adding 9VAC25-780-45, 9VAC25-780-55, 9VAC25-780-125; repealing 9VAC25-780-40, 9VAC25-780-130).**

Statutory Authority: §§ 62.1-44.15 and 62.1-44.38:1 of the Code of Virginia.

Effective Date: October 9, 2024.

Agency Contact: Hannah Somers, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 814-2780, or email hannah.somers@deq.virginia.gov.

Summary:

Pursuant to Chapter 1105 of the 2020 Acts of Assembly and Chapter 331 of the 2022 Acts of Assembly, the amendments (i) establish regional planning areas; (ii) identify the particular regional planning area in which each locality shall participate and a procedure for a locality to request a change to its planning area; (iii) require localities to invite stakeholder groups to participate in coordinated resource planning; (iv) incorporate language to address new statutory requirements that the Department of Environmental Quality (DEQ) facilitate regional water planning efforts, ensure localities coordinate in the development of water supply plans, prioritize allocation of funding to localities that participate in regional planning, and provide estimates of water supply shortfalls for each locality and region; (v) require that each regional water supply plan clearly identify the regional planning area's water supply risks and propose regional strategies to address those risks; (vi) revise the existing water supply plan development, submission, and review procedures to accommodate regional plans; and (vii) clarify the roles of localities, stakeholders, and DEQ in the regional planning process.

Changes to the proposed regulation have been made pursuant to Chapters 36 and 37 of the 2023 Acts of Assembly to recognize localities using the Potomac River as a water supply source as a distinct drought evaluation region and require those localities to incorporate the provisions of the Metropolitan Washington Water Supply and Drought Awareness Response Plan: Potomac River System (Metropolitan Washington Council of Governments, 2000).

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

9VAC25-780-10. Application.

A. ~~All counties, cities and towns (hereinafter "local governments")~~ local governments in the Commonwealth of Virginia shall ~~submit a local water supply plan or shall participate in a regional planning unit in the submittal of a regional water supply plan to the board in accordance with this chapter~~ participate in cross-jurisdictional, coordinated water resource planning and shall develop and submit, with the other local governments within a regional planning area, a single

Regulations

~~jointly produced regional water plan to the board. B. The provisions of this regulation shall not affect any water supply project for which a permit application was submitted prior to January 1, 2003, to any state or federal agency. The provisions of this regulation shall not affect any water supply project for which~~ To the extent any provision of this chapter is applicable to or otherwise affects an application for a permit, license, grant, loan, or other request for funding ~~has been of any kind made to a state or federal agency prior to January 1, 2003, such application shall be subject to the version of this chapter in effect on the date the application is submitted.~~ All projects shall remain subject to applicable federal and state regulatory requirements.

~~€. B.~~ Nothing in this chapter shall be construed as altering or authorizing any alteration of any existing surface water, groundwater, or common law water rights; contractual rights or obligations relating to water supplies; or rights to freely enter into contracts or agreements relating to water supplies of any property owner within the Commonwealth local government, water authority, or person, except as required by federal or state law.

~~D. C.~~ The review required by 9VAC25-780-140 shall not be a prerequisite for applying for a permit from the Commonwealth of Virginia for a water supply project.

9VAC25-780-20. Purpose of chapter.

The purpose of this chapter is to establish a comprehensive water supply planning process for the collection of certain data by localities and the development of local, regional, and state water supply plans. This process shall be designed to (i) ensure that adequate and safe drinking water is available to all citizens of the Commonwealth; (ii) encourage, promote, and protect all other beneficial uses of the Commonwealth's water resources; ~~and~~ (iii) encourage, promote, and develop incentives for alternative water sources, including ~~but not limited to~~ desalinization; and (iv) encourage the development of cross-jurisdictional water supply projects.

This chapter establishes the required planning process and criteria that local governments with the participation of other stakeholders shall use in the development of the local data and regional water supply plans.

9VAC25-780-30. Definitions.

Unless otherwise defined in this chapter or unless the context clearly indicates otherwise, the terms used in this ~~regulation chapter~~ shall have the meanings ascribed to them by the State Water Control Law, Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia; the Ground Water Management Act of 1992, Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia; the Virginia Water Protection Permit Program Regulation, 9VAC25-210; and the Surface Water Management Area Regulation, 9VAC25-220, including any general permits issued thereunder.

"Beneficial use" means both in-stream and offstream uses. In-stream beneficial uses include, but are not limited to, the protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. Offstream beneficial uses include, but are not limited to, ~~domestic (including public water supply), agricultural, electric power generation, and commercial and industrial uses~~ has the meaning defined in 9VAC25-210-10 with respect to surface water and the meaning defined in 9VAC25-610-10 with respect to groundwater.

"Board" means the State Water Control Board.

"Community water system" means a waterworks that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents; and is regulated by the Virginia Department of Health Waterworks Regulations (12VAC5-590).

"Conservation" means practices, techniques, and technologies that improve the efficiency of water use.

"Department" means the Department of Environmental Quality.

"Local government" means a city, incorporated town, or county.

~~"Local program" means the combined water plan, resource conditions, and drought response and contingency plan developed in compliance with this regulation. The term "local program" will be used in this regulation to mean either local or regional programs. The term "program" implies the institution of a continuous planning process for maintenance of these documents.~~

~~"Planning area" means the geographical area as defined by local government boundaries that is included in a local or regional water supply plan.~~

"Planning period" means the ~~30-year to 50-year time frame~~ timeframe used by the ~~locality~~ local governments and regional planning units to project future water demand in accordance with 9VAC25-780-100 B.

"Regional planning area" means the geographical area as defined by 9VAC25-780-45 that is included in a regional water supply plan.

"Regional planning unit" means a collection of local governments ~~who have voluntarily elected to, water authorities, and participating stakeholders that shall~~ develop and submit a regional water supply plan. ~~A regional planning unit may be composed of all local governments located within the bounds of a planning district, any subset of local governments within the bounds of a planning district, or any group of local governments within multiple planning districts. Planning district commissions are encouraged to participate in the regional planning unit.~~

"Regional water supply plan" means a water plan the document developed and submitted by two or more cities or counties or both. A town and an adjacent county may develop a regional water plan. Two or more towns may develop and submit a regional water plan where the plan results in the proposed development of future water supply projects that address the water supply demands of the affected towns. Such plans developed by two or more towns may be included in regional water plans developed and submitted by counties or cities. Regional water plans shall be developed and submitted in conjunction with all public service authorities operating community water systems within the by a regional planning unit, if applicable for a regional planning area in compliance with 9VAC25-780-50 D.

"Self-supplied user" means any person making a withdrawal of surface water or ground water groundwater from an original source (e.g., a river, stream, lake, aquifer, or reservoir fed by any such water body) for their own use. Self-supplied users do not receive water from a community water system.

"Service area" means the geographical area served by a community water system.

"Stakeholder" includes industrial and agricultural water users, public water authorities, private water suppliers, developers and economic development organizations, and conservation and environmental organizations.

"State Water Resources and Supply Plan" is a plan developed to address the criteria of § 62.1-44.38 B of the Code of Virginia using information developed by local governments and used to develop regional water supply plans.

"Technical evaluation committee" means a committee of state agencies, including but not limited to the Virginia Department of Health, the Department of Conservation and Recreation, the Marine Resources Commission, the Department of Historic Resources, and the Department of Game and Inland Fisheries Wildlife Resources, convened by the Department of Environmental Quality in accordance with subdivision 8 of 9VAC25-780-60 to provide comments on the impacts to or conflicts among in-stream and offstream beneficial uses resulting from proposed alternatives for meeting projected water demands.

"Unaccounted for losses water" means the difference between a community water system's billing records for volumes of water distributed and production records for volumes of water treated.

"Water authority" means a water supply entity created under Chapter 51 (§ 15.2-5100 et seq.) of Title 15.2 of the Code of Virginia.

"Water conservation" means practices, techniques, and technologies that improve the efficiency of water use.

"Water demand management" means plans for improving water use efficiency through water conservation, reuse, and

reducing unaccounted for water losses contained in a local program.

"Water plan" means a document developed in compliance with this regulation. The term "water plan" will be used in this regulation to mean either local or regional water plans.

"Water sources" means wells, stream intakes, and springs, reservoirs, or aquifers that serve as sources of water supplies.

"Water supply risk" refers to a future circumstance or event that may reasonably impair the ability of one or more local governments, water authorities, or community water systems in the water planning area to meet current or projected water demand within the planning period. Water supply risks do not include (i) minor, infrequent, and temporary interruptions to the available water supply or water quality that may be remedied through the normal operation and maintenance of water supply systems; (ii) projected deficits in water supplies identified in accordance with the requirements of 9VAC25-780-100 I; or (iii) potential events or circumstances that are not reasonably foreseeable to occur within the planning period.

9VAC25-780-40. Program development. (Repealed.)

Local governments shall develop programs for local or regional water plans that are necessary to comply with this chapter. Local governments shall consult and coordinate with all community water systems in the planning area during the preparation of local or regional programs. Community water systems within the planning area shall cooperate and participate with the locality during preparation of the local program. Counties, cities, and towns are encouraged to develop regional programs. Local programs shall be designed to (i) ensure that adequate and safe drinking water is available, (ii) encourage and protect all beneficial uses, (iii) encourage and promote alternative water sources, and (iv) promote conservation.

9VAC25-780-45. Designation of Regional Planning Areas.

A. Regional planning areas are designated in subsection B of this section. Incorporated towns not listed in subsection B of this section shall participate in the same regional planning area as the county within which they are located.

B. The board designates the following regional planning areas:

1. The Big Sandy and Upper Tennessee Rivers 1 planning area encompasses the Counties of Lee, Scott, and Wise; and the City of Norton.

2. The Big Sandy and Upper Tennessee Rivers 2 planning area encompasses the Counties of Buchanan, Dickenson, Russell, Smyth, Tazewell, and Washington; and the City of Bristol.

3. The Chowan River 1 planning area encompasses the Counties of Brunswick, Lunenburg, Nottoway, and Prince Edward.

Regulations

4. The Chowan River 2 planning area encompasses the Counties of Greensville, Surry, and Sussex; and the City of Emporia.

5. The Eastern Shore planning area encompasses the Counties of Accomack and Northampton.

6. The Middle James River 1 planning area encompasses the Counties of Albemarle, Buckingham, Fluvanna, Greene, and Louisa; and the City of Charlottesville.

7. The Middle James River 2 planning area encompasses the Counties of Amherst, Appomattox, Campbell, and Nelson; and the City of Lynchburg.

8. The Middle James River 3 planning area encompasses the Counties of Amelia, Chesterfield, Cumberland, Dinwiddie, Goochland, Hanover, Henrico, Powhatan, and Prince George; and the Cities of Colonial Heights, Hopewell, Petersburg, and Richmond.

9. The New River 1 planning area encompasses the Counties of Bland, Giles, Montgomery, and Pulaski; and the City of Radford.

10. The New River 2 planning area encompasses the Counties of Carroll, Floyd, Grayson, and Wythe; and the City of Galax.

11 The Northern Coastal Plain 1 planning area encompasses the Counties of Lancaster, Northumberland, Richmond, and Westmoreland.

12. The Northern Coastal Plain 2 planning area encompasses the Counties of Essex, King and Queen, Mathews, and Middlesex.

13. The Northern Coastal Plain 3 planning area encompasses the Counties of Caroline and King George.

14. The Northern Piedmont 1 planning area encompasses the Counties of Culpeper, Fauquier, Madison, Orange, and Rappahannock.

15. The Northern Piedmont 2 planning area encompasses the Counties of Spotsylvania and Stafford; and the City of Fredericksburg.

16 The Northern Virginia planning area encompasses the Counties of Fairfax, Loudoun, and Prince William; and the Cities of Alexandria, Arlington, Fairfax, Falls Church, Manassas, and Manassas Park.

17. The Roanoke River 1 planning area encompasses the Counties of Bedford, Franklin, and Roanoke; and the Cities of Bedford, Roanoke, and Salem.

18. The Roanoke River 2 planning area encompasses the Counties of Henry, Patrick, and Pittsylvania; and the Cities of Danville and Martinsville.

19. The Roanoke River 3 planning area encompasses the Counties of Charlotte, Halifax, and Mecklenburg.

20. The Shenandoah River 1 planning area encompasses the Counties of Augusta and Rockingham; and the Cities of Harrisonburg, Staunton, and Waynesboro.

21. The Shenandoah River 2 planning area encompasses the Counties of Clarke, Frederick, Page, Shenandoah, and Warren; and the City of Winchester.

22. The Southeast Virginia planning area encompasses the Counties of Isle of Wight and Southampton; and the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk, and Virginia Beach.

23 The Upper James River 1 planning area encompasses the Counties of Alleghany, Bath, and Highland; and the City of Covington.

24. The Upper James River 2 planning area encompasses the Counties of Botetourt, Craig, and Rockbridge; and the Cities of Buena Vista and Lexington.

25. The York and James River 1 planning area encompasses the Counties of Charles City, King William, and New Kent.

26. The York and James River 2 planning area encompasses the Counties of Gloucester, James City, and York; and the Cities of Hampton, Newport News, Poquoson, and Williamsburg.

C. A local government may request that the department change its designated regional planning area to an adjoining planning area. The request shall be in writing and shall demonstrate that the local government shares common water supply sources, river basin, or existing or planned cross-jurisdictional relationships with the planning area it proposes to join. The department will provide notice of the request to all designated representatives of local governments in the two affected regional planning areas. If no objections are received by the department within 30 days of notifying the designated representatives, the department shall approve the request. If one or more objections are received, the department shall approve or deny the request after considering the positions of the requesting and objecting parties in light of the purpose and objectives of this chapter. The department shall provide notice of any action to approve or deny a request to modify a regional planning area concurrently to the requesting local government and all other designated representatives in the affected regional planning areas. Department action approving a request shall be effective on the date the notice is provided.

9VAC25-780-50. Preparation of local information and regional water supply plan; submission of requirements for a program regional water supply plan.

A. Local governments must adopt a local program as defined in this section, including any revisions to comprehensive plans, water supply plans, water and sewer plans, and other local authorities necessary to implement this chapter. A local public hearing consistent with § 15.2-1427 of the Code of Virginia is required during the development of the local program. The

~~public hearing may be combined with other public hearings that may be required. Each locality in a regional planning area shall assist its regional planning unit in developing and submitting a single jointly produced regional water supply plan to the department within five years from [(insert the effective date of the regulation) October 9, 2024]. To meet this requirement, local governments must complete the following for use by the regional planning unit:~~

- ~~1. Prepare water source information from its jurisdiction that complies with 9VAC25-780-70.~~
- ~~2. Prepare existing water use information from its jurisdiction that complies with 9VAC25-780-80. This information must include a review of water reporting data provided by the department and supplemented to the extent practicable, with any locally known omissions of water users and service area maps for public water utilities.~~
- ~~3. Prepare existing water resource information from its jurisdiction that complies with 9VAC25-780-90.~~
- ~~4. Prepare a 30-year demand projection of water demand and any alternatives for deficits in meeting this demand from existing sources of supply for its jurisdiction that complies with 9VAC25-780-100.~~
- ~~5. Prepare water demand management information from its jurisdiction that complies with 9VAC25-780-110.~~
- ~~6. Prepare a minimum three-stage drought response and contingency plan for its jurisdiction consistent with local sources of supply and water use patterns that complies with 9VAC25-780-120.~~

~~B. All local governments shall submit a local program to the department in accordance with the following schedule:~~

- ~~1. Local governments with populations in excess of 35,000 persons based on the most recent U.S. Census shall do so no later than November 2, 2008.~~
- ~~2. Local governments with populations in excess of 15,000 persons but no more than 35,000 persons based on the most recent U.S. Census shall do so no later than November 2, 2009.~~
- ~~3. Local governments with populations less than or equal to 15,000 persons based on the most recent U.S. Census shall do so no later than November 2, 2010.~~
- ~~4. Notwithstanding the above, local governments may elect to participate in the submittal of regional water supply plans. By November 2, 2008, local governments participating in a regional plan shall provide notice to the department of the intent to participate in a regional plan and shall include the names of the other participating localities. Such regional plans shall be submitted no later than November 2, 2011.~~

~~Nothing in this section shall be construed as limiting the submittal of local or regional water supply plans before the date when such plans are due. In developing a regional water supply plan, regional planning units shall use the following process:~~

1. Each local government and water authority shall designate a representative and one or more alternates to represent its interests in the regional planning unit by submitting the names and contact information of such individuals to the department [within (insert date 60 days from the effective date of the regulation) by December 8, 2024]. Local governments and alternates may jointly represent the local government and any water authority created by the local government. The department will collect and distribute the contact information for the designated representatives and alternates, and a list of the available data for all registered community water systems and self-supplied users that utilize more than 300,000 gallons of water in any month, to the members of each respective planning unit. The department shall maintain a current list of designated representatives and alternates and shall make the list publicly available to facilitate coordinated water supply planning.

2. The department will schedule and convene a kickoff meeting for each regional planning unit to provide guidance on the regional water plan development process, requirements, and timelines. The department will provide notice of the kickoff meeting, at a minimum, to (i) each designated representative for the regional planning unit; (ii) any other community water systems and self-supplied users that utilize more than 300,000 gallons of water in any month, including agricultural, industrial, and power generation users within the respective regional planning area; and (iii) any planning district commission whose territory includes all or part of the regional planning area. A kickoff meeting will be convened [within (insert date 180 days from the effective date of this regulation) by April 7, 2025]. On the department's initiative or at the request of any designated representative, the department will schedule a kickoff meeting in preparation for revising a regional water supply plan in accordance with subsections I and J of this section.

3. Subdivisions B 1 and B 2 of this section shall not apply to any regional planning unit in which a planning district commission notifies the department that it will coordinate local government participation in the regional water supply plan development process in accordance with its authority under Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 of the Code of Virginia. Such notice may be submitted by any planning district commission whose territory includes the entire regional planning area. If the regional planning area embraces the territory of more than one planning district commission, a joint notice may be submitted by or on behalf of all such planning district commissions.

4. Each local government shall make reasonable efforts to consult and coordinate with all community water systems and self-supplied users that utilize more than 300,000 gallons of water in any month, including agricultural, industrial, and power generation users within its jurisdiction during the preparation of regional water supply plans. Regional planning units shall develop a process for other

Regulations

stakeholder participation in the preparation of a regional water supply plan.

5. To the extent practicable, regional water supply plans shall be consistent with the goals of § 62.1-44.38:1 A of the Code of Virginia to (i) ensure that adequate and safe drinking water is available; (ii) encourage and protect all beneficial uses; (iii) encourage and promote alternate water sources, including desalinization; (iv) promote water conservation; and (v) encourage the development of cross-jurisdictional water supply projects.

C. Local programs shall contain the elements listed below governments shall be responsible for collecting and compiling the information from within their locality necessary to comply with these requirements. This Any information may required to be collected, compiled, or provided by a local government shall be derived from existing, readily available information and additional detailed. Additional studies shall not be required. Information is readily available to a local government if it is (i) in the possession of the local government; (ii) provided by the department; (iii) available from a website or electronic database known to and accessible by the local government in an appropriate format; or (iv) provided by a third party in response to a written request from the local government. The regional water supply plan shall document any known information gaps.

D. Regional water supply plans shall contain the following elements:

1. A description of existing water sources in accordance with the requirements of 9VAC25-780-70;
2. A description of existing water use in accordance with the requirements of 9VAC25-780-80;
3. A description of existing water resource conditions in accordance with the requirements of 9VAC25-780-90;
4. An assessment of projected water demand in accordance with the requirements of 9VAC25-780-100;
5. A description of water management actions in accordance with the requirements of 9VAC25-780-110 and 9VAC25-780-120;
6. An identification of water supply risks and regional strategies to address identified risks in accordance with the requirements of 9VAC25-780-125;
7. A statement of need for the regional planning unit in accordance with the requirements of 9VAC25-780-130 9VAC25-780-100;
8. An alternatives analysis that identifies potential alternatives to address projected deficits in water supplies in accordance with the requirements of 9VAC25-780-130; 9VAC25-780-100; and

8. 9. A map or maps identifying important elements of the program discussed in the water supply plan that may include existing environmental resources, existing water sources, significant existing water uses, and proposed new sources;

9. A copy of the adopted program documents including any local plans or ordinances or amendments that incorporate the local program elements required by this chapter;

10. A resolution approving the plan from each local government that is party to the plan; and

11. A record of the local public hearing, a copy of all written comments and the submitter's response to all written comments received.

D. All local programs shall be reviewed no later than five years after a compliance determination by the board E. Except as provided in subsection F of this section, a draft regional water supply plan shall not be deemed final and eligible for submission to the department until:

1. The public participation process in 9VAC25-780-55 has been completed; and

2. Each of the governing bodies of the local governments in the regional planning area has adopted a resolution authorizing the submission of the plan by the regional planning unit on the local government's behalf and provided a copy of the resolution to the regional planning unit.

F. If a local government fails or refuses to timely adopt the resolution referenced in subsection E of this section, the regional planning unit may provide written notice to the department identifying such local government. The regional planning unit may submit the water supply plan without a local government's authorization 60 days after the notice is provided to the department.

G. Regional water supply plans shall reflect the consensus of the local governments and water authorities in the regional planning unit. The regional planning units shall attempt to resolve any disagreement to produce a consensus. Any disagreements among local governments or water authorities that cannot be resolved through the plan development process shall be documented in the plan.

H. The following documents and supporting materials shall be appended to and submitted with the regional water supply plan [for reference]:

1. A copy of supporting documents including any revisions to comprehensive plans, water supply plans, water and sewer plans, and other local ordinances necessary to implement the regional water supply plan;

2. Copies of any drought response and contingency plans required by 9VAC25-780-120;

3. A resolution approving the regional water supply plan from each local government;

4. A copy of all written comments and a response to all written comments received as required by 9VAC25-780-55; and

5. A summary of the processes used to ensure cross-jurisdictional coordinated water resource planning between local governments and to ensure stakeholder consultation, including a list of local governments and stakeholders that participated during the regional water supply plan development, including the process developed in accordance with subdivision B 4 of this section. Copies of any public notices, written comments received, and responses to the comments shall be included. Other correspondence and documentation, such as invitations, meeting agendas, and outreach materials may be included and shall be provided upon request by the department.

I. No later than 180 days before the five-year anniversary of the most recent compliance determination by the board in accordance with 9VAC25-780-140 F. ~~Revised plans shall be submitted when, each regional planning unit shall initiate a process to review the regional water supply plan. If this review indicates that circumstances have changed or new information has been made available that will result in impacts one or more local governments within a regional planning unit resulting in substantial changes in current or proposed sources, demands, or water demands demand deficits or water supply risks that will were not be met by alternatives contained considered in the regional water plan, the regional planning unit shall prepare a supplement to the regional water supply plan addressing such circumstances or changed information. These The supplement shall be submitted to the department no later than 180 days after the five-year anniversary of the most recent compliance determination. Such circumstances may be caused by include changes in demands, the availability of the anticipated source sources, cumulative impacts, in-stream beneficial uses, or other factors. In the case where the review by the local government or regional planning unit indicates that the circumstances have not changed sufficiently to warrant a revision of the water supply plan after five years, the local regional planning unit shall notify the department that the information in the existing plan is still in effect the most current available on or before the five-year anniversary of the most recent compliance determination. The actions of each regional planning unit under this subsection shall reflect the consensus of its local governments. A supplement to a regional water supply plan need not be publicly noticed or approved by resolution of the local governments.~~

~~E. J.~~ Notwithstanding subsection ~~D~~ I of this section, all ~~local programs~~ regional water supply plans shall be reviewed, revised, and resubmitted to the department every 10 years after the date of last approval in accordance with procedures and requirements set forth in this chapter. Except in regional planning areas for which notice has been provided by a planning district commission in accordance with subdivision B 3 of this section, no later than 180 days before the 10-year

anniversary of the most recent compliance determination by the board, the department shall schedule and convene a kickoff meeting to initiate the planning process for the development of the regional water supply plan. In regional planning areas for which notice has been provided by a planning district commission in accordance with subdivision B 3 of this section, the identified planning district commission shall convene a kickoff meeting no later than 180 days before the 10-year anniversary of the most recent compliance determination and shall invite the department to participate.

9VAC25-780-55. Public participation in regional water supply plans.

A. The draft regional water supply plan developed by the regional planning unit shall be publicly noticed once in a newspaper of general circulation in each county, city, and incorporated town in the regional planning area. A public notice in a newspaper of general circulation that covers multiple localities within a regional planning area shall satisfy this requirement for each local government included within that area of general circulation. The public notice shall include the following:

1. Brief description of the purpose of the draft regional water supply plan, including a list of all localities included in the regional planning area;
2. Identification of means for the public to obtain copies of the draft regional water supply plan in electronic and paper formats;
3. Announcement of a comment period of at least 30 days following the date of publication for interested persons to submit written comments to their respective local government;
4. Brief description of how to submit comments; and
5. Either (i) notice of a public informational meeting or (ii) a statement informing persons of their right to request a public informational meeting.

B. If 15 or more individual requests for a public informational meeting are received from commenters in any county, city, or incorporated town, the county, city, or incorporated town shall publish a second public notice of a public informational meeting to be held no sooner than 15 days from the date of the notice. Local governments may hold joint informational meetings.

C. A public informational meeting shall include a presentation summarizing the draft regional water supply plan and a reasonable opportunity for interested members of the public to offer comments or questions on the draft plan.

D. The local government shall accept any additional written comments received up to 15 days after the public informational hearing.

Regulations

E. Written comments received by any local government shall be circulated to the designated representative for the other local governments in the regional planning area. Responses to public comments shall be prepared in either of the following ways, as determined by the regional planning unit:

1. Each local government shall prepare a written summary of any comments it has received and a response to those comments; or

2. The regional planning unit shall prepare a joint document providing a summary and response to all comments received by each local government in the regional planning area.

F. The regional planning unit shall give due consideration to public comments and may revise the draft regional water supply plan. The revised regional water supply plan need not be publicly noticed.

9VAC25-780-60. State role in ~~program~~ regional water supply plan preparation.

To assist local governments in the development of ~~local programs~~ regional water supply plans, the ~~board~~ department will:

~~1. Provide technical and financial assistance planning, policy, and technical assistance to each regional planning area differentiated according to each area's water supply challenges, existing resources, and other factors;~~

~~2. Provide financial assistance from any planning funds and prioritize the allocation of planning funds and other available funds to local governments that sufficiently participate in regional planning;~~

~~3. Provide guidance on compliance options;~~

~~3. 4. Facilitate acquisition of existing water resource conditions (the department shall prepare and post on its website a list of readily available sources for the items identified in 9VAC25-780-90 B);~~

~~4. 5. Facilitate acquisition of existing use information that has been reported to the department;~~

~~5. 6. Facilitate acquisition of water management information (the department shall prepare and post on its website a list of acceptable practices that are used with regard to the topics in 9VAC25-780-110);~~

~~6. 7. Identify acceptable methods for the projection of future water demands as per 9VAC25-780-100;~~

~~7. 8. Provide any information regarding known beneficial use conflicts relating to the development of alternatives as identified in the most recent State Water Resources and Supply Plan;~~

~~8. 9. Convene kickoff meetings for the regional planning units;~~

10. Follow up with localities that have been identified as not participating in the regional planning unit and the development of the regional water supply plan;

11. Ensure that local governments coordinate sufficiently in the development of regional plans;

12. Ensure that each regional plan clearly identifies the region's water supply risks and proposes strategies to address those risks;

13. At the request of the applicant, convene a technical evaluation committee meeting; and

~~9. 14. Provide notice on the department website of local public hearings informational meetings on the local program regional water supply plan upon notification by the locality.~~

9VAC25-780-70. Existing water source information.

A. Each local government within the regional planning area shall provide existing water source information to assist in the development of the regional water supply plan. A regional water supply plan shall include current information on existing water sources within the regional planning area.

B. Each local government within the regional planning area shall provide existing water source information for community water systems using groundwater to assist in the development of the regional water supply plan. A regional water supply plan shall include, for community water systems using ~~ground~~ water, groundwater: (i) the name and identification number of the well ~~or wells~~, (ii) the well depth, (iii) the casing depth, (iv) the screen depth (top and bottom) or water zones, (v) the well diameter, (vi) the ~~design capacity for the designed~~ average daily withdrawal and maximum daily withdrawal, (vii) the system capacity permitted by the Virginia Department of Health, and (viii) the annual and monthly permitted amounts contained in ground water withdrawal permits for all wells located within ground water management areas.

C. Each local government within the regional planning area shall provide existing water source information for community water systems using surface water reservoirs to assist in the development of the regional water supply plan. A regional water supply plan shall include, for community water systems using surface water reservoirs: (i) the name of the reservoirs, (ii) the sub-basins in which the reservoirs are located, (iii) the drainage area, (iv) the amount of ~~on-stream~~ storage available for water supply, (v) the ~~design capacity for designed~~ average daily and maximum daily withdrawals from the reservoirs, (vi) the safe yield of the reservoirs, (vii) the capacity of any associated water treatment plant, (viii) the Virginia Department of Health permitted capacity of the systems, and (ix) any limitations on withdrawal established by permits issued by the department. For a community water system that operates a system of interconnected reservoirs, the ~~reporting of the design capacity for withdrawals, designed average daily withdrawal, the designed maximum daily withdrawal and the~~

~~safe yield information may be presented for the entire system or may be reported as subsets of the system, except that the plan must report the drainage area and amount of storage available for water supply from each reservoir independently. The plan shall designate which reservoirs and which intakes constitute a system for the purposes of this paragraph subsection. The plan must report the drainage area and amount of storage available for water supply from each reservoir independently.~~

D. Each local government within the regional planning area shall provide existing water source information for community water systems using stream intakes to assist in the development of the regional water supply plan. A regional water supply plan shall include, for community water systems using stream intakes: (i) the name of the stream or river, (ii) the drainage area of the intake, (iii) the sub-basin in which the intake is located, (iv) the design capacity for designed average daily and designed maximum daily withdrawal from the stream, (v) the safe yield, (vi) the lowest daily flow of record, (vii) the design capacity of the pump station, (viii) the design capacity of the water treatment plant, (ix) the capacity of the system permitted by the Virginia Department of Health, and (x) any limitation on withdrawals established by permits issued by the department.

E. ~~To the extent that information is available, a~~ assist the development of the regional water supply plan, each local government shall review the data provided by the department for self-supplied users of more than 300,000 gallons of surface water in any one month. Local governments shall review this information and provide information for any locally known withdrawals of more than 300,000 gallons in any one month not identified in the dataset provided. A regional water supply plan shall include a list of for all self-supplied users of more than 300,000 gallons per in any month of surface water for nonagricultural uses: (i) the name of the water body utilized, (ii) the design capacity for the designed average daily and maximum daily withdrawal, and (iii) any limitation on withdrawals established by permits issued by the department, the Virginia Department of Health, or any other agency.

F. ~~To the extent that information is available, a~~ assist the development of the regional water supply plan, each local government shall review the data provided by the department for [self-supplied self-supplied] users of more than 300,000 gallons of groundwater in any one month. Local governments shall review this information and provide information for any locally known withdrawals of more than 300,000 gallons in any one month not identified in the dataset provided. A regional water supply plan shall include, for all self-supplied users of more than 300,000 gallons per in any month of ground water groundwater for nonagricultural uses: (i) the name and identification number of the well or wells, (ii) the well depth, (iii) the casing depth, (iv) the screen depth (top and bottom) or water zones, (v) the well diameter, (vi) the design capacity for the designed average daily and maximum daily withdrawal and

(vii) any limitation on withdrawal established by permits issued by the department, the Virginia Department of Health, or any other agency.

G. To assist the development of the regional water supply plan, each local government shall review the data provided by the department for community water systems with existing contractual agreements to receive raw or finished water deliveries from another party. Local governments shall review this information and provide information for any locally known contractual agreements not identified in the dataset provided. A regional water supply plan shall include, for any community water systems with existing contractual agreements to receive raw or finished water deliveries from another party: (i) the source of the water to be provided under the contract, (ii) the amount of ground groundwater or surface water to be purchased contractually available to be delivered to the community water system from a water supply systems outside the geographic boundaries of the planning area system on a maximum daily and average annual basis, (iii) any contractual limitations on the purchase delivery of the water, including but not limited to the term of any contract or agreement, (iv) the recipient(s) recipients or areas served by the water purchased, and (v) the name(s) name of the supplier(s) any supplier.

H. A regional water supply plan, if practicable, shall include an estimate of the amount of water available to be purchased outside the planning area from any source with the capacity to withdraw more than 300,000 gallons per in any month of surface and ground water or groundwater, reported on a maximum daily and average annual basis and any contractual limitations on the purchase of the water including but not limited to the term of any contract or agreement, the geographic region(s) that receive the water purchased, and the name(s) of the supplier(s) and that is not addressed by subsection G of this section.

I. To assist the development of the regional water supply plan, each local government shall review the data provided by the department related to agricultural users who utilize more than 300,000 gallons in any month. Local governments shall review this information and provide information for any locally known agricultural users of more than 300,000 gallons in any month not identified in the dataset provided. A regional water supply plan shall include, to the extent possible, (i) a list of agricultural users who utilize more than 300,000 gallons per in any month, (ii) an estimate of total agricultural usage by source, (iii) whether the use is irrigation or nonirrigation, (iv) the maximum capacity of the intake or well, and (v) whether the source is surface or ground water or groundwater.

J. To assist the development of the regional water supply plan, each local government shall provide an estimate of the number of residences and businesses that are self-supplied by individual wells withdrawing less than 300,000 gallons in any month and an estimate of the population served by individual

Regulations

wells. A regional water supply plan shall include an estimate of the number of residences and businesses that are self-supplied by individual wells withdrawing less than 300,000 gallons ~~per in any~~ month and an estimate of the population served by individual wells.

~~K. When available, a water plan shall include a summary of findings and recommendations from applicable source water assessment plans or wellhead protection programs.~~

9VAC25-780-80. Existing water use information.

A. Each local government within the regional planning area shall provide information documenting existing water use information to assist in the development of the regional water supply plan. A regional water supply plan shall include, at a minimum, current information documenting existing water use as listed below in this section for each local government within the regional planning area. Water use information shall be obtained from the Virginia Department of Health waterworks permit compliance reports, the department ~~ground water groundwater~~ permit compliance reports ~~or~~ department water use reports provided to each local government, or other appropriate available sources. Information shall be reported for the most recent previous annual compilation of such data that is available on the date of submission of the water plan. Each local government shall be responsible for reviewing the water use information for their locality and obtaining this information from any known omissions in the dataset.

B. A regional water supply plan shall include the following information for each community water systems system within the regional planning area:

- ~~1. The population within the planning area served by each community water system served.~~
- ~~2. The number of service connections within the planning area for each community water system.~~
- ~~3. The average and maximum daily withdrawal for each community water system within the planning area of groundwater or surface water over the most recent five-year period.~~
- ~~4. The amount of water used within the planning area on an annual average basis; and on an average monthly basis for each community water system expressed in terms of million gallons per day over the most recent five-year period.~~
- ~~5. The peak day water use by month for each community water system within the planning area.~~
- ~~6. An estimate of the water used on an average annual basis by self-supplied nonagricultural users of more than 300,000 gallons per in any month of surface water and ~~ground water groundwater~~ within the service area of each the community water system.~~
- ~~7. An estimate of the amount of water used on an average annual basis by self-supplied agricultural users of more than~~

300,000 gallons ~~per in any~~ month of surface water and ~~ground water groundwater~~ within the service area of ~~each the~~ community water supply system.

8. An estimate of the number of self-supplied users of less than 300,000 gallons ~~per in any~~ month of ~~ground water groundwater~~ and an estimate of the total amount of water used by them on an annual average basis within the service area of ~~each the~~ community water supply system.

~~9. For each community water system included in the water plan, the plan shall include an~~ An estimate of the disaggregated amounts of water used in categories of use appropriate for the system. Typical categories may include:

- Residential use;
- Commercial, institutional, and light industrial (CIL) use;
- Heavy industrial use;
- Military water use;
- Water used in water production processes;
- Unaccounted for losses;
- Sales to other community water systems and the names of such systems; or
- Subtotals of the above categories for all community water systems.

10. To the extent that information ~~is available~~ or sources of information are provided by the department pursuant to 9VAC25-780-60 ~~and other sources~~, for each community water system ~~included in the water plan~~ using stream intakes, ~~the plan shall include~~ a qualitative description of existing in-stream beneficial uses within the planning area or outside the planning area that may be affected by the ~~point of~~ stream withdrawal.

C. A Using information provided by the department and any additional locally identified data, a regional water supply plan shall include an estimate of the water used on an average annual basis by self-supplied nonagricultural ~~user~~ users of more than 300,000 gallons per in any month of surface water and ~~ground water groundwater~~ outside the service areas of community water systems.

D. A Using information provided by the department and any locally identified data, a regional water supply plan shall include an estimate of the amount of water used on an average annual basis by self-supplied agricultural users of more than 300,000 gallons per in any month of surface water and ~~ground water groundwater~~ outside the service areas of community water systems.

E. A Using information provided by the department and any additionally identified data, a regional water supply plan shall include an estimate of the number of self-supplied users of less than 300,000 gallons per in any month of ~~ground water groundwater~~ and an estimate of the total amount of water used

by them on an annual average basis outside the service areas of community water systems.

9VAC25-780-90. Existing water resource information.

A. ~~A program shall include a description of~~ Each local government within the regional planning area shall provide information documenting existing geologic, hydrologic, and meteorological conditions to assist in the development of the regional water supply plan. A regional water supply plan shall include a description of existing geologic, hydrologic, and meteorological conditions within the planning area, and in proximity to the point of withdrawal if it is outside the planning area.

B. A ~~program~~ regional water supply plan shall include a description of existing environmental conditions that pertain to; or may affect; in-stream flow, in-stream uses, and sources that provide the current supply. This description of conditions may be provided in a distinct section of the plan document or as a part of the existing water sources information required pursuant to 9VAC25-780-70. This information may be derived from existing, readily available sources of information and additional detailed, and information provided by the department. Additional studies shall not be required. The description of conditions shall include the following items, as they are applicable:

1. State or federal listed threatened or endangered species or habitats of concern;
2. Anadromous, trout, and other significant fisheries;
3. River segments that have recreational significance, including state scenic river status;
4. Sites of historic or archaeological significance;
5. Unusual geologic formations or special soil types;
6. Wetlands;
7. Riparian buffers and conservation easements;
8. Land use and land coverage, including items such as percentage of impervious cover within a watershed and areas where new development may impact water quality of the source;
9. The presence of impaired streams and the type of impairment;
10. The location of point source discharges; and
11. ~~Potential threats to the existing water quantity and quality, other than those from above~~ Water availability based on in-stream flow necessary to support [aquatic life provided by the department as identified in the most recent version of the State Water Resources and Supply Plan fish and wildlife resources and habitat].

9VAC25-780-100. Projected water demand information; statement of need and alternatives.

A. Each local government within the regional planning area shall provide projections of future water demand to assist in the development of the regional water supply plan. A regional water supply plan shall include projections of future water demand as listed below for each local government within the regional planning area in accordance with this section. Population in aggregate and disaggregate formulations should be estimated according to information from the U.S. Census Bureau, Bureau of Economic Analysis, the Virginia Employment Commission, or other accepted source of population information, including ~~but not limited to,~~ local or regional sources. Demand projection methodologies should be consistent with those outlined ~~in the American Water Works Association or American Society of Civil Engineers manuals by the department~~ consistent with 9VAC25-780-60. Sources of information and methodologies used in projecting future water demand shall be documented.

B. A regional water supply plan shall estimate water demand within the planning area for ~~a minimum of 30 to a maximum of 50 years~~ into the future. ~~While not required, localities are encouraged to plan for the maximum planning period to ensure that the most appropriate and sustainable alternatives are identified.~~

C. A regional water supply plan shall include an estimated future water use projected at the beginning of each decade (2010, 2020, 2030, etc.) within the planning period.

D. A regional water supply plan shall include the following projections for community water systems:

1. An estimate of population within the planning area served by each community water system;
2. A map depicting the ~~proposed~~ service area of each existing or proposed community water system;
3. Estimated water demand for each existing or proposed community water system on both an annual average and peak monthly basis;
4. Estimated water demand for each existing or proposed community water system disaggregated into categories of use appropriate for the system. Typical categories may include:
 - a. Residential use;
 - b. Commercial institutional and light industrial (CIL) use;
 - c. Heavy industrial use;
 - d. Military water use;
 - e. Water used in water production processes;
 - f. Unaccounted for losses;
 - g. Sales to other community water systems and the names of such systems; ~~or~~

Regulations

h. ~~Subtotals of the above categories listed in this subsection for all community water systems; and~~ or

i. ~~Projected water demands with and without water conservation pursuant to 9VAC25-780-110 [B C]; and~~

5. Total projected water demand for all existing or proposed community water systems disaggregated into the categories used in subdivision 4 of this subsection.

E. A regional water supply plan shall include a projection of water demand within the regional planning area on an annual average basis for each existing and any proposed self-supplied nonagricultural user of more than 300,000 gallons per in any month of surface water and ground water located outside the service areas of community water systems groundwater.

F. A regional water supply plan shall include a projection of the amount of water use on an annual average basis for each existing and any projected self-supplied agricultural user of more than 300,000 gallons per in any month of surface water and ground water located outside the service areas of community water systems groundwater.

G. A regional water supply plan shall include a projection of the number of self-supplied users of less than 300,000 gallons per in any month of ground water groundwater and a projection of the amount of water used on an annual average basis outside the service areas of community water systems.

H. Each local government within the regional planning area shall assist in the development of the regional water supply plan by determining the adequacy of existing water sources to meet current and projected demand by preparing a clear statement of need that is derived from an evaluation of the information required by 9VAC25-780-70 through 9VAC25-780-110. The statement of need shall contain, at a minimum, a determination of whether the existing sources are adequate to meet current and projected demands. If the determination is that existing sources are inadequate to meet current or projected demands during the planning period, each local government shall identify a reasonable range of potential alternative sources of supply to address the shortfall in demand. The list of alternatives shall include:

1. Potential water savings from water demand management actions, including an estimated volume for each action; and

2. Potential sources for new or alternative supplies, including an estimated volume from each source.

I. If any local government in the regional planning area determines that one or more existing sources within its jurisdiction is inadequate to meet projected demands during the planning period, or the regional strategies proposed in 9VAC25-780-125 include the development of new or alternative water sources, the regional water supply plan shall include an alternatives analysis with the following elements:

1. A statement of need that addresses the location, magnitude, and timing of the projected shortfall in demand within the regional planning area;

2. Identification of a reasonable range of alternatives that potentially may satisfy the stated need, including all alternatives identified by a local government under subsection [G H] of this section, and, as appropriate, other (i) water savings from water demand management actions, including an estimated volume for each action; (ii) sources for new water supplies, such as wells, reservoirs, impoundments and stream intakes, or aquifers, and an estimated volume from each source; (iii) nontraditional means of increasing supplies, such as interconnection, desalination, recycling, and reuse; and (iv) cross-jurisdictional regional approaches for shared development of new sources or expanding existing sources;

3. For each alternative to which it applies, a statement of any potential water availability issues identified by the board in the most recent review of the regional water supply plan or the State Water Resources and Supply Plan in accordance with 9VAC25-780-140 G, for each potential new source that any future water project will need to consider in its development; and

4. An assessment of whether the identified alternatives are (i) available [~~;~~ (ii) and] practicable in terms of cost, logistics, and existing technology; [~~(iii)~~ (ii)] avoid and minimize the need for water to the extent practicable; and [~~(iv)~~ (iii)] are sufficient to satisfy the need alone or in combination with other short-term or long-term alternatives.

J. A regional water supply plan shall include [address consider], if available, any cumulative demand, use conflict, or in-stream flow information developed identified by the board in the most recent review of the regional water supply plan or most recent version of the State Water Resources and Supply Plan pursuant to 9VAC25-780-140 G.

~~K.~~ A regional water supply plan shall explain how the projected needs of domestic consumption, in-stream uses, and economic development have been accounted for in the demand projection for the planning period.

9VAC25-780-110. Water demand management information.

A. Each local government within the regional planning area shall provide information documenting existing water demand management plans or practices to assist in the development of the regional water supply plan.

B. As part of a long-term strategy, a regional water supply plan shall address water conservation as a part of overall water demand management in accordance with the following requirements:

1. A regional water supply plan shall include information that describes practices describe strategies for more efficient

use of water that are used within the regional planning area. The type of measures to be described may include, ~~but are not limited to~~, the adoption and enforcement of the Virginia Uniform Statewide Building Code (13VAC5-63) sections that limit maximum flow of water closets, urinals, and appliances; use of low-water use landscaping; and increases in irrigation efficiency.

2. A regional water supply plan shall ~~include information describing~~ describe the water conservation measures used within the regional planning area to conserve water through the reduction of use. The types of measures to be described may include, ~~but are not limited to~~, technical, educational, and financial programs.

3. A regional water supply plan shall ~~include information that describes~~ describe, within the regional planning area, the practices to address water loss in the maintenance of water systems to reduce unaccounted for water loss. The types of items to be described may include, ~~but are not limited to~~: leak detection and repair and old distribution line replacement.

~~B. C.~~ Current water conservation practices, techniques, and technologies shall be considered in projecting water demand pursuant to 9VAC25-780-100 D.

9VAC25-780-120. Drought response and contingency plans.

~~A program~~ A. Each local government with the regional planning area that ~~includes~~ contains within its geographic jurisdiction community water systems and self-supplied users who withdraw more than an average of 300,000 gallons ~~per~~ in any month of surface water and ~~ground-water~~ groundwater shall ~~contain~~ develop a drought response and contingency ~~plans in accordance with~~ plan that contains the following requirements:

1. Drought response and contingency plans shall ~~be structured to~~ address the unique characteristics of the water source that is being utilized and the nature of the beneficial use of water. Direct stream intakes shall consider the lowest flow of record and reservoirs shall consider available usable storage to the extent practicable.

2. Drought response and contingency plans shall contain, at a minimum, the following three graduated stages of responses to the onset of drought conditions:

a. Each drought stage shall have specific triggers designed to address the particular vulnerabilities of each water source.

b. Drought watch stage responses are ~~generally~~ responses that are intended to increase awareness in the public and private sector to climatic conditions that are likely to precede the occurrence of a significant drought event. Public outreach activities shall be identified to inform the population served by a community water system of the

potential for drought conditions to intensify and potential water conservation activities that may be utilized.

~~b. c.~~ Drought warning stage responses are ~~generally~~ responses that are required when the onset of a significant drought event is imminent. Voluntary water conservation activities shall be identified with the goal of reducing water use by 5-10%.

e. ~~d.~~ Drought emergency stage responses are ~~generally~~ responses that are required during the height of a significant drought event. Mandatory water conservation activities shall be identified with the goal of reducing water use by 10-15%.

3. Drought response and contingency plans shall include references to local ordinances, if adopted, and procedures for the implementation and enforcement of drought response and contingency plans.

B. If there is a conflict between subsection A of this section and any condition of a permit issued by the department, a drought response and contingency plan shall conform to the permit and, to the extent practicable and consistent with the permit, subsection A of this section.

C. Each regional planning area, to the extent practicable, shall evaluate the feasibility of developing a regional drought response and contingency plan as part of the regional water supply plan. If a regional drought contingency and response plan is developed, it shall include all of the elements identified in the subsection A of this section. [Any local government that utilizes the Potomac River through any portion of their service area as a water supply source shall incorporate the provisions of the Metropolitan Washington Water Supply and Drought Awareness Response Plan: Potomac River System (2000), including provisions related to triggers, actions, and messages for the Potomac River drought evaluation region.]

D. If a regional drought response and contingency plan is not feasible, the regional water supply plan shall include a summary description of any cross-jurisdictional coordination efforts on drought response.

9VAC25-780-125. Identification of water supply risks and proposed regional strategies.

A. A regional water supply plan shall identify water supply risks [relevant to the regional planning unit, using readily available information as defined in 9VAC25-780-50 C]. For each water supply risk identified the likelihood and severity of the impact on water supply in the regional water supply plan shall be evaluated.

B. In [~~evaluating~~ identifying] potential water supply risks [relevant to the regional planning unit], the regional planning unit shall consider, at a minimum, the following:

1. The findings of any wellhead protection or source water protection plans developed for sources of supply in the regional planning area;

Regulations

2. The potential effects of climate change or need for climate resiliency;

3. Reduction in availability to meet water supply demands during short-term droughts and long-term droughts due to current demands, increasing demands, new withdrawals, or other factors;

4. Reduction in availability of groundwater from coastal plain or fractured rock aquifers due to current or increasing demands or new withdrawals;

5. The water needs of other beneficial uses, including aquatic habitat and waste assimilative capacity;

6. Reductions in available supply due to a lack of assessment or failure to address excessive rates of unaccounted water;

7. Affordability of costs for developing new or maintaining existing sources, infrastructure improvements, and impacts to rates for water customers; and

8. Other water supply risks as identified by the local governments.

C. The regional water supply plan shall identify and evaluate a reasonable range of potential regional strategies or projects to address each identified water supply risk. Each strategy or project shall include, at a minimum, the following information:

1. A description of the strategy or project and the local governments and stakeholders that would be involved if implemented; and

2. An analysis of how the strategy or project would mitigate the impact of risk. For strategies or projects intended to address risks associated with a reduction in available water supply, an estimate of how the strategy would impact available water supply shall also be included.

D. Regional strategies or projects may address more than one risk. Cross-jurisdictional strategies or projects shall be considered to the extent practicable. Strategies may include water conservation elements included in the water demand management information and drought response and contingency plans required by 9VAC25-780-110 and 9VAC25-780-120 respectively. Projects that include alternative water sources or the expansion of existing sources shall be included in the analysis of alternatives required by 9VAC25-780-100 I.

9VAC25-780-130. Statement of need and alternatives. (Repealed.)

~~A. A water plan shall determine the adequacy of existing water sources to meet current and projected demand by preparing a clear statement of need that is derived from an evaluation of the information required by 9VAC25-780-70 through 9VAC25-780-110. The statement of need shall contain, at a minimum, a determination of whether the existing source(s) is adequate to meet current and projected demands.~~

~~B. If the determination is that the existing source is inadequate to meet projected demands during the planning period, the program shall include an alternative analysis of potential sources that includes the following information:~~

~~1. A description of potential water savings from water demand management actions including an estimated volume for each action;~~

~~2. A description of potential sources for new supplies including an estimated volume from each source; and~~

~~3. A description of potential resource issues or impacts, identified in accordance with 9VAC25-780-140 G, known for each potential new source that any future water project will need to consider in its development.~~

~~C. Potential alternatives considered shall include water demand management alternatives as well as more traditional means of increasing supply, i.e., wells, reservoirs, impoundments and stream intakes. Where appropriate, the program shall consider nontraditional means of increasing supplies such as interconnection, desalination, recycling and reuse. The analysis of potential alternatives may include a combination of short term and long term alternatives. The result of this analysis shall be provided as part of the submission required by 9VAC25-780-50 C 7.~~

9VAC25-780-140. Review of local programs regional water supply plans.

A. The board shall review all programs regional water supply plans to determine compliance with this regulation chapter and consistency with the State Water Resources and Supply Plan. The board will review adopted elements of a local program regional water supply plan according to review policies adopted by the board. Copies of the adopted local program regional water supply plan documents and subsequent changes thereto shall be provided to the board department.

B. To assist in the review of the program regional water supply plans, the board shall provide the Virginia Department of Health and other agencies listed in 9VAC25-780-150 B along with any other agency the board deems appropriate, 90 days to evaluate the program regional water supply plans. Comments must be received from the Virginia Department of Health or other agency by the deadline stipulated in the written notification from the board.

C. The board will assess the compliance of submitted programs regional water supply plans with these regulations this chapter. The board shall prepare a tentative statement of findings on whether the program regional water supply plan has demonstrated compliance with the following:

1. All elements of a local program regional water supply plan identified in 9VAC25-780-50 have been submitted;

2. The program regional water supply plan was developed through a planning process consistent with this chapter;

3. The results of any evaluation conducted pursuant to subsection G of this section have been appropriately accommodated;

4. The existing sources information complies with 9VAC25-780-70;

5. The existing water use information complies with 9VAC25-780-80;

6. The existing resources information complies with 9VAC25-780-90;

7. The projected water demand is based on an accepted methodology and complies with 9VAC25-780-100;

8. The water demand management information complies with 9VAC25-780-110;

9. The drought response and contingency plan complies with 9VAC25-780-120;

10. The region's water supply risks have been identified and regional strategies to address those risks have been proposed and comply with 9VAC25-780-125;

~~11.~~ The statement of need complies with 9VAC25-780-130 A 9VAC25-780-100 H;

~~14- 12.~~ When required, the alternatives ~~comply~~ analysis complies with 9VAC25-780-130 9VAC25-780-100;

~~12- 13.~~ The regional water supply plan demonstrates sufficient cross-jurisdictional coordination between local governments and consultation with stakeholders during regional water supply plan development in accordance with 9VAC25-780-50; and

~~14.~~ The ~~local program~~ regional water supply plan is consistent with 9VAC25-390-20, § 62.1-11 of the Code of Virginia, and Chapter 3.2 (§ 62.1-44.36 et seq.) of Title 62.1 of the Code of Virginia.

D. If the board's tentative decision is to find the ~~local program~~ regional water supply plan in compliance with subsection C of this section, the board shall provide public notice of its findings pursuant to 9VAC25-780-150.

E. If the tentative decision of the board is to find the ~~local program~~ regional water supply plan in noncompliance with ~~subsection C of this section this chapter~~, the board shall identify ~~(i) the reason for the finding of noncompliance, (ii) what is required for compliance, and (iii) and the right to an informational proceeding under Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of the Virginia Administrative Process Act.~~

F. The board shall make a final decision on whether the ~~local program~~ regional water supply plan is in compliance with this chapter after completing review of the submitted ~~program~~ regional water supply plan, any agency comments received, and any public comment received from a public meeting held pursuant to 9VAC25-780-160.

G. In conjunction with the compliance determination made by the board, the state will develop additional information and conduct additional evaluation of local or regional alternatives in order to facilitate continuous planning. This additional information shall be included in the State Water Resources and Supply Plan and ~~used by~~ made available to localities for use in their ~~program~~ planning. This information developed by the department shall include:

~~1. A cumulative demand analysis, based upon information contained in the State Water Resources Plan and other sources~~ An estimate of current water withdrawals and use for agriculture, domestic use, and other significant categories of water users;

~~2. The evaluation of alternatives prepared pursuant to 9VAC25-780-130 B and C~~ A projection of water withdrawals and use by agriculture, industry, domestic use, and other significant categories of water users;

~~3. The evaluation of potential use conflicts among projected water demand and estimates of requirements for in-stream flow; and~~ An estimate, for each major river and stream, of the minimum in-stream flows necessary during drought conditions to maintain water quality and avoid permanent damage to [~~aquatic life~~ fish and wildlife resources and habitat] in streams, bays, and estuaries;

~~4. An evaluation of the relationship between the local plan and the State Water Resources Plan,~~ to the extent practicable, of the ability of existing subsurface and surface waters to meet current and future water uses, including minimum in-stream flows, during drought conditions;

~~5. An evaluation, in cooperation with the Virginia Department of Health and local water supply managers, of~~ the current and future capability of public water systems to provide adequate quantity and quality of water;

~~6. An estimate, using a data-driven method that includes multiple reasonable assumptions about supply and demand over varying timeframes, of the risk that each locality and region will experience water supply shortfalls; and~~

~~7. An evaluation, to the extent practicable, of hydrologic, environmental, economic, social, legal, and jurisdictional aspects identified.~~

H. The ~~board~~ department may facilitate information sharing and discussion among localities when potential conflicts arise with regard to demands upon a source.

I. A ~~local program's~~ regional water supply plan's information shall be included in the State Water Resource and Supply Plan when determined to be in compliance by the board.

9VAC25-780-150. Public notice and public comment period.

A. The board shall give public notice on the department website for every tentative ~~and final~~ decision to determine ~~local~~

Regulations

~~program regional water supply plan~~ compliance.

B. The board shall give public notice to the Virginia Department of Health, the Department of Conservation and Recreation, the Marine Resources Commission, the Department of Historic Resources, and the Department of ~~Game and Inland Fisheries~~ Wildlife Resources for every tentative and final decision on program regional water supply plan compliance. The agencies shall have 90 days to submit written comment. At the request of the applicant, the board will convene a technical evaluation committee meeting to facilitate receipt of these comments.

C. The board shall provide a comment period of at least 30 days following the date of the public notice for interested persons to submit written comments on the tentative or final decision. All written comments submitted during the comment period shall be retained by the board and considered during its final decision.

D. Commenters may request a public meeting when submitting comments. In order for the board to grant a public meeting, there must be a substantial public interest and a factual basis upon which the commenter believes that the proposed program regional water supply plan might be contrary to the purposes stated in 9VAC25-780-20.

E. The contents of the public notice of a proposed program regional water supply plan compliance determination shall include:

1. ~~Name(s)~~ Names and ~~address(es)~~ addresses of the ~~locality(ies)~~ localities that submitted the local or regional water plan;
2. Brief synopsis of the proposed plan, including any identified future alternatives;
3. The ~~name(s)~~ names of the principal water supply sources;
4. A statement of the tentative determination to certify or deny consistency with the regulation;
5. A brief description of the final determination procedure;
6. The address, ~~e-mail~~ email address, and ~~phone~~ telephone number of a specific person at the state office from whom further information may be obtained; and
7. A brief description on how to submit comments and request a public meeting.

9VAC25-780-160. Public meetings.

A. Public notice of any public meeting held pursuant to 9VAC25-780-150 shall be circulated as follows:

1. Notice shall be published on the department website;
2. Notice shall be published once in a newspaper of general circulation in ~~the~~ each county, city, or town where the ~~local~~ regional water supply plan is in effect; and

3. Notice of the public meeting shall be sent to all persons and government agencies that requested a public meeting or have commented in response to the public notice.

B. Notice shall be effected pursuant to ~~subdivisions A-1 through 3~~ subsection A of this section at least 30 days in advance of the public meeting.

C. The content of the public notice of any public meeting held pursuant to this section shall include at least the following:

1. Name and address of the localities who prepared the program regional water supply plan;
2. The regional planning area covered by the program regional water supply plan;
3. A brief reference to the public notice issued for the comment period, including the date of issuance unless the public notice includes the public meeting notice;
4. Information regarding the time and location for the public meeting;
5. The purpose of the public meeting;
6. A concise statement of the relevant water resources planning, water quality, or fish and wildlife resource issues raised by the persons requesting the public meeting;
7. Contact person and the address, ~~e-mail~~ email address, and ~~phone~~ telephone number of the department office at which the interested persons may obtain further information or request a copy of the draft statement of findings prepared pursuant to 9VAC25-780-140 D; and
8. A brief reference to the rules and procedures to be followed at the public meeting.

9VAC25-780-180. Enforcement.

A. Enforcement of this chapter will be in accordance with §§ 62.1-44.15, 62.1-44.23, and 62.1-44.32 of the Code of Virginia.

B. A local government shall not be liable for the inability of the local government or its regional planning unit to comply with any requirement of this chapter caused by the failure or refusal of any other local government, community water system, or self-supplied user to comply with any provisions of this chapter.

DOCUMENTS INCORPORATED BY REFERENCE (9VAC25-780)

[Metropolitan Washington Water Supply and Drought Awareness Response Plan - Potomac River System \(rev. 7/2000\)](#)

VA.R. Doc. No. R21-6543; Filed August 20, 2024, 8:41 a.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BRANCH PILOTS

Final Regulation

Title of Regulation: 18VAC45-20. Board for Branch Pilots Regulations (amending 18VAC45-20-40, 18VAC45-20-50).

Statutory Authority: § 54.1-902 of the Code of Virginia.

Effective Date: November 1, 2024.

Agency Contact: Kathleen R. Nosbisch, Executive Director, Board for Branch Pilots, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, FAX (804) 527-4294, or email branchpilots@dpor.virginia.gov.

Summary:

The amendments (i) provide that performing or attempting to perform the duties of a regulant's office or job while under the influence of marijuana is grounds for denial of a license, denial of renewal of a license, or discipline of a licensee; and (ii) require that a medical review officer report to the licensee and to the Board for Branch Pilots any time the medical review officer finds the presence of marijuana, which may impair the pilot from safely discharging any duty to the extent the pilot is unfit to perform those duties.

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

18VAC45-20-40. Grounds for denial of licensure, denial of renewal, or discipline.

The board shall have the authority to deny initial licensure, deny an extension of license, or deny renewal as well as to discipline existing licensees, whether limited or not, for the following reasons:

1. (i) a. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of any felony or a misdemeanor involving moral turpitude or any ~~alcohol~~ alcohol-related or drug-related offense, there being no appeal pending; therefrom or the time for appeal having elapsed.
- (ii) b. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of any felony or a misdemeanor resulting from an arrest for any ~~alcohol~~ alcohol-related or drug-related offense, there being no appeal pending therefrom or the time for appeal having elapsed.

Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction;

2. Failing to inform the board in writing within seven calendar days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude or any ~~alcohol~~ alcohol-related or drug-related offense;

3. Failing to report to the board in writing any reports of the National Transportation Safety Board involving the licensee, or the results of any disciplinary action taken by the United States Coast Guard against the licensee within seven calendar days of that report or action;

4. Refusing or in any other way failing to carry out an order from the pilot officers for reasons other than the public's health, safety, or welfare;

5. Negligence or misconduct in the performance of duties;

6. Violating or cooperating with others in violating any provision of Chapter 9 (§ 54.1-900 et seq.) of [~~the~~] Title 54.1 of the Code of Virginia or any regulation of the board;

7. Failing to, as soon as possible under the circumstances, report to the pilot officers ~~his~~ the licensee's finishing time and other required information relating to the particulars of the ship;

8. Failing to file immediately with the president or vice president of the board with a copy to the board administrator a complete written account of any violation of the statutes of Virginia or of the United States relating to pilotage or failing to report in writing to the president or vice president of the board with a copy to the board administrator an account of all collisions, groundings, or other maritime mishaps of any description that may occur during the discharge of the pilot's duties. This report shall be received no later than seven days after such an incident;

9. Failing to report to the board any physical or mental condition ~~which that~~ may affect ~~his~~ the licensee's ability to perform the duties of a pilot. Such reports shall be provided within seven calendar days of the onset of the condition;

10. Refusing to comply with the board's requirement for a chemical test. Such test is required immediately and no later than 12 hours after involvement in a collision, grounding, or other incident resulting in personal injury, death, environmental hazard, or property damage in excess of \$100,000. Refusing to comply with this requirement may result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia;

11. Refusing to comply with any board requirement for chemical tests in any instance in which the board has cause to believe a test is necessary to protect the public health, safety, or welfare. Refusing to comply with this requirement may result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia;

Regulations

12. Failing to send proof of any test required by subdivision 10 or 11 of this section to the president or vice president of the board with a copy to the board administrator within 48 hours of the administration of the test;

13. A positive finding as a result of, or on, any substance abuse or chemical test as a result of which the board believes there is a threat to the public health, safety, or welfare. Such a finding may result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia;

14. Evidence of impaired performance in any instance in which the board believes there is a threat to the public health, safety, or welfare. Such a finding may result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia;

15. Performing or attempting to perform any of the duties of ~~his~~ the licensee's office or job while under the influence of illegal drugs;

16. Performing or attempting to perform any of the duties of ~~his~~ the licensee's office or job while under the influence of alcohol, marijuana, or any medication (controlled substance or otherwise) to the extent that ~~he~~ the licensee was unfit for the performance of the duties of ~~his~~ the licensee's office or job; and

17. Failing to comply with any of the provisions of 18VAC45-20-50.

18VAC45-20-50. Random chemical testing.

A. All Virginia licensed branch pilots shall be subject to the random chemical testing as set forth in this chapter. Random chemical testing shall be conducted at an annual selection rate of not less than 30% and not more than 100% of total licensees. Licensees shall be responsible for all costs associated with random chemical testing. The chemical test shall be a comprehensive drug screen acceptable to the board that includes testing for controlled substances in Schedules I - through V of Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia.

Only licensees on duty may be selected for random testing. A licensee selected for random chemical testing shall report for testing within two hours of notification. Failure to take a random chemical test is considered refusal to take the test.

B. Duties of licensee.

1. All licensees of this board shall enroll and participate in a random chemical testing program that meets the criteria of this chapter.

2. An on-duty licensee selected for random chemical testing shall report for testing within two hours of notification that ~~he~~ the licensee has been selected.

3. Licensees who receive a prescription for any medication from any health care provider shall have the following duties:

a. Give the health care provider a copy of the licensee's job description as a Virginia pilot;

b. Give the health care provider a complete list of medications used within the 30 days preceding the current visit;

c. Obtain a written statement from the health care provider stating if the new prescription is for a controlled substance (Schedules II - through V of the Drug Control Act) and obtain a written statement from the health care provider as to the licensee's fitness to safely perform the duties found in the job description; and

d. If prescribed any medication containing a ~~Schedule~~ Schedules II - through V controlled substance that is to be used within 12 hours of being on duty, make certain the MRO received by hand delivery or telefax each prescription written by any health care provider at the time such prescription is written along with a complete list of medications used by the licensee within the preceding 30 days.

C. The medical review officer shall:

1. Be completely familiar with all duties of a Virginia pilot.

2. Receive, evaluate, and maintain records of all medications given to him by or on behalf of each Virginia pilot.

3. Receive, evaluate, and maintain a record of each random chemical test taken by a Virginia pilot.

4. Any time the MRO finds the presence of a drug ~~or~~, alcohol, or marijuana that may impair the safe discharge of any duty of a Virginia pilot such that ~~he~~ the licensee is unfit to perform those duties, report ~~his~~ the [licensee's MRO's] written findings to the licensee and president or vice president of the board and to the board's administrator.

5. Report in writing to the licensee, president or vice-president of the board, and the board's administrator of any delay or refusal by a licensee in reporting to testing or being tested.

6. To the extent consistent with state and federal law, protect the confidentiality of all licensee records.

7. Judge fitness to safely perform duties in the context of the licensee's prescription medications and the licensee's available medical history. Any time the MRO finds evidence that the Virginia pilot may be impaired in the safe discharge of any of ~~his~~ the pilot's duties such that ~~he~~ the pilot may be unfit to perform those duties, ~~his~~ the MRO's written finding shall be reported to the licensee and president or vice president of the board and to the board's administrator.

VA.R. Doc. No. R23-7318; Filed August 20, 2024, 10:02 a.m.

BOARD OF DENTISTRY

Final Regulation

REGISTRAR'S NOTICE: The Board of Dentistry is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC60-21. Regulations Governing the Practice of Dentistry (adding 18VAC60-21-108).

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

Effective Date: October 9, 2024.

Agency Contact: Jamie Sacksteder, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4581, FAX (804) 698-4266, or email jamie.sacksteder@dhp.virginia.gov.

Summary:

Pursuant to Chapter 448 of the 2024 Acts of Assembly, the amendments require specific patient counseling prior to initiation of opioid treatment regardless of the length of treatment.

18VAC60-21-108. Patient counseling for opioids.

A. Prior to issuing a prescription for an opioid to treat acute or chronic pain, practitioners must provide patient counseling on the following:

1. The risks of addiction and overdose associated with opioid drugs and the dangers of taking opioid drugs with alcohol, benzodiazepines, and other central nervous system depressants;
2. The reasons why the prescription is necessary;
3. Alternative treatments that may be available; and
4. Risks associated with the use of the drugs being prescribed, specifically that opioids are highly addictive, even when taken as prescribed, that there is a risk of developing a physical or psychological dependence on the controlled dangerous substance, and that the risks of taking more opioids than prescribed, or mixing sedatives, benzodiazepines, or alcohol with opioids can result in fatal respiratory depression.

Such patient counseling shall be documented in the patient's medical record.

B. Patient counseling as described in subsection A shall not be a requirement for patients who are (i) in active treatment for cancer, (ii) receiving hospice care from a licensed hospice or palliative care, (iii) residents of a long-term care facility, (iv) being prescribed an opioid in the course of treatment for

substance abuse or opioid dependence, or (v) receiving treatment for sickle cell disease.

VA.R. Doc. No. R25-7885; Filed August 20, 2024, 8:16 a.m.

Fast-Track Regulation

Titles of Regulations: 18VAC60-21. Regulations Governing the Practice of Dentistry (amending 18VAC60-21-10, 18VAC60-21-30 through 18VAC60-21-90, 18VAC60-21-106 through 18VAC60-21-120, 18VAC60-21-140, 18VAC60-21-160, 18VAC60-21-170, 18VAC60-21-190, 18VAC60-21-210 through 18VAC60-21-260, 18VAC60-21-279 through 18VAC60-21-301, 18VAC60-21-320, 18VAC60-21-370; adding 18VAC60-21-302, 18VAC60-21-303; repealing 18VAC60-21-180, 18VAC60-21-330, 18VAC60-21-340, 18VAC60-21-360).

18VAC60-25. Regulations Governing the Practice of Dental Hygiene (amending 18VAC60-25-10 through 18VAC60-25-40, 18VAC60-25-60, 18VAC60-25-70, 18VAC60-25-80, 18VAC60-25-100 through 18VAC60-25-130, 18VAC60-25-150, 18VAC60-25-170 through 18VAC60-25-210; repealing 18VAC60-25-50, 18VAC60-25-90).

18VAC60-30. Regulations Governing the Practice of Dental Assistants (amending 18VAC60-30-10, 18VAC60-30-20, 18VAC60-30-30, 18VAC60-30-80, 18VAC60-30-100, 18VAC60-30-110, 18VAC60-30-115, 18VAC60-30-120, 18VAC60-30-140 through 18VAC60-30-170; repealing 18VAC60-30-40 through 18VAC60-30-70, 18VAC60-30-90).

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

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 9, 2024.

Effective Date: October 24, 2024.

Agency Contact: Jamie Sacksteder, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4581, FAX (804) 698-4266, or email jamie.sacksteder@dhp.virginia.gov.

Basis: Regulations of the Board of Dentistry are promulgated under the general authority of § 54.1-2400 of the Code of Virginia, which authorizes health regulatory boards to promulgate regulations that are reasonable and necessary to effectively administer the regulatory system.

Purpose: The amendments (i) reduce regulatory requirements, (ii) eliminate provisions redundant to statutory language, (iii) eliminate provisions redundant to other regulations governing the dental professions, (iv) eliminate provisions that are no longer needed, and (v) reduce barriers to licensure. 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 dental health professionals.

Regulations

Rationale for Using Fast-Track Rulemaking Process: The impetus for these amendments was the board's 2022 periodic review of these regulations. This rulemaking is expected to be noncontroversial because the majority of the changes in this action involve reduction of regulatory requirements. The requirements reduced are generally identical to statute or were inappropriately copied over from requirements for other practitioners when 18VAC60-20 was split into three chapters.

Substance: When the dentistry chapters were split from 18VAC60-20 into 18VAC60-21, 18VAC60-25, and 18VAC60-30, many provisions were copied over into each chapter regardless of applicability. Therefore, the amendments remove provisions from each chapter related to a different regulated profession that do not belong in the regulations. The amendments additionally (i) create definitions where needed; (ii) delete outdated provisions that were limited to specific time periods; (iii) clarify requirements for what must be recorded in a patient's record, including post-operative care following sedation; (iv) eliminate requirements to attest to review and comprehension of applicable laws and regulations and to adhere to those requirements; (v) eliminate prohibitions that do not involve actions that the board has jurisdiction over; (vi) clarify unprofessional conduct requirements; (vii) eliminate overly restrictive advertising requirements; and (viii) clarify that some practitioners are exempt from needing permits from the board to provide sedation.

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. Pursuant to periodic reviews of three of its regulations, the Board of Dentistry (board) proposes to grant additional continuing education credit for the uncompensated provision of services by dentists and dental hygienists and also introduce one new notification and three documentation requirements. The proposal also includes numerous editorial changes.

Background. This action would implement amendments identified during 2022 periodic reviews of 18VAC60-21 (Practice of Dentistry), 18VAC60-25 (Practice of Dental Hygiene), and 18VAC60-30 (Practice of Dental Assistants).² According to the board, when the dentistry regulation was split from a single chapter (18VAC60-20) into three separate chapters (18VAC60-21, 18VAC60-25, and 18VAC60-30),³ many provisions were copied over into each chapter regardless of their applicability to the practice they governed. Therefore, this action would mainly remove provisions from each chapter

that do not apply to the profession governed by that chapter. Additionally, the proposal would create definitions where needed; delete outdated provisions that were limited to specific time periods; clarify requirements for what must be recorded in a patient's record, including post-operative care following sedation; eliminate requirements to attest to review and comprehension of applicable laws and regulations and to adhere to those requirements; eliminate prohibitions that do not involve actions that the board has jurisdiction over; clarify unprofessional conduct requirements; eliminate overly restrictive advertising requirements; and clarify that some practitioners are exempt from needing permits from the board to provide sedation.

Estimated Benefits and Costs. The majority of the proposed changes are related to clarification of existing requirements and removal of language duplicative of the Code of Virginia or language that has no applicability that would create no economic impact other than improving the clarity and readability of the regulatory text. However, several proposed changes are new and would have some effect on practice. These changes are discussed below.

Practice of Dentistry: Presently, up to two of the required 15 hours of continuing education can be satisfied through delivery of dental services without compensation to low-income individuals or through free health care clinics; this proposal would increase this amount to three hours. The proposal would also delete the language stating that only one hour may be credited for every three hours of providing such service, thereby allowing each hour of service to be fully credited (making the ratio of credit to service one-to-one instead of one-to-three). According to the board, the one-to-three limitation does not make sense, it discourages the provision of these services to earn continuing education credit, and dentists may be more likely to provide the services if they can receive credit at the one-to-one ratio. With this change, dentists would be able to get two additional hours of credit for every three hours of service and all three hours would be counted toward the continuing education requirement. In essence, this change would increase the reward for provision of free dental services to needy patients and encourage this behavior. Another change would require that the holder of a sedation permit notify the board within 30 days of a change of address. This applies to (i) a change of address of the location at which sedation is provided and (ii) the cessation of the provision of sedation at a permitted location. Presently, no notification is required when either event occurs. According to the board, this change is necessary because some permit holders have either ceased providing sedation at locations or have moved to a different location without notifying the board. If sedation is no longer provided at a location, then the board does not need to send an inspector to the location annually. Likewise, if a location changes, going forward the new annual inspections must be performed at the new location. When providers fail to notify the board of these changes, inspectors either arrive for the annual inspection to find it is no longer necessary or arrive for

the annual inspection to find the practice has moved locations. This change is intended to and should reduce the costs associated with unnecessary inspection visits.

Three of the proposed changes would introduce documentation requirements. First, a dentist would be required to document that equipment used in the office for administration and monitoring of general anesthesia, deep sedation, or moderate sedation is in good working order and that the individual administering anesthesia or sedation is appropriately licensed and trained. The board states that there is no proof of compliance with the existing requirements unless there is documentation. Through the sedation inspections, it has become evident that permit holders are not documenting that equipment is in good working order. This is especially important when a dentist is utilizing an anesthesia or sedation provider who brings their own equipment, such as a certified registered nurse anesthetist (CRNA). The dentist is responsible for ensuring that the equipment is in good working order and the board would require documentation to ensure that the dentist complied with this requirement prior to the administration of anesthesia. The board notes that this assurance is especially important when the equipment is not available on site for an inspection or when it is being brought into the dental facility by an outside practitioner like a CRNA. This change should help ensure equipment is properly working and add to the safety of patients who receive treatment under anesthesia, deep sedation, or moderate sedation; it may also help reduce professional liability. Second, the proposal would require documentation in the patient's record that oxygen was administered for five minutes, following the administration of nitrous oxide, in order to minimize the risk of diffusion hypoxia. Inspections and investigations revealed that practitioners were not documenting compliance with this requirement, which is necessary for the safety of patients. This is similar to the previous change in that the board states there is no evidence of compliance unless documentation is maintained. The dentists may also benefit from documenting that proper procedures are followed, which may help reduce professional liability. The third change in this category would require that after the administration of moderate sedation, the provision of post-operative discharge instructions must be documented in the patient's chart for evidentiary purposes. The board has had several discipline cases related to patients who were discharged without receiving appropriate discharge instructions, and there is no evidence of the discharge instructions without documentation. This change should encourage compliance and patient safety, and may help reduce professional liability.

Practice of Dental Hygiene: In order to encourage the provision of free dental services to needy patients, the board proposes to adopt the same approach for dental hygienists as it is proposing for dentists. Accordingly, the board proposes to make the same change by allowing up to three (instead of two) of the 15 required continuing education hours to be satisfied through delivery of hygienist services without compensation to low-

income individuals or through free health care clinics. The proposal would also delete the language stating one hour may be credited for three hours of providing dental hygiene service, making the ratio of credit to service one-to-one. As in the case of dentists, this change would increase the reward for provision of free hygiene services to needy patients and encourage this behavior.

Businesses and Other Entities Affected: These regulations apply to dentists, dental hygienists, and dental assistants. As of December 31, 2023, there were 7,802 licensed dentists, 6,026 licensed dental hygienists, and 49 registered dental assistants.⁴ Additionally, there were 41 cosmetic procedure certifications; 72 deep sedation permits; 105 conscious/moderate sedation permits; 275 moderate sedation permits; 284 oral and maxillofacial surgeon registrations; and 568 sedation permit holders. None of the regulated entities are expected to be disproportionately affected.

The Code of Virginia requires 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 benefit for any entity, even if the benefits exceed the costs for all entities combined.⁶ As noted, there is one new notification requirement and there are three changes that would require documentation. These notification and documentation requirements do not seem to be significant as they are being used to ensure compliance with existing requirements. Additionally, they would also add to patient safety and would benefit the practitioners. Thus, an adverse impact is not indicated.

Small Businesses⁷ Affected.⁸ The proposed amendments do not appear to adversely affect small businesses.

Localities⁹ Affected.¹⁰ The proposed amendments neither introduce costs for localities nor disproportional impact on them.

Projected Impact on Employment. The proposed amendments are not expected to affect total employment.

Effects on the Use and Value of Private Property. No significant effects on the use and value of private property nor on real estate development costs are expected.

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

² <https://townhall.virginia.gov/ViewPReview.cfm?PRid=2105>; <https://townhall.virginia.gov/ViewPReview.cfm?PRid=2106>; <https://townhall.virginia.gov/ViewPReview.cfm?PRid=2107>.

³ <https://townhall.virginia.gov/ViewAction.cfm?actionid=3252>.

⁴ See <https://www.dhp.virginia.gov/about/stats/2024Q2/04CurrentLicenseCountQ2FY2024.pdf>.

⁵ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact

Regulations

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.

⁶ 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁷ Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

⁸ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁹ "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.

¹⁰ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

Summary:

Pursuant to a periodic review, the amendments (i) reduce regulatory requirements, (ii) eliminate provisions redundant to statutory language, (iii) eliminate provisions redundant to other regulations governing the dental professions, (iv) eliminate provisions that are no longer needed, and (v) reduce barriers to licensure.

18VAC60-21-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2700 of the Code of Virginia:

"Board"

"Dental hygiene"

"Dental hygienist"

"Dentist"

"Dentistry"

"License"

"Maxillofacial"

"Oral and maxillofacial surgeon"

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

"AAOMS" means the American Association of Oral and Maxillofacial Surgeons.

"ADA" means the American Dental Association.

"Advertising" means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself, ~~his~~ the dentist's facility, ~~his~~ the dentist's partner or associate, or any dentist affiliated with the dentist or ~~his~~ the dentist's facility by any means or method for the purpose of inducing purchase, sale, or use of dental methods, services, treatments, operations, procedures, or products, or to promote continued or increased use of such dental methods, treatments, operations, procedures, or products.

"CODA" means the Commission on Dental Accreditation of the American Dental Association.

~~"Code" means the Code of Virginia.~~

"Dental assistant I" means any unlicensed person under the direction of a dentist or a dental hygienist who renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely an administrative, secretarial, or clerical capacity.

"Dental assistant II" means a person under the direction and direct supervision of a dentist who is registered by the board to perform reversible, intraoral procedures as specified in 18VAC60-21-150 and 18VAC60-21-160.

"Mobile dental facility" means a self-contained unit in which dentistry is practiced that is not confined to a single building and can be transported from one location to another.

"Nonsurgical laser" means a laser that is not capable of cutting or removing hard tissue, soft tissue, or tooth structure.

"Portable dental operation" means a nonfacility in which dental equipment used in the practice of dentistry is transported to and utilized on a temporary basis at an out-of-office location, including ~~patients'~~ patient homes, schools, nursing homes, or other institutions.

"Radiographs" means intraoral and extraoral radiographic images of hard and soft tissues used for purposes of diagnosis.

C. The following words and terms relating to supervision as used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Direct supervision" means that the dentist examines the patient and records diagnostic findings prior to delegating

restorative or prosthetic treatment and related services to a dental assistant II for completion the same day or at a later date. The dentist prepares the tooth ~~or teeth~~ to be restored and remains immediately available in the office to the dental assistant II for guidance or assistance during the delivery of treatment and related services. The dentist examines the patient to evaluate the treatment and services before the patient is dismissed.

"Direction" means the level of supervision (i.e., immediate, direct, indirect, or general) that a dentist is required to exercise with a dental hygienist, a dental assistant I, a dental assistant II, or a certified registered nurse anesthetist or the level of supervision that a dental hygienist is required to exercise with a dental assistant to direct and oversee the delivery of treatment and related services.

"General supervision" means that a dentist completes a periodic comprehensive examination of the patient and issues a written order for hygiene treatment that states the specific services to be provided by a dental hygienist during one or more subsequent appointments when the dentist may or may not be present. Issuance of the order authorizes the dental hygienist to supervise a dental assistant performing duties delegable to dental assistants I.

"Immediate supervision" means the dentist is in the operatory to supervise the administration of sedation or provision of treatment.

"Indirect supervision" means the dentist examines the patient at some point during the appointment and is continuously present in the office to advise and assist a dental hygienist, a dental assistant, or a certified registered nurse anesthetist who is (i) delivering hygiene treatment, (ii) preparing the patient for examination or treatment by the dentist, (iii) preparing the patient for dismissal following treatment, or (iv) administering topical local anesthetic, sedation, or anesthesia as authorized by law or regulation.

"Remote supervision" means that a supervising dentist is accessible and available for communication and consultation with a dental hygienist during the delivery of dental hygiene services but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided. For the purpose of practice by a public health dental hygienist, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

D. The following words and terms relating to sedation or anesthesia as used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Analgesia" means the diminution or elimination of pain.

"Continual" or "continually" means repeated regularly and frequently in a steady succession.

"Continuous" or "continuously" means prolonged without any interruption at any time.

"Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. Reflex withdrawal from a painful stimulus is not considered a purposeful response. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

"General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

"Inhalation" means a technique of administration in which a gaseous or volatile agent, including nitrous oxide, is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed.

"Inhalation analgesia" means the inhalation of nitrous oxide and oxygen to produce a state of reduced sensation of pain with minimal alteration of consciousness.

"Local anesthesia" means the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug.

"Minimal sedation" means a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and physical coordination may be impaired, airway reflexes, and ventilator and cardiovascular functions are unaffected. Minimal sedation includes the diminution or elimination of anxiety through the use of pharmacological agents in a dosage that does not cause depression of consciousness and includes "inhalation analgesia" when used in combination with any such sedating agent administered prior to or during a procedure.

"Moderate sedation" means a drug-induced depression of consciousness, during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Reflex withdrawal from a painful

Regulations

stimulus is not considered a purposeful response. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

"Monitoring" means to observe, interpret, assess, and record appropriate physiologic functions of the body during sedative procedures and general anesthesia appropriate to the level of sedation as provided in Part VII (18VAC60-21-260 et seq.) of this chapter.

"Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal tract (i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraocular).

"Provide" means, in the context of regulations for moderate sedation or ~~deep sedation/general anesthesia~~ deep sedation or general anesthesia, to supply, give, or issue sedating medications. A dentist who does not hold the applicable permit cannot be the provider of moderate sedation or ~~deep sedation/general anesthesia~~ deep sedation or general anesthesia.

"Titration" means the incremental increase in drug dosage to a level that provides the optimal therapeutic effect of sedation.

"Topical oral anesthetic" means any drug, available in creams, ointments, aerosols, sprays, lotions, or jellies, that can be used orally for the purpose of rendering the oral cavity insensitive to pain without affecting consciousness.

"Vital signs" means clinical measurements, specifically pulse rate, respiration rate, and blood pressure, that indicate the state of a patient's essential body functions.

18VAC60-21-30. Posting requirements.

~~A. A dentist who is practicing under a firm name or who is practicing as an employee of another dentist is required by § 54.1-2720 of the Code to conspicuously display his name at the entrance of the office. The Any~~ Any employing dentist, firm, or company must enable compliance with § 54.1-2720 of the Code of Virginia by designating a space at the entrance of the office for the name of the practicing dentist to be displayed.

~~B. In accordance with § 54.1-2721 of the Code a dentist shall display his dental license where it is conspicuous and readable by patients in each dental practice setting. If a licensee practices in more than one office, a duplicate license obtained from the board may be displayed.~~

~~C. B.~~ A dentist who administers, prescribes, or dispenses Schedules II through V controlled substances shall maintain a copy of ~~his~~ the dentist's current registration with the federal Drug Enforcement Administration in a readily retrievable manner at each practice location.

~~D. C.~~ A dentist who administers moderate sedation, deep sedation, or general anesthesia in a dental office shall display ~~his~~

the dentist's sedation or anesthesia permit issued by the board or certificate issued by AAOMS.

18VAC60-21-40. Required fees.

A. ~~Application/registration~~ Application or registration fees.

1. Dental license by examination	\$400
2. Dental license by credentials	\$500
3. Dental restricted teaching license (pursuant to § 54.1-2714 of the Code of Virginia)	\$285
4. Dental faculty license (pursuant to § 54.1-2713 of the Code of Virginia)	\$400
5. Temporary dental permit (pursuant to § 54.1-2715 of the Code of Virginia)	\$400
6. Dental temporary resident's license	\$60
7. Restricted volunteer license	\$25
8. Volunteer exemption registration	\$10
9. Oral maxillofacial surgeon registration	\$175
10. Cosmetic procedures certification	\$225
11. Mobile clinic/portable operation	\$250
12. Moderate sedation permit	\$100
13. Deep sedation/general anesthesia permit	\$100

B. Renewal fees.

1. Dental license - (active, faculty, or temporary permit)	\$285
2. Dental license - inactive	\$145
3. Dental temporary resident's license	\$35
4. Restricted volunteer license	\$15
5. Oral maxillofacial surgeon registration	\$175
6. Cosmetic procedures certification	\$100
7. Moderate sedation permit	\$100
8. Deep sedation/general anesthesia permit	\$100
9. Mobile clinic/portable operation	\$150

C. Late fees.

1. Dental license - active	\$100
2. Dental license - inactive	\$50
3. Dental temporary resident's license	\$15
4. Oral maxillofacial surgeon registration	\$55
5. Cosmetic procedures certification	\$35

6. Moderate sedation permit	\$35
7. Deep sedation/general anesthesia permit	\$35
8. Mobile clinic/portable operation	\$50

D. Reinstatement fees.

1. Dental license - expired	\$500
2. Dental license - suspended	\$750
3. Dental license - revoked	\$1000
4. Oral maxillofacial surgeon registration	\$350
5. Cosmetic procedures certification	\$225
6. Moderate sedation permit	\$150
7. Deep sedation/general anesthesia permit	\$150

E. Document fees.

1. Duplicate wall certificate	\$60
2. Duplicate license	\$20
3. License certification	\$35

F. Other fees.

1. Handling fee for returned check or dishonored credit or debit card	\$50
2. Practice inspection fee	\$350

G. No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted.

~~H. For the renewal of an active dental license in 2021, fees shall be prorated according to a licensee's birth month as follows:~~

January birth month	\$150
February birth month	\$165
March birth month	\$180
April birth month	\$195
May birth month	\$210
June birth month	\$225
July birth month	\$240
August birth month	\$255
September birth month	\$270
October birth month	\$285
November birth month	\$300
December birth month	\$315

18VAC60-21-50. Scope of practice.

A. A dentist shall only treat based on a bona fide dentist-patient relationship for medicinal or therapeutic purposes

within the course of ~~his~~ the dentist's professional practice consistent with the definition of dentistry in § 54.1-2700 of the Code of Virginia, the provisions for controlled substances in the Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia), and the general provisions for health practitioners in the Code of Virginia. A bona fide dentist-patient relationship is established when examination and diagnosis of a patient is initiated.

B. For the purpose of prescribing controlled substances, the bona fide dentist-patient relationship shall be established in accordance with § 54.1-3303 of the Code of Virginia.

C. When treating or prescribing for family, the practitioner shall maintain a patient record documenting compliance with statutory criteria for a bona fide practitioner-patient relationship.

18VAC60-21-60. General responsibilities to patients.

A. A dentist is responsible for conducting ~~his~~ a dentistry practice in a manner that safeguards the safety, health, and welfare of ~~his~~ patients and the public by:

- ~~1. Maintaining a safe and sanitary practice, including containing or isolating pets away from the treatment areas of the dental practice. An exception shall be made for a service dog trained to accompany its owner or handler for the purpose of carrying items, retrieving objects, pulling a wheelchair, alerting the owner or handler to medical conditions, or other such activities of service or support necessary to mitigate a disability.~~
2. Consulting with or referring patients to other practitioners with specialized knowledge, skills, and experience when needed to safeguard and advance the health of the patient.
3. Treating according to the patient's desires only to the extent that such treatment is within the bounds of accepted treatment and only after the patient has been given a treatment recommendation and an explanation of the acceptable alternatives.
4. Only delegating patient care and exposure of dental x-rays to qualified, properly trained and supervised personnel as authorized in Part IV (18VAC60-21-110 et seq.) of this chapter.
5. Giving patients at least 30 days written notice of a decision to terminate the dentist-patient relationship.
6. Knowing the signs of abuse and neglect and reporting suspected cases to the proper authorities consistent with state law.
7. Accurately representing to a patient and the public the materials or methods and techniques to be used in treatment.

B. A dentist is responsible for conducting ~~his~~ financial responsibilities to patients and ~~third party~~ third-party payers in an ethical and honest manner by:

Regulations

- ~~1. Maintaining a listing of~~ Providing customary fees and representing all fees being charged clearly and accurately.
- ~~2. Making a full and fair disclosure to his patient of all terms and considerations before entering into a payment agreement for services.~~
- ~~3. Not obtaining, attempting to obtain, or cooperating with others in obtaining payment for services by misrepresenting procedures performed, dates of service, or status of treatment.~~
- ~~4. Making a full and fair disclosure to his patient of any financial incentives he received for promoting or selling products.~~
- ~~5. 2.~~ Not exploiting the dentist-patient relationship for personal gain related ~~in~~ to nondental transactions.

18VAC60-21-70. Unprofessional practice.

A. A No dentist shall ~~not~~ commit any act that violates provisions of the Code of Virginia that reasonably relate to the practice of dentistry, including ~~but not limited to:~~

- ~~1. Delegating any dental service or operation that requires the professional competence or judgment of a dentist to any person who is not a licensed dentist or dental hygienist or a registered dental assistant II.~~
- ~~2. Knowingly or negligently violating~~ Violating any applicable statute or regulation governing ionizing radiation in the Commonwealth of Virginia, including ~~but not limited to~~ current regulations promulgated by the Virginia Department of Health.
- ~~3. Unauthorized use or disclosure of confidential information received from the Prescription Monitoring Program.~~
- ~~4. 3.~~ Failing to maintain and dispense scheduled drugs as authorized by the Virginia Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia) and the regulations of the Board of Pharmacy.
- ~~5. 4.~~ Failing to cooperate with an employee of the Department of Health Professions in the conduct of an investigation or inspection.

B. Sexual conduct with a patient, employee, or student ~~shall constitute unprofessional conduct if:~~

- ~~1. The sexual conduct is unwanted or nonconsensual or~~
- ~~2. The sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care.~~ 1. Sexual contact with a patient, employee, or student shall constitute unprofessional conduct if:
 - a. The sexual contact is unwanted or nonconsensual; or

b. The sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care.

2. The determination of when a person is a patient for purposes of this section will be made on a case-by-case basis, with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that the person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. A person is presumed to remain a patient until the practitioner-patient relationship is terminated.

3. Sexual contact between a practitioner and a former patient after termination of the practitioner-patient relationship may still constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship.

4. Sexual contact between a practitioner and a key third party shall constitute unprofessional conduct if the sexual contact is the result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to cause an adverse effect on patient care. For purposes of this section, "key third party" shall mean spouse, partner, parent, child, guardian, or legal representative of a patient.

18VAC60-21-80. Advertising.

A. Practice limitation. A general dentist who limits ~~his~~ the general dentist's practice to a dental specialty or describes ~~his~~ the general dentist's practice by types of treatment shall state in conjunction with ~~his~~ the general dentist's name that he is a general dentist providing certain services (e.g., orthodontic services).

B. Fee disclosures. Any statement specifying a fee for a dental service that does not include the cost of all related procedures, services, and products that, to a substantial likelihood, will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person shall be deemed to be deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.

C. Discounts and free offers. Discount and free offers for a dental service are permissible for advertising only when the nondiscounted or full fee, if any, and the final discounted fee are also disclosed in the advertisement. In addition, the time period for obtaining the discount or free offer must be stated in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee or free offer.

D. Retention of advertising. A prerecorded or archived copy of all advertisements shall be retained for a two-year period

following the final appearance of the advertisement. The advertising dentist is responsible for making prerecorded or archived copies of the advertisement available to the board within five days following a request by the board.

E. Routine dental services. Advertising of fees pursuant to this section is limited to procedures that are set forth in the American Dental Association's "Dental Procedures Codes," published in Current Dental Terminology in effect at the time the advertisement is issued.

~~F. Advertisements. Advertisements, including but not limited to signage, containing descriptions of the type of dentistry practiced or a specific geographic locator are permissible so long as the requirements of §§ 54.1-2718 and 54.1-2720 of the Code are met.~~

~~G. False, deceptive, or misleading advertisement. The following practices shall constitute false, deceptive, or misleading advertising within the meaning of subdivision 7 of § 54.1-2706 of the Code:~~

- ~~1. Publishing an advertisement that contains a material misrepresentation or omission of facts that causes an ordinarily prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation not deceptive;~~
- ~~2. Publishing an advertisement that fails to include the information and disclaimers required by this section;~~
- ~~3. Publishing an advertisement that contains a false claim of professional superiority, contains a claim to be a specialist, or uses any terms to designate a dental specialty unless he is entitled to such specialty designation under the guidelines or requirements for specialties approved by the American Dental Association (Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, November 2013), or such guidelines or requirements as subsequently amended; or~~
- ~~4. Representation by a dentist who does not currently hold specialty certification that his practice is limited to providing services in such specialty area without clearly disclosing that he is a general dentist.~~

18VAC60-21-90. Patient information and records.

A. A dentist shall maintain complete, legible, and accurate patient records for not less than six years from the last date of service for purposes of review by the board with the following exceptions:

1. Records of a minor child shall be maintained until the child reaches ~~the age of~~ 18 years of age 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;
2. Records that have previously been transferred to another practitioner or health care provider or provided to the patient

or ~~his~~ the patient's personal representative pursuant to § 54.1-2405 of the Code of Virginia; ~~or and~~

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

B. Every patient record shall include documentary evidence of the following:

1. Patient's name on each page in the patient record;
2. A health history taken at the initial appointment that is updated (i) when analgesia, sedation, or anesthesia is to be administered; (ii) when medically indicated; and (iii) at least annually;
3. Diagnosis and options discussed, including the risks and benefits of treatment or nontreatment and the estimated cost of treatment options;
4. Consent for treatment obtained and treatment rendered;
5. List of drugs prescribed, administered, or dispensed and the route of administration, quantity, dose, and strength;
6. Radiographs, digital images, and photographs clearly labeled with patient name, date taken, and teeth identified;
7. Notation of each treatment rendered, the date of treatment and of the dentist, dental hygienist, and dental assistant II providing service;
8. Duplicate laboratory work orders that meet the requirements of § 54.1-2719 of the Code of Virginia, including the address and signature of the dentist;
9. Itemized patient financial records as required by § 54.1-2404 of the Code of Virginia;
10. A notation or documentation of an order required for treatment of a patient by a dental hygienist practicing under general supervision as required in 18VAC60-21-140 B; and
11. The information required for the administration of moderate sedation, deep sedation, and general anesthesia required in 18VAC60-21-260 D.

~~C. A licensee shall comply with the patient record confidentiality, release, and disclosure provisions of § 32.1-127.1:03 of the Code and shall only release patient information as authorized by law.~~

~~D. C.~~ Records shall not be withheld because the patient has an outstanding financial obligation.

~~E. D.~~ A reasonable cost-based fee may be charged for copying patient records to include the cost of supplies and labor for copying documents, duplication of radiographs and images, and postage if mailing is requested as authorized by § 32.1-127.1:03 of the Code of Virginia. The charges specified in § 8.01-413 of the Code of Virginia are permitted when records are subpoenaed as evidence for purposes of civil litigation.

Regulations

~~F.~~ E. When closing, selling, or relocating a practice, the licensee shall meet the requirements of § 54.1-2405 of the Code for giving notice and providing records.

G. E. Records shall not be abandoned or otherwise left in the care of someone who is not licensed by the board except that, upon the death of a licensee, a trustee or executor of the estate may safeguard the records until they are transferred to a licensed dentist, ~~are~~ sent to the patients of record, or ~~are~~ destroyed.

H. F. Patient confidentiality must be preserved when records are destroyed.

18VAC60-21-106. Continuing education required for prescribers.

~~Any dentist who prescribes Schedules II, III, and IV controlled substances after April 24, 2017, shall obtain two hours of continuing education on pain management, which must be taken by March 31, 2019. Thereafter, any dentist who prescribes Schedules II, III, and IV controlled substances shall obtain two hours of continuing education on pain management every two years. Continuing education hours required for prescribing of controlled substances may be included in the 15 hours required for renewal of licensure.~~

18VAC60-21-107. Waiver for electronic prescribing.

~~A.~~ Beginning July 1, 2020, a prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription consistent with § 54.1-3408.02 of the Code of Virginia, unless the prescription qualifies for an exemption as set forth in subsection C of § 54.1-3408.02.

~~B.~~ Upon written request, the board may grant a one-time waiver of the requirement of ~~subsection A of this section~~ § 54.1-3408.02 of the Code of Virginia for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.

18VAC60-21-110. Utilization of dental hygienists and dental assistants II.

~~A.~~ A dentist may utilize up to a total of four dental hygienists or dental assistants II in any combination practicing under direction at one and the same time. In addition, a dentist may permit, through issuance of written orders for services, additional dental hygienists to practice under general supervision in a free clinic or a public health program, or on a voluntary basis.

~~B.~~ In accordance with § 54.1-2724 of the Code of Virginia, ~~no dentist shall employ more than two dental hygienists who practice under remote supervision at one time.~~

18VAC60-21-120. Requirements for direction and general supervision.

A. In all instances and on the basis of ~~his~~ diagnosis, a licensed dentist assumes ultimate responsibility for determining with the patient or ~~his~~ the patient's representative the specific treatment the patient will receive, which aspects of treatment will be delegated to qualified personnel, and the direction required for such treatment, in accordance with this chapter and the Code of Virginia.

~~B.~~ ~~Dental hygienists shall engage in their respective duties only while in the employment of a licensed dentist or governmental agency or when volunteering services as provided in 18VAC60-21-110.~~

C. B. Dental hygienists acting within the scope of a license issued to ~~them~~ by the board under § 54.1-2722 or 54.1-2725 of the Code of Virginia who teach dental hygiene in a CODA accredited program are exempt from this section.

~~D.~~ C. Duties delegated to a dental hygienist under indirect supervision shall only be performed when the dentist is present in the facility and examines the patient during the time services are being provided.

E. D. Duties that are delegated to a dental hygienist under general supervision shall only be performed if the following requirements are met:

1. The treatment to be provided shall be ordered by a dentist licensed in Virginia and shall be entered in writing in the record. The services noted on the original order shall be rendered within a specific time period, not to exceed 10 months from the date the dentist last performed a periodic examination of the patient. Upon expiration of the order, the dentist shall have examined the patient before writing a new order for treatment under general supervision.

~~2.~~ 2. ~~The dental hygienist shall consent in writing to providing services under general supervision.~~

~~3.~~ 2. The patient or a responsible adult shall be informed prior to the appointment that a dentist may not be present, that only topical oral anesthetics can be administered to manage pain, and that only those services prescribed by the dentist will be provided.

~~4.~~ 3. Written basic emergency procedures shall be established and in place, and the hygienist shall be capable of implementing those procedures.

F. E. An order for treatment under general supervision shall not preclude the use of another level of supervision when, in the professional judgment of the dentist, such level of supervision is necessary to meet the individual needs of the patient.

18VAC60-21-140. Delegation to dental hygienists.

A. The following duties shall only be delegated to dental hygienists under direction and may only be performed under indirect supervision:

1. Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and nonsurgical lasers, with any sedation or anesthesia administered.
2. Performing an initial examination of teeth and surrounding tissues, including the charting of carious lesions, periodontal pockets, or other abnormal conditions for assisting the dentist in the diagnosis.
3. Administering nitrous oxide or local anesthesia by dental hygienists qualified in accordance with the requirements of 18VAC60-25-100.

B. The following duties shall only be delegated to dental hygienists and may be performed under indirect supervision or may be delegated by written order in accordance with §§ 54.1-2722 D and 54.1-3408 J of the Code of Virginia to be performed under general supervision:

1. Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and nonsurgical lasers with or without topical oral anesthetics.
2. Polishing of natural and restored teeth using air polishers.
3. Performing a clinical examination of teeth and surrounding tissues, including the charting of carious lesions, periodontal pockets, or other abnormal conditions, for further evaluation and diagnosis by the dentist.
4. Subgingival irrigation or subgingival application of topical Schedule VI medicinal agents pursuant to § 54.1-3408 J of the Code of Virginia.
5. Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed as nondelegable in 18VAC60-21-130, those restricted to indirect supervision in subsection A of this section, and those restricted to delegation to dental assistants II in 18VAC60-21-150.

~~C. Delegation of duties to a dental hygienist practicing under remote supervision shall be in accordance with provisions of § 54.1-2722 F of the Code. However, delegation of duties to a public health dental hygienist practicing under remote supervision shall be in accordance with provisions of § 54.1-2722 E.~~

18VAC60-21-160. Delegation to dental assistants I and II.

~~A. Duties appropriate to the training and experience of the dental assistant and the practice of the supervising dentist may be delegated to a dental assistant I or II under indirect supervision, with the exception of those listed as nondelegable~~

in 18VAC60-21-130, those which may only be delegated to dental hygienists as listed in 18VAC60-21-140, and those which may only be delegated to a dental assistant II as listed in 18VAC60-21-150.

~~B. Duties delegated to a dental assistant under general supervision shall be performed under the direction and indirect supervision of the dental hygienist who supervises the implementation of the dentist's orders by examining the patient, observing the services rendered by an assistant, and being available for consultation on patient care.~~

18VAC60-21-170. Radiation certification.

No dentist or dental hygienist shall permit a person not otherwise licensed by ~~this the~~ board to place or expose dental ~~x-ray radiograph~~ film unless ~~he the~~ person has one of the following: (i) satisfactory completion of a radiation safety course and examination given by an institution that maintains a program in dental assisting, dental hygiene, or dentistry accredited by CODA; (ii) certification by the American Registry of Radiologic Technologists; or (iii) satisfactory completion of the Radiation Health and Safety Review Course provided by the Dental Assisting National Board or its affiliate and passage of the Radiation Health and Safety Exam given by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.

18VAC60-21-180. ~~What does not constitute practice. (Repealed.)~~

~~The following are not considered the practice of dental hygiene and dentistry:~~

- ~~1. General oral health education.~~
- ~~2. Recording a patient's pulse, blood pressure, temperature, presenting complaint, and medical history.~~
- ~~3. Conducting preliminary dental screenings in free clinics, public health programs, or a voluntary practice.~~

18VAC60-21-190. General application provisions.

A. Applications for any dental license, registration, or permit issued by the board, other than for a volunteer exemption or for a restricted volunteer license, shall include:

1. A final certified transcript of the grades from the college from which the applicant received the dental degree or post-doctoral degree or certificate as specified in 18VAC60-21-200;
2. An original grade card Verifiable evidence documenting passage of all parts of the Joint Commission on National Dental Examinations; and
3. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).

Regulations

~~B. All applicants for licensure, other than a volunteer exemption or for a restricted volunteer license, shall be required to attest that they have read and understand and will remain current with the laws and regulations governing the practice of dentistry, dental hygiene, and dental assisting in Virginia.~~

~~C. B.~~ If a transcript or other documentation required for licensure cannot be produced by the entity from which it is required, the board, in its discretion, may accept other evidence of qualification for licensure.

~~D. Any application for a dental license, registration, or permit may be denied for any cause specified in § 54.1-111 or 54.1-2706 of the Code.~~

~~E. An application must include payment of the appropriate fee as specified in 18VAC60-21-40.~~

18VAC60-21-210. Qualifications for an unrestricted license.

A. Dental licensure by examination.

1. All applicants for licensure by examination shall have:
 - a. Successfully completed all parts of the National Board Dental Examination given by the Joint Commission on National Dental Examinations; and
 - b. Passed a dental clinical competency examination that is accepted by the board.
2. If a candidate has failed any section of a clinical competency examination three times, the candidate shall complete a minimum of 14 hours of additional clinical training in each section of the examination to be retested in order to be approved by the board to sit for the examination a fourth time.
3. ~~Applicants~~ An applicant who successfully completed a clinical competency examination five or more years prior to the date of receipt of ~~their applications~~ the applicant's application for licensure by ~~this~~ the board may be required to retake an examination or ~~take continuing education that meets the requirements of 18VAC60-21-250~~ complete clinical training as required by the board unless they demonstrate the applicant demonstrates that they have the applicant has maintained clinical, ethical, and legal practice in another jurisdiction of the United States or in federal civil or military service for 48 of the past 60 months immediately prior to submission of an application for licensure.

B. Dental licensure by credentials. All applicants for licensure by credentials shall:

1. Have passed all parts of the National Board Dental Examination given by the Joint Commission on National Dental Examinations;
2. Have successfully completed a clinical competency examination acceptable to the board;

3. Hold a current, unrestricted license to practice dentistry in another jurisdiction of the United States and be certified to be in good standing by each jurisdiction in which a license is currently held or has been held; and

4. Have been in continuous clinical practice in another jurisdiction of the United States or in federal civil or military service for five out of the six years immediately preceding application for licensure pursuant to this section. Active patient care in another jurisdiction of the United States (i) as a volunteer in a public health clinic, (ii) as an intern, or (iii) in a residency program may be accepted by the board to satisfy this requirement. One year of clinical practice shall consist of a minimum of 600 hours of practice in a calendar year as attested by the applicant.

18VAC60-21-220. Inactive license.

A. Any dentist who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license. With the exception of practice with a current restricted volunteer license as provided in § 54.1-2712.1 of the Code of Virginia, the holder of an inactive license shall not be entitled to perform any act requiring a license to practice dentistry in Virginia.

~~B. An~~ Any dentist who holds an inactive license may be reactivated reactivate the license upon submission of the required application, which includes evidence of continuing clinical competence and payment of the difference between the current renewal fee for inactive licensure and the current renewal fee for active licensure. To evaluate continuing clinical competence, the board shall consider (i) hours of continuing education that meet the requirements of 18VAC60-21-250; (ii) evidence of active practice in another state or in federal service; (iii) current specialty board certification; (iv) recent passage of a clinical competency examination that is accepted by the board; or (v) a refresher program offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association.

1. Continuing education hours equal to the requirement for the number of years in which the license has been inactive, not to exceed a total of 45 hours, must be included with the application. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months immediately preceding the application for activation.

2. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of § 54.1-2706 of the Code of Virginia or who is unable to demonstrate continuing competence.

18VAC60-21-230. Qualifications for a restricted license; temporary permit or license.

A. Temporary permit for public health settings. A temporary permit shall be issued only for the purpose of allowing dental practice in a dental clinic operated by a state agency or a Virginia charitable organization as limited by § 54.1-2715 of the Code of Virginia.

1. Passage of a clinical competency examination is not required, but the applicant cannot have failed a clinical competency examination accepted by the board.

2. A temporary permit will not be renewed unless the holder shows that extraordinary circumstances prevented the holder from taking the licensure examination during the term of the temporary permit.

B. Faculty license. A faculty license shall be issued for the purpose of allowing dental practice as a faculty member of an accredited dental program when the applicant meets the entry requirements of § 54.1-2713 of the Code of Virginia.

1. A faculty license shall remain valid only while the holder is serving on the faculty of an accredited dental program in the Commonwealth. When any such license holder ceases to continue serving on the faculty of the dental school for which the license was issued, the licensee shall surrender the license, which shall be null and void upon termination of employment.

2. The dean of the dental school shall notify the board within five working days of such termination of employment.

C. Restricted license to teach for foreign dentists. The board may issue a restricted license to a foreign dentist to teach in an accredited dental program in the Commonwealth in accordance with provisions of § 54.1-2714 of the Code of Virginia.

D. Temporary licenses to persons enrolled in advanced dental education programs. A dental intern, resident, or post-doctoral certificate or degree candidate shall obtain a temporary license to practice in Virginia in accordance with provisions of § 54.1-2711.1 of the Code of Virginia.

1. The applicant shall submit a recommendation from the dean of the dental school or the director of the accredited advanced dental education program specifying the applicant's acceptance as an intern, resident, or post-doctoral certificate or degree candidate. The beginning and ending dates of the internship, residency, or post-doctoral program shall be specified.

2. The temporary license permits the holder to practice only in the hospital or outpatient clinics that are recognized parts of an advanced dental education program.

3. The temporary license may be renewed annually by June 30, for up to five times, upon the recommendation of the

dean of the dental school or director of the accredited advanced dental education program.

4. The temporary license holder shall be responsible and accountable at all times to a licensed dentist, who is a member of the staff where the internship, residency, or post-doctoral program is taken. The holder is prohibited from practicing outside of the advanced dental education program.

5. The temporary license holder shall abide by the accrediting requirements for an advanced dental education program as approved by the Commission on Dental Accreditation of the American Dental Association.

E. Restricted volunteer license.

1. ~~In accordance with § 54.1-2712.1 of the Code, the board may issue a restricted volunteer license to a dentist who:~~

~~a. Held an unrestricted license in Virginia or another United States jurisdiction as a licensee in good standing at the time the license expired or became inactive;~~

~~b. Is volunteering for a public health or community free clinic that provides dental services to populations of underserved people;~~

~~c. Has fulfilled the board's requirement related to knowledge of the laws and regulations governing the practice of dentistry in Virginia;~~

~~d. Has not failed a clinical examination within the past five years; and~~

~~e. Has had at least five years of clinical practice.~~

2. ~~A person holding a restricted volunteer license under this section shall:~~

~~a. Only practice in public health or community free clinics that provide dental services to underserved populations;~~

~~b. Only treat patients who have been screened by the approved clinic and are eligible for treatment;~~

~~c. Attest on a form provided by the board that he will not receive remuneration directly or indirectly for providing dental services; and~~

~~d. Not be required to complete continuing education in order to renew such a license.~~

3. ~~The Any~~ restricted volunteer license issued pursuant to § 54.1-2712.1 of the Code of Virginia shall specify whether supervision is required, and if not, the date by which it will be required. If a dentist with a restricted volunteer license issued under this section has not held an active, unrestricted license and has been engaged in active practice within the past five years, ~~he~~ the dentist shall only practice dentistry and perform dental procedures if a dentist with an unrestricted Virginia license, volunteering at the clinic, reviews the quality of care rendered by the dentist with the restricted volunteer license at least every 30 days. If supervision is required, the supervising dentist shall directly

Regulations

observe patient care being provided by the restricted volunteer dentist and review all patient charts at least quarterly. Such supervision shall be noted in patient charts and maintained in accordance with 18VAC60-21-90.

~~4. A restricted volunteer license granted pursuant to this section shall expire on June 30 of the second year after its issuance or shall terminate when the supervising dentist withdraws his sponsorship.~~

~~5. 2.~~ A dentist holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter and the disciplinary regulations that apply to all licensees practicing in Virginia.

F. Registration for voluntary practice by out-of-state licensees. Any dentist 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, 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 days prior to engaging in such practice;
2. Provide a complete record of professional licensure in each state in which he the dentist has held a license and a copy of any current license; and
3. Provide the name of the nonprofit organization; and the dates and location of the voluntary provision of services.

18VAC60-21-240. License renewal and reinstatement.

~~A. The license or permit of any person who does not return the completed renewal form and fees by the deadline shall automatically expire and become invalid, and his practice of dentistry shall be illegal. With the exception of practice with a current, restricted volunteer license as provided in § 54.1-2712.1 of the Code practicing in Virginia with an expired license or permit may subject the licensee to disciplinary action by the board.~~

~~B. Prior to 2022, every person holding an active or inactive license and those holding a permit to administer moderate sedation, deep sedation, or general anesthesia shall annually, on or before March 31, renew his license or permit. Beginning in January 2022, every~~ Every person holding an active or inactive license and those holding a permit to administer moderate sedation, deep sedation, or general anesthesia shall annually renew his the license or permit in his the person's birth month in accordance with fees set forth in 18VAC60-21-40.

~~C. B.~~ Every person holding a faculty license, temporary resident's license, a restricted volunteer license, or a temporary permit shall, on or before June 30, request renewal of his the license.

~~D. C.~~ Every person holding a permit as a mobile clinic or portable dental operation shall renew annually by December 31.

~~E. D.~~ Any person who does not return the completed form and fee by the deadline required in subsection B of this section shall be required to pay an additional late fee.

~~F. E.~~ The board shall renew a license or permit if the renewal form, renewal fee, and late fee are received within one year of the deadline required in subsection B of this section provided that no grounds exist to deny said renewal pursuant to § 54.1-2706 of the Code of Virginia and Part II (18VAC60-21-50 et seq.) of this chapter.

~~G. F.~~ Reinstatement procedures.

1. Any person whose license or permit has expired for more than one year or whose license or permit has been revoked or suspended and who wishes to reinstate such license or permit shall submit a reinstatement application and the reinstatement fee. The application must include evidence of continuing clinical competence.

2. To evaluate continuing clinical competence, the board shall consider ~~(i) hours of continuing education that meet the requirements of subsection H of 18VAC60-21-250; (ii) evidence;~~

a. Completion of continuing education hours equal to the requirement for the number of years in which the license has been expired, revoked, or suspended, not to exceed a total of 45 hours. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months immediately preceding the application for reinstatement;

b. Evidence of active clinical practice in another state or in federal service; (iii) current specialty board certification; (iv) recent

c. Recent passage of a clinical competency examination accepted by the board; or (v)

d. Completion of a refresher program offered by a program accredited by the Commission on Dental Accreditation of the American Dental Association.

3. The executive director may reinstate such expired license or permit provided that the applicant can demonstrate continuing competence, the applicant has paid the reinstatement fee and any fines or assessments, and no grounds exist to deny said reinstatement pursuant to § 54.1-2706 of the Code of Virginia and Part II (18VAC60-21-50 et seq.) of this chapter.

18VAC60-21-250. Requirements for continuing education.

A. A dentist shall complete a minimum of 15 hours of continuing education, which meets the requirements for content, sponsorship, and documentation set out in this section, for each annual renewal of licensure, except for the first

renewal following initial licensure and for any renewal of a restricted volunteer license.

~~1. All renewal applicants shall attest that they have read and understand and will remain current with the laws and regulations governing the practice of dentistry and dental hygiene in Virginia.~~

~~2. 1.~~ A dentist shall maintain current training certification in basic cardiopulmonary resuscitation with hands-on airway training for health care providers or basic life support unless ~~he the dentist~~ is required by 18VAC60-21-290 or 18VAC60-21-300 to hold current certification in advanced life support with hands-on simulated airway and megacode training for health care providers.

~~3. 2.~~ A dentist who administers or monitors patients under general anesthesia, deep sedation, or moderate sedation shall complete four hours every two years of approved continuing education directly related to administration and monitoring of such anesthesia or sedation as part of the hours required for licensure renewal.

~~4. 3.~~ Continuing education hours in excess of the number required for renewal may be transferred or credited to the next renewal year for a total of not more than 15 hours.

~~5. 4.~~ Up to ~~two~~ three hours of the 15 hours required for annual renewal may be satisfied through delivery of dental services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. ~~One hour of continuing education may be credited for three hours of providing such volunteer services, as documented by the health department or free clinic.~~

B. To be accepted for license renewal, continuing education programs shall be directly relevant to the treatment and care of patients and shall be:

1. Clinical courses in dentistry and dental hygiene; or
2. Nonclinical subjects that relate to the skills necessary to provide dental or dental hygiene services and are supportive of clinical services (i.e., patient management, legal and ethical responsibilities, and stress management). Courses not acceptable for the purpose of this subsection include estate planning, financial planning, investments, business management, marketing, and personal health.

C. Continuing education credit may be earned for verifiable attendance at or participation in any course, to include audio and video presentations, that meets the requirements in subsection B of this section and is given by ~~one of the following sponsors:~~

~~1. The American Dental Association and the National Dental Association, their constituent and component/branch associations, and approved continuing education providers;~~

~~2. The American Dental Hygienists' Association and the National Dental Hygienists Association, and their constituent and component/branch associations;~~

~~3. The American Dental Assisting Association and its constituent and component/branch associations;~~

~~4. The American Dental Association specialty organizations and their constituent and component/branch associations;~~

~~5. A provider accredited by the Accreditation Council for Continuing Medical Education for Category 1 credits;~~

~~6. The Academy of General Dentistry, its constituent and component/branch associations, and approved continuing education providers;~~

~~7. A college or university that is accredited by an accrediting agency approved by the U.S. Department of Education or a hospital or health care institution accredited by the Joint Commission on Accreditation of Healthcare Organizations;~~

~~8. The American Heart Association, the American Red Cross, the American Safety and Health Institute, and the American Cancer Society;~~

~~9. A medical school accredited by the American Medical Association's Liaison Committee for Medical Education;~~

~~10. A dental, dental hygiene, or dental assisting program or advanced dental education program accredited by the Commission on Dental Accreditation of the American Dental Association;~~

~~11. State or federal government agencies (i.e., military dental division, Veteran's Administration, etc.);~~

~~12. The Commonwealth Dental Hygienists' Society;~~

~~13. The MCV Orthodontic Education and Research Foundation;~~

~~14. The Dental Assisting National Board and its affiliate, the Dental Auxiliary Learning and Education Foundation; or~~

~~15. A regional testing agency (i.e., Central Regional Dental Testing Service, Northeast Regional Board of Dental Examiners, Southern Regional Testing Agency, Council of Interstate Testing Agencies, or Western Regional Examining Board) when serving as an examiner a sponsor approved by the board.~~

D. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters. A written request with supporting documents must be submitted prior to renewal of the license.

E. The board may grant an extension for up to one year for completion of continuing education upon written request with an explanation to the board prior to the renewal date.

Regulations

F. A licensee is required to verify compliance with the continuing education requirements in ~~his~~ the licensee's annual license renewal. Following the renewal period, the board may conduct an audit of licensees to verify compliance. ~~Licensees~~ Any licensee selected for audit must provide original documents certifying that ~~they have~~ the licensee has fulfilled ~~their~~ the continuing education requirements by the deadline date as specified by the board.

G. All licensees are required to maintain original documents verifying the date and subject of the program or activity, the sponsor, and the amount of time earned. Documentation shall be maintained for a period of four years following renewal.

~~H. A licensee who has allowed his license to lapse, or who has had his license suspended or revoked, shall submit evidence of completion of continuing education equal to the requirements for the number of years in which his license has not been active, not to exceed a total of 45 hours. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months preceding an application for reinstatement.~~

~~I. H.~~ Continuing education hours required by board order shall not be used to satisfy the continuing education requirement for license renewal or reinstatement.

~~J. I.~~ Failure to comply with continuing education requirements may subject the licensee to disciplinary action by the board.

18VAC60-21-260. General provisions.

A. Part VII of this chapter:

1. Applies to prescribing, dispensing, and administering controlled substances in dental offices, mobile dental facilities, and portable dental operations and shall not apply to administration by a dentist practicing in (i) a licensed hospital as defined in § 32.1-123 of the Code of Virginia, (ii) a state-operated hospital, or (iii) a facility directly maintained or operated by the federal government.

2. Addresses the minimum requirements for administration to patients of any age. Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures, issued by the American Academy of Pediatrics and American Academy of Pediatric Dentistry, should be consulted when practicing pediatric dentistry.

B. Registration required. Any dentist who prescribes, administers, or dispenses Schedules II through V controlled substances must hold a current registration with the federal Drug Enforcement Administration.

C. Patient evaluation required.

1. An appropriate medical history and patient evaluation, including medication use and a focused physical exam, shall be performed before the decision to administer controlled

substances for dental treatment is made. The decision to administer controlled substances for dental treatment must be based on a documented evaluation of the health history and current medical condition of the patient in accordance with the Class I through V risk category classifications of the American Society of Anesthesiologists (ASA) in effect at the time of treatment. The findings of the evaluation, the ASA risk assessment class assigned, and any special considerations must be recorded in the patient's record.

2. Any level of sedation and general anesthesia may be provided for a patient who is in ASA Class I and Class II.

3. A patient in ASA Class III shall only be provided minimal sedation, moderate sedation, deep sedation, or general anesthesia by:

a. A dentist after ~~he~~ the dentist has documented a consultation with the patient's primary care physician or other medical specialist regarding potential risks and special monitoring requirements that may be necessary;

b. An oral and maxillofacial surgeon who has performed a physical evaluation and documented the findings and the ASA risk assessment category of the patient and any special monitoring requirements that may be necessary; or

c. A person licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia who has a specialty in anesthesia.

4. Minimal sedation may only be provided for a patient who is in ASA Class IV by:

a. A dentist after ~~he~~ the dentist has documented a consultation with the patient's primary care physician or other medical specialist regarding potential risks and special monitoring requirements that may be necessary; or

b. An oral and maxillofacial surgeon who has performed a physical evaluation and documented the findings and the ASA risk assessment category of the patient and any special monitoring requirements that may be necessary.

5. Moderate sedation, deep sedation, or general anesthesia shall not be provided in a dental office for patients in ASA Class IV and Class V.

D. Additional requirements for patient information and records. In addition to the record requirements in 18VAC60-21-90, when moderate sedation, deep sedation, or general anesthesia is administered, the patient record shall also include:

1. Notation of the patient's American Society of Anesthesiologists classification;

2. Review of medical history and current conditions, including the patient's weight and height or, if appropriate, the body mass index;

3. Written informed consent for administration of sedation and anesthesia and for the dental procedure to be performed;

4. Preoperative vital signs;

5. A record of the name, dose, and strength of drugs and route of administration, including the administration of local anesthetics with notations of the time sedation and anesthesia were administered;

6. Monitoring records of all required vital signs and physiological measures recorded continually; and

7. A list of staff participating in the administration, treatment, and monitoring, including name, position, and assigned duties.

E. Pediatric patients. No sedating medication shall be prescribed for administration to a patient 12 years of age or younger prior to ~~his~~ the patient's arrival at the dentist office or treatment facility.

~~F. Informed written consent. Prior to administration of any level of sedation or general anesthesia, the dentist shall discuss the nature and objectives of the planned level of sedation or general anesthesia along with the risks, benefits, and alternatives and shall obtain informed, written consent from the patient or other responsible party for the administration and for the treatment to be provided. The written consent must be maintained in the patient record.~~

~~G. F. Level of sedation. The determinant for the application of the rules for any level of sedation or for general anesthesia shall be the degree of sedation or consciousness level of a patient that should reasonably be expected to result from the type, strength, and dosage of medication, the method of administration, and the individual characteristics of the patient as documented in the patient's record. The drugs and techniques used must carry a margin of safety wide enough to render the unintended reduction of or loss of consciousness unlikely, factoring in titration and the patient's age, weight, and ability to metabolize drugs. The level of sedation should be documented in the patient record. The decision regarding level of sedation used should be based on the degree of sedation or consciousness level of a patient that should reasonably be expected to result from the type, strength, and dosage of medication, the method of administration, and the individual characteristics of the patient as documented in the patient's record.~~

H. G. Emergency management.

1. If a patient enters a deeper level of sedation than the dentist is qualified and prepared to provide, the dentist shall stop the dental procedure until the patient returns to and is stable at the intended level of sedation.

2. A dentist in whose office sedation or anesthesia is administered shall have documented written or electronic basic emergency procedures established and staff trained to carry out such procedures.

I. H. Ancillary personnel. Dentists who employ unlicensed, ancillary personnel to assist in the administration and monitoring of any form of minimal sedation, moderate

sedation, deep sedation, or general anesthesia shall maintain documentation that such personnel have:

1. Training and hold current certification in basic resuscitation techniques with hands-on airway training for health care providers, such as Basic Cardiac Life Support for Health Professionals or a clinically oriented course devoted primarily to responding to clinical emergencies offered by an approved provider of continuing education as set forth in 18VAC60-21-250 C; or

2. Current certification as a certified anesthesia assistant (CAA) by the American Association of Oral and Maxillofacial Surgeons or the American Dental Society of Anesthesiology (ADSA).

~~J. I.~~ J. Assisting in administration. A dentist, consistent with the planned level of administration (i.e., local anesthesia, minimal sedation, moderate sedation, deep sedation, or general anesthesia) and appropriate to ~~his~~ the dentist's education, training, and experience, may utilize the services of a dentist, anesthesiologist, certified registered nurse anesthetist, dental hygienist, dental assistant, or nurse to perform functions appropriate to such practitioner's education, training, and experience and consistent with that practitioner's respective scope of practice.

~~K. J.~~ K. Patient monitoring.

1. A dentist may delegate monitoring of a patient to a dental hygienist, dental assistant, or nurse who is under ~~his~~ the dentist's direction or to another dentist, anesthesiologist, or certified registered nurse anesthetist. The person assigned to monitor the patient shall be continuously in the presence of the patient in the office, operatory, and recovery area (i) before administration is initiated or immediately upon arrival if the patient self-administered a sedative agent, (ii) throughout the administration of drugs, (iii) throughout the treatment of the patient, and (iv) throughout recovery until the patient is discharged by the dentist.

2. The person monitoring the patient shall:

- a. Have the patient's entire body in sight;
- b. Be in close proximity so as to speak with the patient;
- c. Converse with the patient to assess the patient's ability to respond in order to determine the patient's level of sedation;
- d. Closely observe the patient for coloring, breathing, level of physical activity, facial expressions, eye movement, and bodily gestures in order to immediately recognize and bring any changes in the patient's condition to the attention of the treating dentist; and
- e. Read, report, and record the patient's vital signs and physiological measures.

~~L. K.~~ L. A dentist who allows the administration of general anesthesia, deep sedation, or moderate sedation in ~~his~~ the

Regulations

dental office is responsible for ~~assuring~~ ensuring and documenting that:

1. The equipment for administration and monitoring, as required in subsection B of 18VAC60-21-291 or subsection C of 18VAC60-21-301, is readily available and in good working order prior to performing dental treatment with anesthesia or sedation. The equipment shall either be maintained by the dentist in ~~his~~ the office or provided by the anesthesia or sedation provider; and
2. The person administering the anesthesia or sedation is appropriately licensed and the staff monitoring the patient is qualified.

~~M.~~ L. Special needs patients. If a patient is mentally or physically challenged, and it is not possible to have a comprehensive physical examination or appropriate laboratory tests prior to administering care, the dentist is responsible for documenting in the patient record the reasons preventing the recommended preoperative management. In selected circumstances, sedation or general anesthesia may be utilized without establishing an intravenous line. These selected circumstances include very brief procedures or periods of time, which may occur in some patients; or the establishment of intravenous access after deep sedation or general anesthesia has been induced because of poor patient cooperation.

18VAC60-21-279. Administration of inhalation analgesia (nitrous oxide only).

A. Education and training requirements. A dentist who utilizes nitrous oxide shall have documented training in and knowledge of:

1. The appropriate use and physiological effects of nitrous oxide, the potential complications of administration, the indicators for complications, and the interventions to address the complications.
2. The use and maintenance of the equipment required in subsection D of this section.

B. No sedating medication shall be prescribed for administration to a patient 12 years of age or younger prior to the patient's arrival at the dental office or treatment facility.

C. Delegation of administration.

1. A qualified dentist may administer or use the services of the following personnel to administer nitrous oxide:
 - a. A dentist;
 - b. An anesthesiologist;
 - c. A certified registered nurse anesthetist under medical the dentist's direction and indirect supervision;
 - d. A dental hygienist with the training required by 18VAC60-25-100 B and under indirect supervision; or
 - e. A registered nurse upon ~~his~~ the dentist's direct instruction and under immediate supervision.

2. Preceding the administration of nitrous oxide, a dentist may use the services of the following personnel working under indirect supervision to administer local anesthesia to numb an injection or treatment site:

- a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or
- b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

D. Equipment requirements. A dentist who utilizes nitrous oxide only or who directs the administration by another licensed health professional as permitted in subsection C of this section shall maintain the following equipment in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Blood pressure monitoring equipment;
2. Source of delivery of oxygen under controlled positive pressure;
3. Mechanical (hand) respiratory bag;
4. Suction apparatus; and
5. Oxygen saturation with pulse oximeter, unless extenuating circumstances exist and are documented in the patient's record.

E. Required staffing. When only nitrous oxide/oxygen is administered, a second person in the operatory is not required. Either the dentist or qualified dental hygienist under the indirect supervision of a dentist may administer the nitrous oxide/oxygen and treat and monitor the patient.

F. Monitoring requirements.

1. Baseline vital signs, ~~to include blood pressure and heart rate,~~ shall be taken and recorded prior to administration of nitrous oxide analgesia, intraoperatively as necessary, and prior to discharge, unless extenuating circumstances exist and are documented in the patient's record.
2. Continual clinical observation of the patient's responsiveness, color, respiratory rate, and depth of ventilation shall be performed.
3. Once the administration of nitrous oxide has begun, the dentist shall ensure that a licensed health care professional or a person qualified in accordance with 18VAC60-21-260 I monitors the patient at all times until discharged as required in subsection G of this section.
4. Monitoring shall include making the proper adjustments of nitrous oxide/oxygen machines at the request of or by the dentist or by another qualified licensed health professional identified in subsection C of this section. Only the dentist or another qualified licensed health professional identified in

subsection C of this section may turn the nitrous oxide/oxygen machines on or off.

5. Upon completion of nitrous oxide administration, the patient shall be administered 100% oxygen for a minimum of five minutes to minimize the risk of diffusion hypoxia. Such administration shall be documented in the patient's record.

G. Discharge requirements.

1. The dentist shall not discharge a patient until ~~he~~ the patient exhibits baseline responses in a post-operative evaluation of the level of consciousness. Vital signs, ~~to include blood pressure and heart rate,~~ shall be taken and recorded prior to discharge, unless extenuating circumstances exist and are documented in the patient's record.

2. Post-operative instructions shall be given verbally and in writing and documented in the patient's chart. The written instructions shall include a 24-hour emergency telephone number.

3. Pediatric patients shall be discharged with a responsible ~~individual~~ adult who has been instructed with regard to the patient's care.

18VAC60-21-280. Administration of minimal sedation.

A. Education and training requirements. A dentist who utilizes minimal sedation shall have training in and knowledge of:

1. The medications used, the appropriate dosages, the potential complications of administration, the indicators for complications, and the interventions to address the complications.

2. The physiological effects of minimal sedation, the potential complications of administration, the indicators for complications, and the interventions to address the complications.

3. The use and maintenance of the equipment required in subsection D of this section.

B. No sedating medication shall be prescribed for administration to a patient 12 years of age or younger prior to the patient's arrival at the dental office or treatment facility.

C. Delegation of administration.

1. A qualified dentist may administer or use the services of the following personnel to administer minimal sedation:

- a. A dentist;
- b. An anesthesiologist;
- c. A certified registered nurse anesthetist under ~~medical~~ the dentist's medical direction and indirect supervision;
- d. A dental hygienist with the training required by 18VAC60-25-100 B only for administration of nitrous oxide/oxygen under indirect supervision; or

e. A registered nurse upon ~~his~~ the dentist's direct instruction and under immediate supervision.

2. Preceding the administration of minimal sedation, a dentist may use the services of the following personnel working under indirect supervision to administer local anesthesia to numb an injection or treatment site:

- a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or
- b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

D. Equipment requirements. A dentist who utilizes minimal sedation or who directs the administration by another licensed health professional as permitted in subsection C of this section shall maintain the following equipment in working order and immediately available to the areas where patients will be sedated and treated and will recover:

- 1. Blood pressure monitoring equipment;
- 2. Source of delivery of oxygen under controlled positive pressure;
- 3. Mechanical (hand) respiratory bag;
- 4. Suction apparatus; and
- 5. Pulse oximeter.

E. Required staffing. The treatment team for minimal sedation shall consist of the dentist and a second person in the operatory with the patient to assist the dentist and monitor the patient. The second person shall be a licensed health care professional or a person qualified in accordance with 18VAC60-21-260 I.

F. Monitoring requirements.

1. Baseline vital signs, ~~to include blood pressure, respiratory rate, heart rate,~~ temperature and oxygen saturation, shall be taken and recorded prior to administration of sedation ~~and prior to discharge.~~

2. Blood pressure, oxygen saturation, respiratory rate, and pulse shall be monitored continually during the procedure unless extenuating circumstances exist and are documented in the patient's record.

3. Once the administration of minimal sedation has begun by any route of administration, the dentist shall ensure that a licensed health care professional or a person qualified in accordance with 18VAC60-21-260 I monitors the patient at all times until discharged as required in subsection G of this section.

4. Nitrous oxide/oxygen may be used with one other pharmacological agent in the recommended dosage for minimal sedation. If deeper levels of sedation are produced,

Regulations

~~the regulations for the induced level shall be followed. The administration of one drug in excess of the maximum recommended dose or of two or more drugs, with or without nitrous oxide, exceeds minimal sedation and requires compliance with the regulations for the level of sedation induced.~~

5. Monitoring shall include making the proper adjustments of nitrous oxide/oxygen machines at the request of or by the dentist or by another qualified licensed health professional identified in subsection C of this section. Only the dentist or another qualified licensed health professional identified in subsection C of this section may turn the nitrous oxide/oxygen machines on or off.

6. If any other pharmacological agent is used in addition to nitrous oxide/oxygen and a local anesthetic, requirements for the induced level of sedation must be met.

G. Discharge requirements.

1. The dentist shall not discharge a patient until ~~he~~ the patient exhibits baseline responses in a post-operative evaluation of the level of consciousness. Vital signs, to include ~~blood pressure, respiratory rate, heart rate, and~~ oxygen saturation, shall be taken and recorded prior to discharge unless extenuating circumstances exist and are documented in the patient's record.

2. Post-operative instructions shall be given verbally and in writing and documented in the patient's chart. The written instructions shall include a 24-hour emergency telephone number.

3. Pediatric patients shall be discharged with a responsible ~~individual~~ adult who has been instructed with regard to the patient's care.

18VAC60-21-290. Requirements for a moderate sedation permit for general dentistry.

A. No dentist may provide or administer moderate sedation in a dental office unless ~~he~~ the office has been inspected and the dentist has been issued a permit by the board. ~~The requirement for a permit shall not apply to an oral and maxillofacial surgeon who maintains membership in the American Association of Oral and Maxillofacial Surgeons (AAOMS) and who provides the board with reports that result from the periodic office examinations required by AAOMS. Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS. An inspection and permit is required for each location at which sedation will be administered.~~

B. Automatic qualification. Dentists who hold a current permit to administer deep sedation and general anesthesia may administer moderate sedation.

C. To determine eligibility for a moderate sedation permit, a dentist shall submit the following:

1. A completed application form;

2. The application fee as specified in 18VAC60-21-40;

3. ~~A copy of a~~ An official transcript, certifiable evidence of certification, or other documentation of training content that meets the educational and training qualifications as specified in subsection D of this section; and

4. A copy of current certification in advanced cardiac life support (ACLS) or pediatric advanced life support (PALS) as required in subsection E of this section.

D. Education requirements for a permit to administer moderate sedation. A dentist may be issued a moderate sedation permit to administer by any method by meeting one of the following criteria:

1. Completion of training for this treatment modality according to the ADA's Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students in effect at the time the training occurred, while enrolled in an accredited dental program or while enrolled in a post-doctoral university or teaching hospital program; or

2. Completion of a continuing education course that meets the requirements of 18VAC60-21-250 and consists of (i) 60 hours of didactic instruction plus the management of at least 20 patients per participant, (ii) demonstration of competency and clinical experience in moderate sedation, and (iii) management of a compromised airway. The course content shall be consistent with the ADA's Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students in effect at the time the training occurred.

E. Additional training required. Dentists who administer moderate sedation shall:

1. Hold current certification in advanced resuscitation techniques with hands-on simulated airway and megacode training for health care providers, such as ACLS or PALS, as evidenced by a certificate of completion posted with the dental license; and

2. Have current training in the use and maintenance of the equipment required in 18VAC60-21-291.

18VAC60-21-291. Requirements for administration of moderate sedation.

A. Delegation of administration.

1. A dentist who does not hold a permit to provide or administer moderate sedation shall only utilize the services of a qualified dentist, an anesthesiologist, or a certified registered nurse anesthetist to administer such sedation in a dental office.

2. A dentist who holds a permit may administer or use the services of the following personnel to administer moderate sedation:

a. A dentist with the training required by 18VAC60-21-290 D to administer by any method and who holds a moderate sedation permit at that location;

- b. An anesthesiologist;
- c. A certified registered nurse anesthetist under the direction and indirect supervision of a dentist who meets the training requirements of 18VAC60-21-290 D and holds a moderate sedation permit or under the supervision of a doctor of medicine or osteopathic medicine; or
- d. A registered nurse upon the dentist's direct instruction and under the immediate supervision of a dentist who meets the training requirements of 18VAC60-21-290 D and holds a moderate sedation permit.

3. No sedating medication shall be prescribed for ~~administered~~ administration to a patient 12 years of age or younger prior to the patient's arrival at the dentist office or treatment facility.

4. Preceding the administration of moderate sedation, a permitted dentist may use the services of the following personnel under indirect supervision to administer local anesthesia to anesthetize the injection or treatment site:

- a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or
- b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

5. A dentist who delegates administration of moderate sedation shall ensure that:

- a. All equipment required in subsection B of this section is present, in good working order, and immediately available to the areas where patients will be sedated and treated and will recover; and
- b. Qualified staff is on site to monitor patients in accordance with requirements of subsection D of this section.

B. Equipment requirements. A dentist who provides or administers or who utilizes a qualified anesthesia provider to administer moderate sedation shall have available the following equipment in sizes for adults or children as appropriate for the patient being treated and shall maintain ~~it~~ the equipment in working order and immediately available to the areas where patients will be sedated and treated and will recover:

- 1. Full face mask or masks;
- 2. Oral and nasopharyngeal airway management adjuncts;
- 3. Endotracheal tubes with appropriate connectors or other appropriate airway management adjunct, such as a laryngeal mask airway;
- 4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades;
- 5. Pulse oximetry;

- 6. Blood pressure monitoring equipment;
- 7. Pharmacologic antagonist agents;
- 8. Source of delivery of oxygen under controlled positive pressure;
- 9. Mechanical (hand) respiratory bag;
- 10. Appropriate emergency drugs for patient resuscitation;
- 11. Electrocardiographic monitor if a patient is receiving parenteral administration of sedation or if the dentist is using titration;
- 12. Defibrillator;
- 13. Suction apparatus;
- 14. Temperature measuring device;
- 15. Airway protective device;
- 16. Precordial or pretracheal stethoscope;
- 17. An end-tidal carbon dioxide monitor (capnograph); and
- 18. Equipment necessary to establish intravenous or intraosseous access.

C. Required staffing. At a minimum, there shall be a two-person treatment team for moderate sedation. The team shall include the operating dentist and a second person to monitor the patient as provided in 18VAC60-21-260 K, and assist the operating dentist as provided in 18VAC60-21-260 J, both of whom shall be in the operatory with the patient throughout the dental procedure. If the second person is a dentist, an anesthesiologist, or a certified registered nurse anesthetist who administers the drugs as permitted in subsection A of this section, such person may monitor the patient.

D. Monitoring requirements.

- 1. Baseline vital signs, ~~to include blood pressure, temperature and~~ oxygen saturation, ~~respiratory rate, and heart rate~~ shall be taken and recorded prior to administration of any controlled drug at the facility ~~and prior to discharge~~.
- 2. ~~Blood pressure,~~ Vital signs, to include oxygen saturation, ~~respiratory rate,~~ and end-tidal carbon dioxide, shall be monitored continually during the administration and recorded unless precluded or invalidated by the nature of the patient, procedure, or equipment.
- 3. Monitoring of the patient under moderate sedation is to begin prior to administration of sedation or, if pre-medication is self-administered by the patient, immediately upon the patient's arrival at the dental facility and shall take place continuously during the dental procedure and recovery from sedation. The person who administers the sedation or another licensed practitioner qualified to administer the same level of sedation must remain on the premises of the dental facility until the patient is evaluated and ~~is~~ discharged.

Regulations

E. Discharge requirements.

1. The patient shall not be discharged until the responsible licensed practitioner determines that the patient's level of consciousness, oxygenation, ventilation, and blood pressure and heart rate are satisfactory for discharge and vital signs have been taken and recorded.
2. Post-operative instructions shall be given verbally and in writing and documented in the patient's chart. The written instructions shall include a 24-hour emergency telephone number.
3. The patient shall be discharged with a responsible ~~individual~~ adult who has been instructed with regard to the patient's care.
4. If a separate recovery area is utilized, oxygen and suction equipment shall be immediately available in that area.
5. Since re-sedation may occur once the effects of the reversal agent have waned, the patient shall be monitored for a longer period than usual when a pharmacological reversal agent has been administered before discharge criteria have been met.

F. Emergency management. The dentist shall be proficient in handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway, and cardiopulmonary resuscitation.

18VAC60-21-300. Requirements for a deep sedation/general anesthesia permit for general dentistry.

A. No dentist may provide or administer deep sedation or general anesthesia in a dental office unless ~~he~~ the office has been inspected and the dentist has been issued a permit by the board. The requirement for a permit shall not apply to an oral and maxillofacial surgeon who maintains membership in AAOMS and who provides the board with reports that result from the periodic office examinations required by AAOMS. Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS. An inspection and permit is required for each location at which sedation will be administered.

B. To determine eligibility for a deep sedation/general anesthesia permit, a dentist shall submit the following:

1. A completed application form;
2. The application fee as specified in 18VAC60-21-40;
3. A copy of the certificate of completion of a CODA accredited program or other documentation of training content ~~which~~ that meets the educational and training qualifications specified in subsection C of this section; and
4. A copy of current certification in Advanced Cardiac Life Support for Health Professionals (ACLS) or Pediatric

Advanced Life Support for Health Professionals (PALS) as required in subsection C of this section.

C. Educational and training qualifications for a deep sedation/general anesthesia permit.

1. a. Completion of a minimum of one calendar year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program in conformity with the ADA's Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry in effect at the time the training occurred; or

~~2. Completion of an~~ b. Verifiable evidence of a completed CODA accredited residency in any dental specialty that incorporates into its curriculum a minimum of one calendar year of full-time training in clinical anesthesia and related clinical medical subjects (i.e., medical evaluation and management of patients) comparable to those set forth in the ADA's Guidelines for Graduate and Postgraduate Training in Anesthesia in effect at the time the training occurred; and

~~3. 2.~~ Current certification in advanced resuscitative techniques with hands-on simulated airway and megacode training for health care providers, including basic electrocardiographic interpretations, such as courses in ACLS or PALS; and

~~4. 3.~~ Current training in the use and maintenance of the equipment required in 18VAC60-21-301.

18VAC60-21-301. Requirements for administration of deep sedation or general anesthesia.

A. Preoperative requirements. Prior to the appointment for treatment under deep sedation or general anesthesia, the patient shall:

1. Be informed about the personnel and procedures used to deliver the sedative or anesthetic drugs to ~~assure~~ ensure informed consent as required by 18VAC60-21-260 F.
2. Have a physical evaluation as required by 18VAC60-21-260 C.
3. Be given preoperative verbal and written instructions, including any dietary or medication restrictions.

B. Delegation of administration.

1. A dentist who does not meet the requirements of 18VAC60-21-300 shall only utilize the services of a dentist who does meet those requirements or an anesthesiologist to administer deep sedation or general anesthesia in a dental office. In a licensed outpatient surgery center, a dentist shall utilize either a dentist who meets the requirements of 18VAC60-21-300, an anesthesiologist, or a certified registered nurse anesthetist to administer deep sedation or general anesthesia.

2. A dentist who meets the requirements of 18VAC60-21-300 may administer or utilize the services of the following personnel to administer deep sedation or general anesthesia:

- a. A dentist with the training required by 18VAC60-21-300 C;
- b. An anesthesiologist; or
- c. A certified registered nurse anesthetist under the direction and indirect supervision of a dentist who meets the training requirements of 18VAC60-21-300 C or under the supervision of a doctor of medicine or osteopathic medicine.

3. Preceding the administration of deep sedation or general anesthesia, a dentist who meets the requirements of 18VAC60-21-300 may utilize the services of the following personnel under indirect supervision to administer local anesthesia to anesthetize the injection or treatment site:

- a. A dental hygienist with the training required by 18VAC60-25-100 C to parenterally administer Schedule VI local anesthesia to persons 18 years of age or older; or
- b. A dental hygienist, dental assistant, registered nurse, or licensed practical nurse to administer Schedule VI topical oral anesthetics.

C. Equipment requirements. A dentist who administers or utilizes the services of a qualified anesthesia provider to administer deep sedation or general anesthesia shall have available the following equipment in sizes appropriate for the patient being treated and shall maintain ~~it~~ the equipment in working order and immediately available to the areas where patients will be sedated and treated and will recover:

1. Full face mask or masks;
2. Oral and nasopharyngeal airway management adjuncts;
3. Endotracheal tubes with appropriate connectors or other appropriate airway management adjunct, such as a laryngeal mask airway;
4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades;
5. Source of delivery of oxygen under controlled positive pressure;
6. Mechanical (hand) respiratory bag;
7. Pulse oximetry;
8. Blood pressure monitoring equipment;
9. Appropriate emergency drugs for patient resuscitation;
10. EKG monitoring equipment;
11. Temperature measuring devices;
12. Pharmacologic antagonist agents;
13. External defibrillator (manual or automatic);

14. An end-tidal carbon dioxide monitor (capnograph);
15. Suction apparatus;
16. Airway protective device;
17. Precordial or pretracheal stethoscope; and
18. Equipment necessary to establish intravenous or intraosseous access.

D. Required staffing. At a minimum, there shall be a three-person treatment team for deep sedation or general anesthesia. The team shall include the operating dentist, a second person to monitor the patient as provided in 18VAC60-21-260 K, and a third person to assist the operating dentist as provided in 18VAC60-21-260 J, all of whom shall be in the operatory with the patient during the dental procedure. If a second dentist, an anesthesiologist, or a certified registered nurse anesthetist administers the drugs as permitted in subsection B of this section, such person may serve as the second person to monitor the patient.

E. Monitoring requirements.

1. Baseline vital signs shall be taken and recorded prior to administration of any controlled drug at the facility, to include temperature, blood pressure, pulse, oxygen saturation, EKG, and respiration.
2. The patient's vital signs, end-tidal carbon dioxide (unless precluded or invalidated by the nature of the patient, procedure, or equipment), EKG readings, blood pressure, pulse, oxygen saturation, temperature, and respiratory rate shall be monitored continually; recorded every five minutes; and reported to the treating dentist throughout the administration of controlled drugs and recovery. When a depolarizing medication or inhalation agent other than nitrous oxide is administered, temperature shall be monitored ~~continuously~~.
3. Monitoring of the patient undergoing deep sedation or general anesthesia is to begin prior to the administration of any drugs and shall take place continually during administration, the dental procedure, and recovery from anesthesia. The person who administers the anesthesia or another licensed practitioner qualified to administer the same level of anesthesia must remain on the premises of the dental facility until the patient has regained consciousness and is discharged.

F. Emergency management.

1. A secured intravenous line must be established and maintained throughout the procedure.
2. The dentist shall be proficient in handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway, and cardiopulmonary resuscitation.

Regulations

G. Discharge requirements.

1. If a separate recovery area is utilized, oxygen and suction equipment shall be immediately available in that area.
2. The patient shall not be discharged until the responsible licensed practitioner determines that the patient's level of consciousness, oxygenation, ventilation, circulation blood pressure, and heart rate are satisfactory and vital signs have been assessed and recorded, unless extenuating circumstances exist and are documented in the patient's record.
3. Since re-sedation may occur once the effects of the reversal agent have waned, the patient shall be monitored for a longer period than usual before discharge if a pharmacological reversal agent has been administered before discharge criteria have been met.
4. Post-operative instructions shall be given verbally and in writing and documented in the patient's record. The written instructions shall include a 24-hour emergency telephone number for the dental practice.
5. The patient shall be discharged with a responsible ~~individual~~ adult who has been instructed with regard to the patient's care.

18VAC60-21-302. Change of address or provision of sedation at location.

A holder of a sedation permit must notify the board within 30 days of the following:

1. Any change of address of the location at which sedation is provided; or
2. Cessation of the provision of sedation at a permitted location.

18VAC60-21-303. Permit exception for certain oral and maxillofacial surgeons.

The requirement for a permit shall not apply to an oral and maxillofacial surgeon who maintains membership in AAOMS and who provides the board with reports that result from the periodic office examinations required by AAOMS. Such an oral and maxillofacial surgeon shall be required to post a certificate issued by AAOMS.

18VAC60-21-320. Profile of information for oral and maxillofacial surgeons.

A. In compliance with requirements of § 54.1-2709.2 of the Code of Virginia, an oral and maxillofacial surgeon registered with the board shall ~~provide, upon initial request, create a~~ profile on the board's Oral and Maxillofacial Surgery Profiles website with the following information within 30 days of registration, which information shall be updated annually:

1. The address of the primary practice setting and all secondary practice settings with the percentage of time spent at each location;
2. Names of dental or medical schools with dates of graduation;
3. Names of graduate medical or dental education programs attended at an institution approved by the Accreditation Council for Graduate Medical Education, the Commission on Dental Accreditation, and the American Dental Association with dates of completion of training;
4. Names and dates of specialty board certification or board eligibility, if any, as recognized by the Council on Dental Education and Licensure of the American Dental Association;
5. Number of years in active, clinical practice in the United States or Canada, following completion of medical or dental training and the number of years, if any, in active, clinical practice outside the United States or Canada;
6. Names of insurance plans accepted or managed care plans in which the oral and maxillofacial surgeon participates and whether ~~he~~ the surgeon is accepting new patients under such plans;
7. Names of hospitals with which the oral and maxillofacial surgeon is affiliated;
8. Appointments within the past 10 years to dental school faculties with the years of service and academic rank;
9. Publications, not to exceed 10 in number, in peer-reviewed literature within the most recent five-year period;
10. Whether there is access to translating services for non-English speaking patients at the primary practice setting and which, if any, foreign languages are spoken in the practice; and
11. Whether the oral and maxillofacial surgeon participates in the Virginia Medicaid Program and whether ~~he~~ the surgeon is accepting new Medicaid patients.

B. The oral and maxillofacial surgeon may provide additional information on hours of continuing education earned, subspecialties obtained, and honors or awards received.

C. Whenever there is a change in the information on record with the profile system, the oral and maxillofacial surgeon shall provide current information in any of the categories in subsection A of this section within 30 days.

D. Failure to provide the information required in subsection A of this section may constitute unprofessional conduct and may subject the licensee to disciplinary action by the board. Intentionally providing false information to the board for the profile system shall constitute unprofessional conduct and shall subject the licensee to disciplinary action by the board.

18VAC60-21-330. Reporting of malpractice paid claims and disciplinary notices and orders. (Repealed.)

~~A. In compliance with requirements of § 54.1-2709.4 of the Code, a dentist registered with the board as an oral and maxillofacial surgeon shall report in writing to the executive director of the board all malpractice paid claims in the most recent 10-year period. Each report of a settlement or judgment shall indicate:~~

- ~~1. The year the claim was paid;~~
- ~~2. The total amount of the paid claim in United States dollars; and~~
- ~~3. The city, state, and country in which the paid claim occurred.~~

~~B. The board shall use the information provided to determine the relative frequency of paid claims described in terms of the percentage who have made malpractice payments within the most recent 10-year period. The statistical methodology used will be calculated on more than 10 paid claims for all dentists reporting, with the top 16% of the paid claims to be displayed as above average payments, the next 68% of the paid claims to be displayed as average payments, and the last 16% of the paid claims to be displayed as below average payments.~~

~~C. Adjudicated notices and final orders or decision documents, subject to § 54.1-2400.2 H of the Code, shall be made available on the profile. Information shall also be posted indicating the availability of unadjudicated notices and orders that have been vacated.~~

18VAC60-21-340. Noncompliance or falsification of profile. (Repealed.)

~~A. The failure to provide the information required in 18VAC60-21-320 A may constitute unprofessional conduct and may subject the licensee to disciplinary action by the board.~~

~~B. Intentionally providing false information to the board for the profile system shall constitute unprofessional conduct and shall subject the licensee to disciplinary action by the board.~~

18VAC60-21-360. Certification not required. (Repealed.)

~~Certification shall not be required for performance of the following:~~

- ~~1. Treatment of facial diseases and injuries, including maxillofacial structures;~~
- ~~2. Facial fractures, deformity, and wound treatment;~~
- ~~3. Repair of cleft lip and palate deformity;~~
- ~~4. Facial augmentation procedures; and~~
- ~~5. Genioplasty.~~

18VAC60-21-370. Credentials required for certification.

An applicant for certification shall:

1. Hold an active, unrestricted license from the board;
2. Submit a completed application and fee;
3. ~~Complete an~~ Submit an official transcript of a completed oral and maxillofacial residency program accredited by the Commission on Dental Accreditation;
4. Hold board certification by the American Board of Oral and Maxillofacial Surgery (ABOMS) or board eligibility as defined by ABOMS;
5. Have current privileges on a hospital staff to perform oral and maxillofacial surgery; and
6. If ~~his~~ the applicant's oral and maxillofacial residency or cosmetic clinical fellowship was completed after July 1, 1996, and training in cosmetic surgery was a part of such residency or fellowship, submit:
 - a. A letter from the director of the residency or fellowship program documenting the training received in the residency or in the clinical fellowship to substantiate adequate training in the specific procedures for which the applicant is seeking certification; and
 - b. Documentation of having performed as primary or assistant surgeon at least 10 proctored cases in each of the procedures for which ~~he~~ the applicant seeks to be certified.
7. If ~~his~~ the applicant's oral and maxillofacial residency was completed prior to July 1, 1996, or if ~~his~~ the applicant's oral and maxillofacial residency was completed after July 1, 1996, and training in cosmetic surgery was not a part of the applicant's residency, submit:
 - a. Documentation of having completed didactic and clinically approved courses, to include the dates attended, the location of the course, and a copy of the certificate of attendance. Courses shall provide sufficient training in the specific procedures requested for certification and shall be offered by:
 - (1) An advanced specialty education program in oral and maxillofacial surgery accredited by the Commission on Dental Accreditation;
 - (2) A medical school accredited by the Liaison Committee on Medical Education or other official accrediting body recognized by the American Medical Association;
 - (3) The American Dental Association or one of its constituent and component societies or other ADA Continuing Education Recognized Programs (CERP) approved for continuing dental education; or
 - (4) The American Medical Association approved for category 1, continuing medical education; and
 - b. Documentation of either:

Regulations

- (1) Holding current privileges to perform cosmetic surgical procedures within a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations; or
- (2) Having completed at least 10 cases as primary or secondary surgeon in the specific procedures for which the applicant is seeking certification, of which at least five shall be proctored cases as defined in this chapter.

18VAC60-25-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2700 of the Code of Virginia:

"Board"

"Dental hygiene"

"Dental hygienist"

"Dentist"

"Dentistry"

"License"

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

"Active practice" means clinical practice as a dental hygienist for at least 600 hours per year.

~~"ADA" means the American Dental Association.~~

"Analgesia" means the diminution or elimination of pain in the conscious patient.

"CDAC" means the Commission on Dental Accreditation of Canada.

"CODA" means the Commission on Dental Accreditation of the American Dental Association.

~~"Code" means the Code of Virginia.~~

"Dental assistant I" means any unlicensed person under the direction of a dentist or a dental hygienist who renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely an administrative, secretarial, or clerical capacity.

"Dental assistant II" means a person under the direction and direct supervision of a dentist who is registered to perform reversible, intraoral procedures as specified in 18VAC60-21-150 and 18VAC60-21-160.

"Direction" means the level of supervision (i.e., direct, indirect, or general) that a dentist is required to exercise with a dental hygienist or that a dental hygienist is required to exercise with a dental assistant to direct and oversee the delivery of treatment and related services.

"General supervision" means that a dentist completes a periodic comprehensive examination of the patient and issues a written order for hygiene treatment that states the specific services to be provided by a dental hygienist during one or more subsequent appointments when the dentist may or may not be present. Issuance of the order authorizes the dental hygienist to supervise a dental assistant performing duties delegable to dental assistants I.

"Indirect supervision" means the dentist examines the patient at some point during the appointment and is continuously present in the office to advise and assist a dental hygienist or a dental assistant who is (i) delivering hygiene treatment, (ii) preparing the patient for examination or treatment by the dentist, or (iii) preparing the patient for dismissal following treatment.

"Inhalation" means a technique of administration in which a gaseous or volatile agent, including nitrous oxide, is introduced into the pulmonary tree and whose primary effect is due to absorption through the pulmonary bed.

"Inhalation analgesia" means the inhalation of nitrous oxide and oxygen to produce a state of reduced sensibility to pain without the loss of consciousness.

"Local anesthesia" means the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug.

~~"Monitoring" means to observe, interpret, assess, and record appropriate physiologic functions of the body during sedative procedures and general anesthesia appropriate to the level of sedation as provided in Part VII (18VAC60-21-260 et seq.) of Regulations Governing the Practice of Dentistry.~~

"Nonsurgical laser" means a laser that is not capable of cutting or removing hard tissue, soft tissue, or tooth structure.

"Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal tract (i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, or intraocular).

"Remote supervision" means that a supervising dentist is accessible and available for communication and consultation with a dental hygienist during the delivery of dental hygiene services but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided. For the purpose of practice by a public health dental hygienist, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

"Topical oral anesthetic" means any drug, available in creams, ointments, aerosols, sprays, lotions, or jellies, that can be used orally for the purpose of rendering the oral cavity insensitive to pain without affecting consciousness.

18VAC60-25-20. Address of record; posting of license.

A. Address of record. Each licensed dental hygienist shall provide the board with a current address of record. All required notices and correspondence mailed by the board to any such licensee shall be validly given when mailed to the address of record on file with the board. Each licensee may also provide a different address to be used as the public address, but if a second address is not provided, the address of record shall be the public address. All changes of address shall be furnished to the board in writing within 30 days of such changes.

~~B. Posting of license. In accordance with § 54.1-2727 of the Code, a dental hygienist shall display a dental hygiene license where it is conspicuous and readable by patients. If a licensee is employed in more than one office, a duplicate license obtained from the board may be displayed.~~

18VAC60-25-30. Required fees.

A. Application fees.

1. License by examination	\$175
2. License by credentials	\$275
3. License to teach dental hygiene pursuant to § 54.1-2725 of the Code	\$175
4. Temporary permit pursuant to § 54.1-2726 of the Code of Virginia	\$175
5. Restricted volunteer license	\$25
6. Volunteer exemption registration	\$10

B. Renewal fees.

1. Active license	\$75
2. Inactive license	\$40
3. License to teach dental hygiene pursuant to § 54.1-2725 of the Code of Virginia	\$75
4. Temporary permit pursuant to § 54.1-2726	\$75

C. Late fees.

1. Active license	\$25
2. Inactive license	\$15
3. License to teach dental hygiene pursuant to § 54.1-2725 of the Code of Virginia	\$25
4. Temporary permit pursuant to § 54.1-2726 of the Code of Virginia	\$25

D. Reinstatement fees.

1. Expired license	\$200
2. Suspended license	\$400
3. Revoked license	\$500

E. Administrative fees.

1. Duplicate wall certificate	\$60
2. Duplicate license	\$20
3. Certification of licensure	\$35
4. Handling fee for returned check or dishonored credit or debit card	\$50

F. No fee shall be refunded or applied for any purpose other than the purpose for which the fee was submitted.

~~G. For the renewal of an active dental hygienist license in 2021, fees shall be prorated according to a licensee's birth month as follows:~~

January birth month	\$40
February birth month	\$44
March birth month	\$48
April birth month	\$52
May birth month	\$56
June birth month	\$60
July birth month	\$64
August birth month	\$68
September birth month	\$72
October birth month	\$76
November birth month	\$80
December birth month	\$84

18VAC60-25-40. Scope of practice.

~~A. Pursuant to § 54.1-2722 of the Code, a licensed dental hygienist may perform services that are educational, diagnostic, therapeutic, or preventive under the direction and indirect, general, or remote supervision of a licensed dentist.~~

~~B. A.~~ The following duties of a dentist shall not be delegated to a dental hygienist:

1. Final diagnosis and treatment planning;
2. Performing surgical or cutting procedures on hard or soft tissue, except as may be permitted by subdivisions C 1 and D 1 of this section;
3. Prescribing or parenterally administering drugs or medicaments, except a dental hygienist who meets the requirements of 18VAC60-25-100 C may parenterally administer Schedule VI local anesthesia to patients 18 years of age or older;

Regulations

4. Authorization of work orders for any appliance or prosthetic device or restoration that is to be inserted into a patient's mouth;

5. Operation of ~~high-speed~~ high-speed rotary instruments in the mouth;

6. Administration of deep sedation or general anesthesia and moderate sedation;

7. Condensing, contouring, or adjusting any final, fixed, or removable prosthodontic appliance or restoration in the mouth with the exception of packing and carving amalgam and placing and shaping composite resins by dental assistants II with advanced training as specified in 18VAC60-30-120;

8. Final positioning and attachment of orthodontic bonds and bands; and

9. Final adjustment and fitting of crowns and bridges in preparation for final cementation.

~~☒~~ B. The following duties shall only be delegated to dental hygienists under direction and may only be performed under indirect supervision:

1. Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and nonsurgical lasers with any sedation or anesthesia administered.

2. Performing an initial examination of teeth and surrounding tissues, including the charting of carious lesions, periodontal pockets, or other abnormal conditions, for assisting the dentist in the diagnosis.

3. Administering nitrous oxide or local anesthesia by dental hygienists qualified in accordance with the requirements of 18VAC60-25-100.

~~☒~~ C. The following duties shall only be delegated to dental hygienists and may be performed under indirect supervision or may be delegated by written order in accordance with § 54.1-2722 D of the Code of Virginia to be performed under general supervision:

1. Scaling, root planing, or gingival curettage of natural and restored teeth using hand instruments, slow-speed rotary instruments, ultrasonic devices, and nonsurgical lasers with or without topical oral anesthetics.

2. Polishing of natural and restored teeth using air polishers.

3. Performing a clinical examination of teeth and surrounding tissues, including the charting of carious lesions, periodontal pockets, or other abnormal conditions, for further evaluation and diagnosis by the dentist.

4. Subgingival irrigation or subgingival and gingival application of topical Schedule VI medicinal agents pursuant to § 54.1-3408 J of the Code of Virginia.

5. Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed as nondelegable in subsection B of this section and those restricted to indirect supervision in subsection C of this section.

~~☒~~ D. The following duties may only be delegated under the direction and direct supervision of a dentist to a dental assistant II:

1. Performing pulp capping procedures;

2. Packing and carving of amalgam restorations;

3. Placing and shaping composite resin restorations with a ~~slow-speed~~ slow-speed handpiece;

4. Taking final impressions;

5. Use of a non-epinephrine retraction cord; and

6. Final cementation of crowns and bridges after adjustment and fitting by the dentist.

~~☒~~ E. A dental hygienist employed by the Virginia Department of Health may provide educational and preventative dental care under remote supervision, as defined in § 54.1-2722 E of the Code of Virginia, of a dentist employed by the Virginia Department of Health and in accordance with the Protocol adopted by Virginia Department of Health (VDH) for Dental Hygienists to Practice in an Expanded Capacity under Remote Supervision by Public Health Dentists, May 2019, which is hereby incorporated by reference.

~~☒~~ F. A dental hygienist employed by the Virginia Department of Behavioral Health and Developmental Services (DBHDS) may provide educational and preventative dental care under remote supervision, as defined in § 54.1-2722 E of the Code of Virginia, of a dentist employed by DBHDS and in accordance with the Protocol for Virginia Department of Behavioral Health and Developmental Services (DBHDS) Dental Hygienists to Practice in an Expanded Capacity under Remote Supervision by DBHDS Dentists, May 2019, which is hereby incorporated by reference.

18VAC60-25-50. Utilization of dental hygienists and dental assistants. (Repealed.)

~~A dentist may utilize up to a total of four dental hygienists or dental assistants II in any combination practicing under direction at one and the same time. In addition, a dentist may permit through issuance of written orders for services additional dental hygienists to practice under general supervision in a free clinic, a public health program, or a voluntary practice.~~

18VAC60-25-60. Delegation of services to a dental hygienist.

~~A. In all instances and on the basis of his diagnosis, a licensed dentist assumes ultimate responsibility for determining with the patient or his representative the specific treatment the~~

patient will receive, which aspects of treatment will be delegated to qualified personnel, and the direction required for such treatment, in accordance with this chapter, Part IV (18VAC60-21-110 et seq.) of the Regulations Governing the Practice of Dentistry, and the Code.

~~B. A.~~ Dental hygienists shall engage in ~~their~~ respective duties only while in the employment of a licensed dentist or governmental agency or when volunteering services as provided in 18VAC60-25-50.

~~C.~~ Duties that are delegated to a dental hygienist under general supervision shall only be performed if the following requirements are met:

1. The treatment to be provided shall be ordered by a dentist licensed in Virginia and shall be entered in writing in the record. The services noted on the original order shall be rendered within a specified time period, not to exceed 10 months from the date the dentist last performed a periodic examination of the patient. Upon expiration of the order, the dentist shall have examined the patient before writing a new order for treatment under general supervision.

2. The dental hygienist shall consent in writing to providing services under general supervision.

3. The patient or a responsible adult shall be informed prior to the appointment that a dentist may not be present, that only topical oral anesthetics can be administered to manage pain, and that only those services prescribed by the dentist will be provided.

4. Written basic emergency procedures shall be established and in place, and the hygienist shall be capable of implementing those procedures.

~~D.~~ An order for treatment under general supervision shall not preclude the use of another level of supervision when, in the professional judgment of the dentist, such level of supervision is necessary to meet the individual needs of the patient.

~~E. B.~~ Delegation of duties to a dental hygienist practicing under remote supervision shall be in accordance with provisions of § 54.1-2722 F of the Code of Virginia. However, delegation of duties to a public health dental hygienist practicing under remote supervision shall be in accordance with provisions of § 54.1-2722 E of the Code of Virginia.

18VAC60-25-70. Delegation of services to a dental assistant.

~~A.~~ Duties appropriate to the training and experience of the dental assistant and the practice of the supervising dentist may be delegated to any dental assistant under the direction of a dental hygienist practicing under general supervision as permitted in subsection B of this section, with the exception of those listed as nondelegable and those that may only be delegated to dental hygienists as listed in 18VAC60-25-40 and

those that may only be delegated to a dental assistant II as listed in 18VAC60-21-150.

~~B.~~ Duties delegated to a dental assistant under general supervision shall be under the direction of the dental hygienist who supervises the implementation of the dentist's orders by examining the patient, observing the services rendered by an assistant, and being available for consultation on patient care.

18VAC60-25-80. Radiation certification.

No ~~dentist or~~ dental hygienist shall permit a person not otherwise licensed by this board to place or expose dental ~~×-ray film~~ radiographs unless ~~he~~ the person has one of the following: (i) satisfactory completion of a radiation safety course and examination given by an institution that maintains a program in dental assisting, dental hygiene, or dentistry accredited by CODA; (ii) certification by the American Registry of Radiologic Technologists; or (iii) satisfactory completion of the Radiation Health and Safety Review Course provided by the Dental Assisting National Board or its affiliate and passage of the Radiation Health and Safety Exam given by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.

18VAC60-25-90. ~~What does not constitute practice.~~ (Repealed.)

~~The following are not considered the practice of dental hygiene and dentistry:~~

1. General oral health education.

2. Recording a patient's pulse, blood pressure, temperature, presenting complaint, and medical history.

3. Conducting preliminary dental screenings in free clinics, public health programs, or a voluntary practice.

18VAC60-25-100. Administration of controlled substances.

A. A licensed dental hygienist may:

1. Administer topical oral fluoride varnish under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine pursuant to subsection V of § 54.1-3408 of the Code of Virginia;

2. Administer topical Schedule VI drugs, including topical oral fluorides, topical oral anesthetics, and topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions pursuant to subsection J of § 54.1-3408 of the Code of Virginia; and

3. If qualified in accordance with subsection B or C of this section, administer Schedule VI nitrous oxide/inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia parenterally under the indirect supervision of a dentist.

Regulations

B. To administer only nitrous oxide/inhalation analgesia, a dental hygienist shall:

1. Successfully complete a didactic and clinical course leading to certification in administration of nitrous oxide offered by a CODA accredited dental or dental hygiene program, which includes ~~a minimum of eight hours in~~ didactic and clinical instruction in the following topics:
 - a. Patient physical and psychological assessment;
 - b. Medical history evaluation;
 - c. Equipment and techniques used for administration of nitrous oxide;
 - d. Neurophysiology of nitrous oxide administration;
 - e. Pharmacology of nitrous oxide;
 - f. Recordkeeping, medical, and legal aspects of nitrous oxide;
 - g. Adjunctive uses of nitrous oxide for dental patients; and
 - h. Clinical experiences in administering nitrous oxide, including training with live patients.
2. Successfully complete an examination with a minimum score of 75% in the administration of nitrous oxide/inhalation analgesia given by the accredited program.

C. To administer local anesthesia parenterally to patients 18 years of age or older, a dental hygienist shall:

1. Successfully complete a didactic and clinical course leading to certification in administration of local anesthesia that is offered by a CODA accredited dental or dental hygiene program, which includes ~~a minimum of 28~~ didactic and clinical ~~hours~~ instruction in the following topics:
 - a. Patient physical and psychological assessment;
 - b. Medical history evaluation and recordkeeping;
 - c. Neurophysiology of local anesthesia;
 - d. Pharmacology of local anesthetics and vasoconstrictors;
 - e. Anatomical considerations for local anesthesia;
 - f. Techniques for maxillary infiltration and block anesthesia;
 - g. Techniques for mandibular infiltration and block anesthesia;
 - h. Local and systemic anesthetic complications;
 - i. Management of medical emergencies; and
 - j. Clinical experiences in administering local anesthesia injections on patients.
2. Successfully complete an examination with a minimum score of 75% in the parenteral administration of local anesthesia given by the accredited program.

D. A dental hygienist who holds a certificate or credential issued by the licensing board of another jurisdiction of the United States that authorizes the administration of nitrous

oxide/inhalation analgesia or local anesthesia may be authorized for such administration in Virginia if:

1. The qualifications on which the credential or certificate was issued were substantially equivalent in hours of instruction and course content to those set forth in subsections B and C of this section; or
2. If the certificate or credential issued by another jurisdiction was not substantially equivalent, the hygienist can document experience in such administration for at least 24 of the past 48 months preceding application for licensure in Virginia.

E. A dentist who provides direction for the administration of nitrous oxide/inhalation analgesia or local anesthesia shall ensure that the dental hygienist has met the qualifications for such administration as set forth in this section.

18VAC60-25-110. Patient records; confidentiality.

A. A dental hygienist shall be responsible for accurate and complete information in patient records for those services provided by a hygienist or a dental assistant under direction to include the following:

1. Patient's name on each page in the patient record;
2. A health history taken and documented at the initial appointment, which is updated when local anesthesia or nitrous oxide/inhalation analgesia is to be administered and when medically indicated and at least annually;
3. Options discussed and ~~oral or~~ documented written consent in the patient record for any treatment rendered with the exception of prophylaxis;
4. List of drugs administered and the route of administration, quantity, dose, and strength;
5. Radiographs, digital images, and photographs clearly labeled with the patient's name, date taken, and teeth identified;
6. A notation or documentation of an order required for treatment of a patient by a dental hygienist practicing under general supervision as required in 18VAC60-25-60 C; and
7. Notation of each treatment rendered, date of treatment, and the identity of the dentist and the dental hygienist providing service.

~~B. A dental hygienist shall comply with the provisions of § 32.1-127.1:03 of the Code related to the confidentiality and disclosure of patient records. A~~ No dental hygienist shall ~~not~~ willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the hygienist shall not be considered negligent or willful.

C. A dental hygienist practicing under remote supervision shall document in the patient record that ~~he~~ the dental hygienist

has obtained (i) the patient's or the patient's legal representative's signature on a statement disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and (ii) verbal confirmation from the patient that the patient does not have a dentist of record whom ~~he~~ the patient is seeing regularly.

18VAC60-25-120. Acts constituting unprofessional conduct.

The following practices shall constitute unprofessional conduct within the meaning of § 54.1-2706 of the Code of Virginia:

- ~~1. Fraudulently obtaining, attempting to obtain, or cooperating with others in obtaining payment for services.~~
- ~~2. Performing services for a patient under terms or conditions that are unconscionable. The board shall not consider terms unconscionable where there has been a full and fair disclosure of all terms and where the patient entered the agreement without fraud or duress.~~
- ~~3. 1. Misrepresenting to a patient and the public the materials or methods and techniques the licensee uses or intends to use.~~
- ~~4. Committing any act in violation of the Code reasonably related to the practice of dentistry and dental hygiene.~~
- ~~5. 2. Delegating any service or operation that requires the professional competence of a dentist or dental hygienist to any person who is not a licensee or registrant as authorized by this chapter.~~
- ~~6. Certifying completion of a dental procedure that has not actually been completed.~~
- ~~7. 3. Violating or cooperating with others in violating provisions of Chapter 1 (§ 54.1-100 et seq.) or 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia or the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).~~

18VAC60-25-130. General application requirements.

A. All applications for licensure by examination or credentials, temporary permits, or faculty licenses shall include:

1. Verification of completion of a dental hygiene degree or certificate from a CODA or CDAC accredited program;
2. ~~An original grade card~~ Verifiable evidence of a passing score from the National Board Dental Hygiene Examination issued by the Joint Commission on National Dental Examinations; and
3. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and

~~4. Attestation of having read and understood the laws and the regulations governing the practice of dentistry and dental hygiene in Virginia and of the applicant's intent to remain current with such laws and regulations.~~

B. If documentation required for licensure cannot be produced by the entity from which it is required, the board, in its discretion, may accept other evidence of qualification for licensure.

18VAC60-25-150. Licensure by credentials.

An applicant for dental hygiene licensure by credentials shall:

1. Have graduated from or have been issued a certificate by a CODA or CDAC accredited program of dental hygiene;
2. Be currently licensed to practice dental hygiene in another jurisdiction of the United States and have ~~clinical, ethical, and~~ active clinical practice for 24 of the past 48 months immediately preceding application for licensure;
3. Be certified to be in good standing from each state in which ~~he~~ the applicant is currently licensed or has ever held a license;
4. Have successfully completed a clinical competency examination substantially equivalent to that required for licensure by examination; and
- ~~5. Not have committed any act that would constitute a violation of § 54.1-2706 of the Code; and~~
- ~~6. 5. Have successfully completed the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to the board.~~

18VAC60-25-170. Voluntary practice.

~~A. Restricted volunteer license:~~

- ~~1. In accordance with § 54.1-2726.1 of the Code, the board may issue a restricted volunteer license to a dental hygienist who:~~
 - ~~a. Held an unrestricted license in Virginia or another jurisdiction of the United States as a licensee in good standing at the time the license expired or became inactive;~~
 - ~~b. Is volunteering for a public health or community free clinic that provides dental services to populations of underserved people;~~
 - ~~c. Has fulfilled the board's requirement related to knowledge of the laws and regulations governing the practice of dentistry and dental hygiene in Virginia;~~
 - ~~d. Has not failed a clinical examination within the past five years;~~
 - ~~e. Has had at least five years of active practice in Virginia; another jurisdiction of the United States or federal civil or military service; and~~

Regulations

~~f. Is sponsored by a dentist who holds an unrestricted license in Virginia.~~

~~2. A person holding a restricted volunteer license under this section shall:~~

~~a. Practice only under the direction of a dentist who holds an unrestricted license in Virginia;~~

~~b. Only practice in public health or community free clinics that provide dental services to underserved populations;~~

~~c. Only treat patients who have been screened by the approved clinic and are eligible for treatment;~~

~~d. Attest on a form provided by the board that he will not receive remuneration directly or indirectly for providing dental services; and~~

~~e. Not be required to complete continuing education in order to renew such a license.~~

~~3. A restricted volunteer license granted pursuant to this section shall expire on June 30 of the second year after its issuance or shall terminate when the supervising dentist withdraws his sponsorship.~~

~~4. A dental hygienist holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter and the disciplinary regulations that apply to all licensees practicing in Virginia.~~

~~B.~~ Registration for voluntary practice by out-of-state licensees. Any dental hygienist 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 a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice;

2. Provide a copy of a current license or certificate to practice dental hygiene;

3. Provide a complete record of professional licensure in each jurisdiction in the United States in which ~~he~~ the applicant has held a license or certificate;

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

~~5. Pay a registration fee as required in 18VAC60-25-30; and~~

~~6.~~ 5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 5 of § 54.1-2701 of the Code of Virginia.

18VAC60-25-180. Requirements for licensure renewal.

A. ~~Prior to 2022, an active or inactive dental hygiene license shall be renewed on or before March 31 each year. Beginning~~

~~in January 2022, an~~ An active or inactive dental hygiene license shall be renewed in the licensee's birth month each year.

B. A faculty license, a restricted volunteer license, or a temporary permit shall be renewed on or before June 30 each year.

C. The license of any person who does not return the completed renewal form and fees by the deadline required in subsection A of this section shall automatically expire and become invalid ~~and his practice of dental hygiene shall be illegal. With the exception of practice with a current, restricted volunteer license as provided in § 54.1-2726.1 of the Code, practicing in Virginia with an expired license may subject the licensee to disciplinary action by the board.~~

D. Any person who does not return the completed form and fee by the deadline required in subsection A of this section shall be required to pay an additional late fee. The board may renew a license if the renewal form, renewal fee, and late fee are received within one year of the deadline required in subsection A of this section.

18VAC60-25-190. Requirements for continuing education.

A. In order to renew an active license, a dental hygienist shall complete a minimum of 15 hours of approved continuing education. Continuing education hours in excess of the number required for renewal may be transferred or credited to the next renewal year for a total of not more than 15 hours.

1. A dental hygienist shall be required to maintain evidence of successful completion of a current hands-on course in basic cardiopulmonary resuscitation for health care providers.

2. A dental hygienist who monitors patients under general anesthesia, deep sedation, or moderate sedation shall complete four hours every two years of approved continuing education directly related to monitoring of such anesthesia or sedation as part of the hours required for licensure renewal.

3. Up to ~~two~~ three hours of the 15 hours required for annual renewal may be satisfied through delivery of dental hygiene services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. ~~One hour of continuing education may be credited for three hours of providing such volunteer services, as documented by the health department or free clinic.~~

B. An approved continuing education program shall be relevant to the treatment and care of patients and shall ~~be~~ consist of:

1. Clinical courses in dental or dental hygiene practice; or

2. Nonclinical subjects that relate to the skills necessary to provide dental hygiene services and are supportive of

clinical services (i.e., patient management, legal and ethical responsibilities, risk management, and recordkeeping). Courses not acceptable for the purpose of this subsection include estate planning, financial planning, investments, and personal health.

C. Continuing education credit may be earned for verifiable attendance at or participation in any course, to include audio and video presentations, that meets the requirements in subdivision B 1 of this section and is given by one of the following sponsors:

- ~~1. The American Dental Association and the National Dental Association and their constituent and component/branch associations;~~
- ~~2. The American Dental Hygienists' Association and the National Dental Hygienists Association and their constituent and component/branch associations;~~
- ~~3. The American Dental Assisting Association and its constituent and component/branch associations;~~
- ~~4. The American Dental Association specialty organizations and their constituent and component/branch associations;~~
- ~~5. A provider accredited by the Accreditation Council for Continuing Medical Education for Category 1 credits;~~
- ~~6. The Academy of General Dentistry and its constituent and component/branch associations;~~
- ~~7. Community colleges with an accredited dental hygiene program if offered under the auspices of the dental hygienist program;~~
- ~~8. A college or university that is accredited by an accrediting agency approved by the U.S. Department of Education or a hospital or health care institution accredited by the Joint Commission on Accreditation of Healthcare Organizations;~~
- ~~9. The American Heart Association, the American Red Cross, the American Safety and Health Institute, and the American Cancer Society;~~
- ~~10. A medical school accredited by the American Medical Association's Liaison Committee for Medical Education or a dental school or dental specialty residency program accredited by the Commission on Dental Accreditation of the American Dental Association;~~
- ~~11. State or federal government agencies (i.e., military dental division, Veteran's Administration, etc.);~~
- ~~12. The Commonwealth Dental Hygienists' Society;~~
- ~~13. The MCV Orthodontic Education and Research Foundation;~~
- ~~14. The Dental Assisting National Board and its affiliate, the Dental Auxiliary Learning and Education Foundation;~~

~~15. The American Academy of Dental Hygiene, its constituent and component/branch associations; or~~

~~16. A regional testing agency (i.e., Central Regional Dental Testing Service, Northeast Regional Board of Dental Examiners, Southern Regional Testing Agency, Council of Interstate Testing Agencies, or Western Regional Examining Board) when serving as an examiner sponsors approved by the board.~~

D. Verification of compliance.

1. All licensees are required to verify compliance with continuing education requirements at the time of annual license renewal.
2. Following the renewal period, the board may conduct an audit of licensees to verify compliance.
3. Licensees Any licensee selected for audit shall provide original documents certifying that they have the licensee has fulfilled their the continuing education requirements by the deadline date as specified by the board.
4. Licensees are required to maintain original documents verifying the date and the subject of the program or activity, the sponsor, and the amount of time earned. Documentation shall be maintained for a period of four years following renewal.
5. Failure to comply with continuing education requirements may subject the licensee to disciplinary action by the board.

E. Exemptions.

1. A licensee is exempt from completing continuing education requirements and considered in compliance on the first renewal date following the licensee's initial licensure.
2. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters. A written request with supporting documents must be submitted at least 30 days prior to the deadline for renewal.

F. The board may grant an extension for up to one year for completion of continuing education upon written request with an explanation to the board prior to the renewal date.

G. Continuing education hours required by board order shall not be used to satisfy the continuing education requirement for license renewal or reinstatement.

H. In order to practice under remote supervision in accordance with subsection F of § 54.1-2722 of the Code of Virginia, a dental hygienist shall complete a continuing education course of no less than two hours in duration that is offered by an accredited dental education program or a sponsor listed in subsection C of this section and that includes the following course content:

Regulations

1. Intent and definitions of remote supervision;
2. Review of dental hygiene scope of practice and delegation of services;
3. Administration of controlled substances;
4. Patient records, documentation, and risk management;
5. Remote supervision laws for dental hygienists and dentists;
6. Written practice protocols; and
7. Settings allowed for remote supervision.

18VAC60-25-200. Inactive license.

A. Any dental hygienist who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license.

B. With the exception of practice with a restricted volunteer license as provided in § 54.1-2726.1 of the Code of Virginia, the holder of an inactive license shall not be entitled to perform any act requiring a license to practice dental hygiene in Virginia.

C. An inactive dental hygiene license may be renewed on or before ~~March 31~~ the licensee's birth month of each year.

18VAC60-25-210. Reinstatement or reactivation of a license.

A. Reinstatement of an expired license.

1. Any person whose license has been expired for more than one year and who wishes to reinstate such license shall submit to the board a reinstatement application and the reinstatement fee.
2. An applicant for reinstatement shall submit evidence of completion of continuing education that meets the requirements of 18VAC60-25-190 and is equal to the requirement for the number of years in which ~~his~~ the applicant's license has not been active in Virginia, not to exceed a total of 45 hours. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months preceding an application for reinstatement.
3. An applicant for reinstatement shall also provide evidence of continuing clinical competence that may also include (i) documentation of active practice in another state or in federal service, (ii) recent passage of a clinical competency examination accepted by the board, or (iii) completion of a clinical, hands-on refresher program offered by a CODA accredited program.
4. The executive director may reinstate a license provided that the applicant can demonstrate continuing clinical competence, that no grounds exist pursuant to § 54.1-2706

of the Code ~~and of Virginia or~~ 18VAC60-25-120 to deny ~~said~~ reinstatement, and that the applicant has paid the reinstatement fee and any fines or assessments.

B. Reactivation of an inactive license.

1. An inactive license may be reactivated upon submission of the required application, and payment of the current renewal fee, ~~and documentation of having completed continuing education that meets the requirements of 18VAC60-25-190 and is equal to the requirement for the number of years in which the license has been inactive, not to exceed a total of 45 hours. Of the required hours, at least 15 must be earned in the most recent 12 months and the remainder within the 36 months immediately preceding the application for activation.~~
2. An applicant for reactivation shall also provide evidence of continuing clinical competence that may also include (i) documentation of active practice in another state or in federal service, (ii) recent passage of a clinical competency examination accepted by the board, or (iii) completion of a clinical, hands-on refresher program offered by a CODA accredited program.
3. The executive director may reactivate a license provided that the applicant can demonstrate continuing clinical competence and that no grounds exist pursuant to § 54.1-2706 of the Code ~~and of Virginia or~~ 18VAC60-25-120 to deny said reactivation.

18VAC60-30-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2700 of the Code of Virginia:

"Board"

"Dental hygiene"

"Dental hygienist"

"Dentist"

"Dentistry"

~~"License"~~

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

"CODA" means the Commission on Dental Accreditation of the American Dental Association.

~~"Code" means the Code of Virginia.~~

"Dental assistant I" means any unlicensed person under the direction of a dentist or a dental hygienist who renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely an administrative, secretarial, or clerical capacity.

"Dental assistant II" means a person under the direction and direct supervision of a dentist who is registered by the board to perform reversible, intraoral procedures as specified in 18VAC60-30-60 and 18VAC60-30-70.

"Direct supervision" means that the dentist examines the patient and records diagnostic findings prior to delegating restorative or prosthetic treatment and related services to a dental assistant II for completion the same day or at a later date. The dentist prepares the ~~tooth~~ or teeth to be restored and remains immediately available in the office to the dental assistant II for guidance or assistance during the delivery of treatment and related services. The dentist examines the patient to evaluate the treatment and services before the patient is dismissed.

"Direction" means the level of supervision (i.e., immediate, direct, indirect, or general) that a dentist is required to exercise with a dental hygienist, a dental assistant I, or a dental assistant II or that a dental hygienist is required to exercise with a dental assistant to direct and oversee the delivery of treatment and related services.

"General supervision" means that a dentist completes a periodic comprehensive examination of the patient and issues a written order for hygiene treatment that states the specific services to be provided by a dental hygienist during one or more subsequent appointments when the dentist may or may not be present. Issuance of the order authorizes the dental hygienist to supervise a dental assistant performing duties delegable to dental assistants I.

"Immediate supervision" means the dentist is in the operatory to supervise the administration of sedation or provision of treatment.

~~"Local anesthesia" means the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug.~~

~~"Monitoring" means to observe, interpret, assess, and record appropriate physiologic functions of the body during sedative procedures and general anesthesia appropriate to the level of sedation as provided in Part VII (18VAC60-21-260 et seq.) of Regulations Governing the Practice of Dentistry.~~

"Radiographs" means intraoral and extraoral radiographic images of hard and soft tissues used for purposes of diagnosis.

18VAC60-30-20. Address of record; posting of registration.

A. Address of record. Each registered dental assistant II shall provide the board with a current address of record. All required notices and correspondence mailed by the board to any such registrant shall be validly given when mailed to the address of record on file with the board. Each registrant may also provide a different address to be used as the public address, but if a second address is not provided, the address of record shall be the public address. All changes of address shall be furnished to the board in writing within 30 days of such changes.

B. Posting of registration. A copy of the registration of a dental assistant II shall either be posted in an operatory in which the person is providing services to the public or in the patient

reception area where it is clearly visible to patients and accessible for reading. ~~If a dental assistant II is employed in more than one office, a duplicate registration obtained from the board may be displayed.~~

18VAC60-30-30. Required fees.

A. Initial registration fee.	\$100
B. Renewal fees.	
1. Dental assistant II registration - active	\$50
2. Dental assistant II registration - inactive	\$25
C. Late fees.	
1. Dental assistant II registration - active	\$20
2. Dental assistant II registration - inactive	\$10
D. Reinstatement fees.	
1. Expired registration	\$125
2. Suspended registration	\$250
3. Revoked registration	\$300
E. Administrative fees.	
1. Duplicate wall certificate	\$60
2. Duplicate registration	\$20
3. Registration verification	\$35
4. Handling fee for returned check or dishonored credit or debit card	\$50

F. No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted.

~~G. For the renewal of an active dental assistant II registration in 2021, the fees for renewal of an active dental assistant II registration shall be prorated according to the registrant's birth month as follows:~~

January birth month	\$30
February birth month	\$33
March birth month	\$36
April birth month	\$39
May birth month	\$42
June birth month	\$45
July birth month	\$48
August birth month	\$51
September birth month	\$54
October birth month	\$57
November birth month	\$60
December birth month	\$63

Regulations

~~18VAC60-30-40. Practice of dental hygienists and dental assistants II under direction. (Repealed.)~~

~~A. A dentist may utilize up to a total of four dental hygienists or dental assistants II in any combination practicing under direction at one and the same time. In addition, a dentist may permit through issuance of written orders for services additional dental hygienists to practice under general supervision in a free clinic, a public health program, or a voluntary practice.~~

~~B. In all instances and on the basis of his diagnosis, a licensed dentist assumes ultimate responsibility for determining with the patient or his representative the specific treatment the patient will receive, which aspects of treatment will be delegated to qualified personnel, and the direction required for such treatment, in accordance with this chapter, Part IV (18VAC60-21-110 et seq.) of the Regulations Governing the Practice of Dentistry, and the Code.~~

~~18VAC60-30-50. Nondelegable duties; dentists. (Repealed.)~~

~~Only licensed dentists shall perform the following duties:~~

- ~~1. Final diagnosis and treatment planning;~~
- ~~2. Performing surgical or cutting procedures on hard or soft tissue except a dental hygienist performing gingival curettage as provided in 18VAC60-21-140;~~
- ~~3. Prescribing or parenterally administering drugs or medicaments, except a dental hygienist who meets the requirements of 18VAC60-25-100 may parenterally administer Schedule VI local anesthesia to patients 18 years of age or older;~~
- ~~4. Authorization of work orders for any appliance or prosthetic device or restoration that is to be inserted into a patient's mouth;~~
- ~~5. Operation of high speed rotary instruments in the mouth;~~
- ~~6. Administering and monitoring moderate sedation, deep sedation, or general anesthetics except as provided for in § 54.1-2701 of the Code and subsections J and K of 18VAC60-21-260;~~
- ~~7. Condensing, contouring, or adjusting any final, fixed, or removable prosthodontic appliance or restoration in the mouth with the exception of packing and carving amalgam and placing and shaping composite resins by dental assistants II with advanced training as specified in 18VAC60-30-120;~~
- ~~8. Final positioning and attachment of orthodontic bonds and bands; and~~
- ~~9. Final adjustment and fitting of crowns and bridges in preparation for final cementation.~~

~~18VAC60-30-60. Delegation to dental assistants II. (Repealed.)~~

~~Duties may only be delegated under the direction and direct supervision of a dentist to a dental assistant II who has completed the coursework, corresponding module of laboratory training, corresponding module of clinical experience, and examinations specified in 18VAC60-30-120.~~

~~18VAC60-30-70. Delegation to dental assistants I and II. (Repealed.)~~

~~A. Duties appropriate to the training and experience of any dental assistant and the practice of the supervising dentist may be delegated to a dental assistant I or II under indirect supervision, with the exception of those listed as nondelegable in 18VAC60-30-50, those which may only be delegated to dental hygienists as listed in 18VAC60-21-140, and those which may only be delegated to a dental assistant II as listed in 18VAC60-30-60.~~

~~B. Duties delegated to any dental assistant under general supervision shall be under the direction of the dental hygienist who supervises the implementation of the dentist's orders by examining the patient, observing the services rendered by an assistant, and being available for consultation on patient care.~~

~~18VAC60-30-80. Radiation certification.~~

~~A No dental assistant I or II shall ~~not~~ place or expose dental ~~x-ray film radiographs~~ unless ~~he~~ the dental assistant has one of the following: (i) satisfactory completion of a radiation safety course and examination given by an institution that maintains a program in dental assisting, dental hygiene, or dentistry accredited by CODA; (ii) certification by the American Registry of Radiologic Technologists; or (iii) satisfactory completion of the Radiation Health and Safety Review Course provided by the Dental Assisting National Board or its affiliate and passage of the Radiation Health and Safety Exam given by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.~~

~~18VAC60-30-90. What does not constitute practice. (Repealed.)~~

~~The following are not considered the practice of dental hygiene and dentistry:~~

- ~~1. General oral health education.~~
- ~~2. Recording a patient's pulse, blood pressure, temperature, presenting complaint, and medical history.~~
- ~~3. Conducting preliminary dental screenings in free clinics, public health programs, or a voluntary practice.~~

~~18VAC60-30-100. Patient records; confidentiality.~~

~~A. A dental assistant II shall be responsible for accurate and complete information in patient records for those services~~

~~provided by the assistant under direction to include the following:~~

- ~~1. Patient's name on each page in the patient record;~~
- ~~2. Radiographs, digital images, and photographs clearly labeled with the patient name, date taken, and teeth identified; and~~
- ~~3. Notation of each treatment rendered, date of treatment and the identity of the dentist, the dental hygienist, or the dental assistant providing service.~~

~~B. A dental assistant shall comply with the provisions of § 32.1-127.1:03 of the Code related to the confidentiality and disclosure of patient records. A No dental assistant shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the assistant shall not be considered negligent or willful.~~

18VAC60-30-110. Acts constituting unprofessional conduct.

The following practices shall constitute unprofessional conduct ~~within the meaning of § 54.1-2706 of the Code:~~

- ~~1. Fraudulently obtaining, attempting to obtain, or cooperating with others in obtaining payment for services.~~
- ~~2. Performing services for a patient under terms or conditions that are unconscionable. The board shall not consider terms unconscionable where there has been a full and fair disclosure of all terms and where the patient entered the agreement without fraud or duress.~~
- ~~3. 1. Misrepresenting to a patient and the public the materials or methods and techniques used or intended to be used.~~
- ~~4. Committing any act in violation of the Code reasonably related to dental practice.~~
- ~~5. Delegating any service or operation that requires the professional competence of a dentist, dental hygienist, or dental assistant II to any person who is not authorized by this chapter.~~
- ~~6. Certifying completion of a dental procedure that has not actually been completed.~~
- ~~7. 2. Violating or cooperating with others in violating provisions of Chapter 1 (§ 54.1-100 et seq.) or 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia or the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).~~

18VAC60-30-115. General application requirements.

All applications for registration as a dental assistant II shall include:

1. Evidence of a current credential as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National

Board or another certification from a credentialing organization recognized by the American Dental Association and acceptable to the board that was granted following passage of an examination on general chairside assisting, radiation health and safety, and infection control; and

2. Verification of completion of educational requirements set forth in 18VAC60-30-120; and

~~3. Attestation of having read and understood the laws and regulations governing the practice of dentistry and dental assisting in Virginia and of the applicant's intent to remain current with such laws and regulations.~~

18VAC60-30-120. Educational requirements for dental assistants II.

A. A prerequisite for entry into an educational program preparing a person for registration as a dental assistant II shall be current certification as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board or active licensure as a dental hygienist.

B. To be registered as a dental assistant II, a person shall complete a competency-based program from an educational institution that meets the requirements of 18VAC60-30-116 and includes all of the following. An applicant may be registered as a dental assistant II with specified competencies completed in education as described in this subsection:

1. Didactic coursework in dental anatomy that includes basic histology, understanding of the periodontium and temporal mandibular joint, pulp tissue and nerve innervation, occlusion and function, muscles of mastication, and any other item related to the restorative dental process.
2. Didactic coursework in operative dentistry, to include materials used in direct and indirect restorative techniques, economy of motion, fulcrum techniques, tooth preparations, etch and bonding techniques and systems, and luting agents.
3. Laboratory training to be completed in the following modules:
 - a. No less than 15 hours of placing, packing, carving, and polishing of amalgam restorations, placement of a non-epinephrine retraction cord, and pulp capping procedures and no less than six class I and six class II restorations completed on a manikin simulator to competency;
 - b. No less than 40 hours of placing and shaping composite resin restorations, placement of a non-epinephrine retraction cord, and pulp capping procedures, and no less than 12 class I, 12 class II, five class III, five class IV, and five class V restorations completed on a manikin simulator to competency; and
 - c. At least 10 hours of making final impressions, placement of a non-epinephrine retraction cord, final cementation of crowns and bridges after preparation, and adjustment and fitting by the dentist, and no less than four

Regulations

crown impressions, two placements of retraction cord, five crown cementations, and two bridge cementations on a manikin simulator to competency.

4. Clinical experience applying the techniques learned in the preclinical coursework and laboratory training in the following modules:

a. At least 30 hours of placing, packing, carving, and polishing of amalgam restorations, placement of a non-epinephrine retraction cord, and no less than six class I and six class II restorations completed on a live patient to competency;

b. At least 60 hours of placing and shaping composite resin restorations, placement of a non-epinephrine retraction cord, and no less than six class I, six class II, five class III, three class IV, and five class V restorations completed on a live patient to competency; and

c. At least 30 hours of making final impressions; placement of non-epinephrine retraction cord; final cementation of crowns and bridges after preparation, adjustment, and fitting by the dentist; and no less than four crown impressions, two placements of retraction cord, five crown cementations, and two bridge cementations on a live patient to competency.

5. Successful completion of the following competency examinations given by the accredited educational programs:

a. A written examination at the conclusion of didactic coursework; and

b. A clinical competency exam.

~~C. An applicant may be registered as a dental assistant II with specified competencies set forth in subdivision a, b, or c of subdivisions B 3 and B 4 of this section.~~

18VAC60-30-140. Registration by endorsement as a dental assistant II.

A. An applicant for registration by endorsement as a dental assistant II shall provide evidence of the following:

1. ~~Hold current~~ Current certification as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board or another national credentialing organization recognized by the American Dental Association;

2. ~~Be currently authorized~~ Current authorization to perform expanded duties as a dental assistant in ~~each~~ a jurisdiction of the United States;

3. ~~Hold a~~ A credential, registration, or certificate ~~from another state~~ with qualifications substantially equivalent in hours of instruction and course content to those set forth in 18VAC60-30-120 or, if the qualifications were not substantially equivalent ~~the dental assistant can document,~~ documented experience in the restorative and prosthetic expanded duties set forth in 18VAC60-30-60 for at least 24

of the past 48 months preceding application for registration in Virginia.

B. An applicant shall also: ~~1. Be~~ be certified to be in good standing from each jurisdiction of the United States in which ~~he~~ the applicant is currently registered, certified, or credentialed or in which ~~he~~ the applicant has ever held a registration, certificate, or credential;

~~2. Not have committed any act that would constitute a violation of § 54.1-2706 of the Code; and~~

~~3. Attest to having read and understand and to remain current with the laws and the regulations governing dental practice in Virginia.~~

18VAC60-30-150. Registration renewal requirements.

A. ~~Prior to 2022, every person holding an active or inactive registration shall annually, on or before March 31, renew his registration. Beginning in January of 2022, every~~ Each person holding an active or inactive registration shall annually renew ~~his~~ the person's registration in ~~his~~ the person's birth month. Any person who does not return the completed form and fee by the deadline shall be required to pay an additional late fee.

B. The registration of any person who does not return the completed renewal form and fees by the deadline shall automatically expire and become invalid ~~and his practice as a dental assistant II shall be illegal.~~ Practicing in Virginia with an expired registration may subject the registrant to disciplinary action by the board.

C. In order to renew registration, a dental assistant II shall be required to maintain and attest to current certification from the Dental Assisting National Board or another national credentialing organization recognized by the American Dental Association.

D. A dental assistant II shall also be required to maintain evidence of successful completion of ~~training a~~ current, hands-on course in basic cardiopulmonary resuscitation.

E. Following the renewal period, the board may conduct an audit of registrants to verify compliance. Registrants selected for audit shall provide original documents certifying current certification.

18VAC60-30-160. Inactive registration.

A. Any dental assistant II who holds a current, unrestricted registration in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive registration. The holder of an inactive registration shall not be entitled to perform any act requiring registration to practice as a dental assistant II in Virginia.

B. An inactive registration may be reactivated upon submission of evidence of current certification from the Dental Assisting National Board or a national credentialing organization recognized by the American Dental Association.

An applicant for reactivation shall also provide evidence of continuing clinical competence, which may include (i) documentation of active practice in another state or in federal service or (ii) a refresher course offered by a CODA accredited educational program.

~~C. The board reserves the right to deny a request for reactivation to any registrant who has been determined to have committed an act in violation of § 54.1-2706 of the Code.~~

18VAC60-30-170. Registration reinstatement requirements.

A. The board shall reinstate an expired registration if the renewal form, renewal fee, and late fee are received within one year of the deadline required in subsection A of 18VAC60-30-150, provided that no grounds exist to deny ~~said~~ the reinstatement pursuant to § 54.1-2706 of the Code ~~and~~ of Virginia or 18VAC60-30-110.

B. A dental assistant II who has allowed ~~his~~ his dental assistant II registration to lapse or who has had ~~his~~ such registration suspended or revoked must submit evidence of current certification from the Dental Assisting National Board or a credentialing organization recognized by the American Dental Association to reinstate ~~his~~ registration.

C. The executive director may reinstate such expired registration, provided that the applicant can demonstrate continuing clinical competence, the applicant has paid the reinstatement fee and any fines or assessments, and no grounds exist to deny ~~said~~ the reinstatement pursuant to § 54.1-2706 of the Code ~~and~~ of Virginia or 18VAC60-30-110.

D. An applicant for reinstatement shall provide evidence of continuing clinical competence, which may include (i) documentation of active practice in another state or in federal service or (ii) a refresher course offered by a CODA accredited educational program.

VA.R. Doc. No. R22-7287; Filed August 12, 2024, 9:38 a.m.

BOARD OF PHARMACY

Final Regulation

REGISTRAR'S NOTICE: The Board of Pharmacy is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 13 of the Code of Virginia, which exempts amendments to regulations of the board to schedule a substance in Schedule I or II pursuant to subsection D of § 54.1-3443 of the Code of Virginia. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-322).

Statutory Authority: §§ 54.1-2400 and 54.1-3443 of the Code of Virginia.

Effective Date: October 9, 2024.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

Summary:

The amendments place four compounds into Schedule I of the Drug Control Act. The added compounds will remain in effect for 18 months or until the compounds are placed in Schedule I by action of the General Assembly.

18VAC110-20-322. Placement of chemicals in Schedule I.

A. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid. N,N-diethyl-2-[5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl]ethanamine (other name: Protonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.
2. Compounds expected to have hallucinogenic properties. 1-(1,3-benzodioxol-5-yl)-2-(cyclohexylamino)butan-1-one (other names: Cybutylone, N-cyclohexyl Butylone), 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.
3. Compounds expected to have depressant properties. 8-bromo-6-(2-chlorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine (other names: Clobromazolam, Phenazolam), 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.
4. Cannabimimetic agents.
 - a. 5-bromo-N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1H-indazole-3-carboxamide (other name: ADB-5Br-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.
 - b. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-5-bromo-1-butylindazole-3-carboxamide (other name: ADB-5Br-BUTINACA), 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.

The placement of drugs listed in this subsection shall remain in effect until July 31, 2024, unless enacted into law in the Drug Control Act.

Regulations

B. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid. 2-methyl-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]butanamide (other name: 2-methyl butyryl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.
2. Compounds expected to have hallucinogenic properties.
 - a. 1-(7-methoxy-1,3-benzodioxol-5-yl)propan-2-amine (other names: 5-methoxy-3,4-methylenedioxy amphetamine, 3-methoxy MDA, MMDA), 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.
 - b. 1-[1-(3-chlorophenyl)cyclohexyl]-piperidine (other names: 3-Chloro Phencyclidine, 3Cl-PCP, 3-chloro PCP), 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.
3. Compound expected to have depressant properties. 7-bromo-5-phenyl-1,3-dihydro-1,4-benzodiazepin-2-one (other names: Desalkylgidazepam, Bromonordiazepam), 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.
4. Compound classified as a cannabimimetic agent. Methyl N-[(5-bromo-1H-indazol-3-yl)carbonyl]-3-methyl-valinate (other name: MDMB-5Br-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.

The placement of drugs listed in this subsection shall remain in effect until October 12, 2024, unless enacted into law in the Drug Control Act.

C. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioids.
 - a. 2-(4-isopropoxybenzyl)-5-nitro-1-[2-(pyrrolidin-1-yl)ethyl]-1H-benzo[d]imidazole (other name: N-Pyrrolidino Isotonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

- b. 5-nitro-2-(4-propoxybenzyl)-1-[2-(pyrrolidin-1-yl)ethyl]-1H-benzo[d]imidazole (other names: N-Pyrrolidino Protonitazene, Protonitazepyne), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.
 - c. N-phenyl-N-(1-propionyl-4-piperidinyl)-propanamide (other name: N-propionyl Norfentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. Synthetic compounds.

- a. N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)pentanamide (other names: para-fluoro valeryl fentanyl, para-fluoro pentanoyl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.
 - b. N-(4-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]acetamide (other name: para-fluoroacetyl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

3. Compounds expected to have hallucinogenic properties.

- a. 1-[1-(3-fluorophenyl)cyclohexyl]piperidine (other names: 3-fluoro Phencyclidine, 3F-PCP), 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.
 - b. 2-(ethylamino)-2-(2-fluorophenyl)-cyclohexanone (other names: 2-fluoro-2-oxo PCE, 2-fluoro NENDCK), 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.

4. Compounds expected to have depressive properties:

- a. 6-(4-chlorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine (other names: 4'-chloro Deschloroalprazolam, 4'Cl-Deschloroalprazolam), 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.
 - b. 7-chloro-5-(2-chlorophenyl)-1-methyl-3H-1,4-benzodiazepin-2-one (other names: Diclazepam, 2-Chlorodiazepam), 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.

5. Central nervous system stimulant. 2-(3-chlorophenyl)-3-methylmorpholine (other name: 3-chlorophenmetrazine), its salts, isomers (optical, position, and geometric), and salts of isomers.

The placement of drugs listed in this subsection shall remain in effect until March 27, 2025, unless enacted into law in the Drug Control Act.

D. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid.

a. N-ethyl-2-[5-nitro-2-[(4-propan-2-yloxyphenyl)methyl]benzimidazol-1-yl]ethanamine (other name: N-desethyl Isotonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation.

b. 7-[(3-chloro-6-methyl-5,5-dioxo-1H-benzo[c][2,1]benzothiazepin-11-yl)amino]heptanoic acid (other name: Tianeptine), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. Cannabimimetic agent. Ethyl-3,3-dimethyl-2-[(1-(pent-4-enylindazole-3-carbonyl)amino)butanoate (other name: EDMB-4en-PINACA), 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.

The placement of drugs listed in this subsection shall remain in effect until July 31, 2025, unless enacted into law in the Drug Control Act.

E. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following compounds expected to have hallucinogenic properties in Schedule I of the Drug Control Act:

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

2. 2-(5-methoxy-1H-indol-3-yl)ethanamine (other names: 5-methoxytryptamine, 5-MeOT), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the

existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The placement of drugs listed in this subsection shall remain in effect until August 28, 2025, unless enacted into law in the Drug Control Act.

F. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Compounds expected to have hallucinogenic properties:

a. 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.

b. 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.

c. 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.

2. Compound classified as a cannabimimetic agent. 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.

The placement of drugs listed in this subsection shall remain in effect until April 8, 2026, unless enacted into law in the Drug Control Act.

VA.R. Doc. No. R25-7793; Filed August 19, 2024, 6:51 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Board of Pharmacy is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 13 of the Code of Virginia, which exempts amendments to regulations of the board to schedule a substance in Schedule I or II pursuant to subsection D of § 54.1-3443 of the Code of Virginia. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-322).

Statutory Authority: §§ 54.1-2400 and 54.1-3443 of the Code of Virginia.

Regulations

Effective Date: October 9, 2024.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

Summary:

The amendments place four compounds into Schedule I of the Drug Control Act. The added compounds will remain in effect for 18 months or until the compounds are placed in Schedule I by action of the General Assembly.

18VAC110-20-322. Placement of chemicals in Schedule I.

A. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid. N,N-diethyl-2-[5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl]ethanamine (other name: Protonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.
2. Compounds expected to have hallucinogenic properties. 1-(1,3-benzodioxol-5-yl)-2-(cyclohexylamino)butan-1-one (other names: Cybutylone, N-cyclohexyl Butylone), 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.
3. Compounds expected to have depressant properties. 8-bromo-6-(2-chlorophenyl)-1-methyl-4H-[1,2,4]triazolo [4,3-a][1,4]benzodiazepine (other names: Clobromazolam, Phenazolam), 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.
4. Cannabimimetic agents.
 - a. 5-bromo-N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1H-indazole-3-carboxamide (other name: ADB-5Br-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.
 - b. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-5-bromo-1-butylindazole-3-carboxamide (other name: ADB-5'Br-BUTINACA), 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.

The placement of drugs listed in this subsection shall remain in effect until July 31, 2024, unless enacted into law in the Drug Control Act.

B. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid. 2-methyl-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]butanamide (other name: 2-methyl butyryl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.
2. Compounds expected to have hallucinogenic properties.
 - a. 1-(7-methoxy-1,3-benzodioxol-5-yl)propan-2-amine (other names: 5-methoxy-3,4-methylenedioxy amphetamine, 3-methoxy MDA, MMDA), 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.
 - b. 1-[1-(3-chlorophenyl)cyclohexyl]-piperidine (other names: 3-Chloro Phencyclidine, 3Cl-PCP, 3-chloro PCP), 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.
3. Compound expected to have depressant properties. 7-bromo-5-phenyl-1,3-dihydro-1,4-benzodiazepin-2-one (other names: Desalkylgidazepam, Bromonordiazepam), 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.
4. Compound classified as a cannabimimetic agent. Methyl N-[(5-bromo-1H-indazol-3-yl)carbonyl]-3-methyl-valinate (other name: MDMB-5Br-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.

The placement of drugs listed in this subsection shall remain in effect until October 12, 2024, unless enacted into law in the Drug Control Act.

C. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioids.
 - a. 2-(4-isopropoxybenzyl)-5-nitro-1-[2-(pyrrolidin-1-yl)ethyl]-1H-benzo[d]imidazole (other name: N-Pyrrolidino Isotonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.
 - b. 5-nitro-2-(4-propoxybenzyl)-1-[2-(pyrrolidin-1-yl)ethyl]-1H-benzo[d]imidazole (other names: N-

Pyrrolidino Protonitazene, Protonitazepyne), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

c. N-phenyl-N-(1-propionyl-4-piperidinyl)-propanamide (other name: N-propionyl Norfentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. Synthetic compounds.

a. N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl) pentanamide (other names: para-fluoro valeryl fentanyl, para-fluoro pentanoyl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

b. N-(4-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]acetamide (other name: para-fluoroacetyl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

3. Compounds expected to have hallucinogenic properties.

a. 1-[1-(3-fluorophenyl)cyclohexyl]piperidine (other names: 3-fluoro Phencyclidine, 3F-PCP), 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.

b. 2-(ethylamino)-2-(2-fluorophenyl)-cyclohexanone (other names: 2-fluoro-2-oxo PCE, 2-fluoro NENDCK), 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.

4. Compounds expected to have depressive properties:

a. 6-(4-chlorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine (other names: 4'-chloro Deschloroalprazolam, 4'Cl-Deschloroalprazolam), 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.

b. 7-chloro-5-(2-chlorophenyl)-1-methyl-3H-1,4-benzodiazepin-2-one (other names: Diclazepam, 2-Chlorodiazepam), 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.

5. Central nervous system stimulant. 2-(3-chlorophenyl)-3-methylmorpholine (other name: 3-chlorophenmetrazine), its salts, isomers (optical, position, and geometric), and salts of isomers.

The placement of drugs listed in this subsection shall remain in effect until March 27, 2025, unless enacted into law in the Drug Control Act.

D. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid.

a. N-ethyl-2-[5-nitro-2-[(4-propan-2-yloxyphenyl)methyl]benzimidazol-1-yl]ethanamine (other name: N-desethyl Isotonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation.

b. 7-[(3-chloro-6-methyl-5,5-dioxo-1H-benzo[c][2,1]benzothiazepin-11-yl)amino]heptanoic acid (other name: Tianeptine), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. Cannabimimetic agent. Ethyl-3,3-dimethyl-2-[(1-(pent-4-enylindazole-3-carbonyl)amino]butanoate (other name: EDMB-4en-PINACA), 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.

The placement of drugs listed in this subsection shall remain in effect until July 31, 2025, unless enacted into law in the Drug Control Act.

E. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following compounds expected to have hallucinogenic properties in Schedule I of the Drug Control Act:

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

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

Regulations

The placement of drugs listed in this subsection shall remain in effect until August 28, 2025, unless enacted into law in the Drug Control Act.

F. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. The following compounds expected to have hallucinogenic properties:

a. 1-[(4-fluorophenyl)methyl]-4-methylpiperazine (other names: 4-fluoro-MBZP, 4-fluoro methylbenzyl piperazine), 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.

b. 4-fluoro-alpha-pyrrolidinoisohexiophenone (other name: 4-fluoro-alpha-PiHP), 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.

c. 8-bromo-1-methyl-6-pyridin-2-yl-4H-[1,2,4]triazolo [4,3-a][1,4]benzodiazepine (other name: pyrazolam), 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.

2. The following cannabimimetic agent: Methyl-2-(1-butyl-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (other name: MDMB-BUTINACA), 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.

The placement of drugs listed in this subsection shall remain in effect until April 8, 2026, unless enacted into law in the Drug Control Act.

VA.R. Doc. No. R25-7871; Filed August 19, 2024, 6:52 p.m.

Emergency Regulation

Title of Regulation: 18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-10, 18VAC110-20-505, 18VAC110-20-690, 18VAC110-20-710, 18VAC110-20-720; adding 18VAC110-20-591, 18VAC110-20-721; repealing 18VAC110-20-500).

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Effective Dates: August 20, 2024, through February 19, 2026.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

Preamble:

Section 2.2-4011 A of the Code of Virginia states that regulations that an agency finds are necessitated by an emergency situation may be adopted upon consultation with the Attorney General, whose approval shall be granted only after the agency has submitted a request stating in writing the nature of the emergency, and the necessity for such action shall be at the sole discretion of the Governor.

The amendments align the regulation with new federal requirements of the Drug Supply Chain Security Act (21 USC § 351 et seq.) and the Protecting Patient Access to Emergency Medications Act (21 USC § 823) that ensure emergency medical services (EMS) providers can provide drugs to patients as needed. The amendments (i) allow EMS agencies and regional EMS councils to apply for a controlled substance registration (CSR) and use a hub-and-spoke model to service designated locations of the entity holding the CSR and federal Drug Enforcement Administration registration; (ii) establish requirements for required health care practitioners needed to maintain, audit, and dispense drug stock and requirements for prescribers connected to the CSR holder; (iii) provide certain allowances for EMS agencies and regional EMS councils regarding drug storage, alarm systems, and audits of drugs; and (iv) permit transfer of drugs between locations controlled by a hub CSR and between CSR holders.

18VAC110-20-10. Definitions.

In addition to words and terms defined in §§ 54.1-3300 and 54.1-3401 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:

"Acquisition" of an existing entity permitted, registered, or licensed by the board means (i) the purchase or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor or change in partnership composition; (iii) the acquiring of 50% or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; or (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity with another business or corporation.

"Actively reports" means reporting all dispensing errors and analyses of such errors to a patient safety organization as soon as practical or at least within 30 days of identifying the error.

"Alternate delivery site" means a location authorized in 18VAC110-20-275 to receive dispensed prescriptions on behalf of and for further delivery or administration to a patient.

"Analysis" means a review of the findings collected and documented on each dispensing error, assessment of the cause and any factors contributing to the dispensing error, and any recommendation for remedial action to improve pharmacy systems and workflow processes to prevent or reduce future errors.

"Authorized collector" means a narcotic treatment program, hospital or clinic with an on-site pharmacy, or pharmacy that is authorized by the U.S. Drug Enforcement Administration to receive drugs for the purpose of destruction.

"Beyond-use date" means the date beyond which the integrity of a compounded, repackaged, or dispensed drug can no longer be ~~assured~~ ensured and as such is deemed to be adulterated or misbranded as defined in §§ 54.1-3461 and 54.1-3462 of the Code of Virginia.

"Board" means the Virginia Board of Pharmacy.

"Chart order" means a lawful order for a drug or device entered on the chart or in a medical record of a patient by a prescriber or the prescriber's designated agent.

"Compliance packaging" means packaging for dispensed drugs that is comprised of a series of containers for solid oral dosage forms and designed to assist the user in administering or self-administering the drugs in accordance with directions for use.

"Correctional facility" means any prison, penitentiary, penal facility, jail, detention unit, or other facility in which persons are incarcerated by government officials.

"DEA" means the U.S. Drug Enforcement Administration.

"Designated location" means a station, EMS agency substation or satellite location, or other location approved by the DEA, if applicable, and designated by an EMS agency or regional EMS council.

"Dispensing error" means one or more of the following discovered after the final verification by the pharmacist, regardless of whether the patient received the drug:

1. Variation from the prescriber's prescription drug order, including:
 - a. Incorrect drug;
 - b. Incorrect drug strength;
 - c. Incorrect dosage form;
 - d. Incorrect patient; or
 - e. Inadequate or incorrect packaging, labeling, or directions.
2. Failure to exercise professional judgment in identifying and managing:

- a. Known therapeutic duplication;
 - b. Known drug-disease contraindications;
 - c. Known drug-drug interactions;
 - d. Incorrect drug dosage or duration of drug treatment;
 - e. Known drug-allergy interactions;
 - f. A clinically significant, avoidable delay in therapy; or
 - g. Any other significant, actual, or potential problem with a patient's drug therapy.
3. Delivery of a drug to the incorrect patient.
 4. Variation in bulk repackaging or filling of automated devices, including:
 - a. Incorrect drug;
 - b. Incorrect drug strength;
 - c. Incorrect dosage form; or
 - d. Inadequate or incorrect packaging or labeling.

"Drug donation site" means a permitted pharmacy that specifically registers with the board for the purpose of receiving or redispensing eligible donated prescription drugs pursuant to § 54.1-3411.1 of the Code of Virginia.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedules II through V prescriptions shall be transmitted in accordance with 21 CFR Part 1300.

"Emergency medical services provider" or "EMS provider" means the same as defined in 12VAC5-31-10.

"Emergency medical services vehicle" or "EMS vehicle" has the same meaning prescribed in § 32.1-111.1 of the Code of Virginia.

"EMS agency" ~~means emergency medical services~~ has the same meaning as prescribed in § 32.1-111.1 of the Code of Virginia.

"Expiration date" means that date placed on a drug package by the manufacturer or repacker beyond which the product may not be dispensed or used.

"Faxed prescription" means a written prescription or order that is transmitted by an electronic device that sends over telephone lines the exact image to the receiver (pharmacy) in a hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Floor stock" means a supply of drugs that have been distributed for the purpose of general administration by a prescriber or other authorized person pursuant to a valid order of a prescriber.

Regulations

"Forgery" means a prescription that was falsely created, falsely signed, or altered.

"Generic drug name" means the nonproprietary name listed in the United States Pharmacopeia-National Formulary (USP-NF) or in the United States Adopted Names (USAN) and the USP Dictionary of Drug Names.

"Hospital" or "nursing home" means those facilities as defined in Title 32.1 of the Code of Virginia or as defined in regulations by the Virginia Department of Health.

"Hospital-owned" means, with respect to an EMS agency, owned by a hospital.

"Initials" means the first letters of a person's name or other unique personal identifier.

"Long-term care facility" means a nursing home, retirement care, mental care, or other facility or institution that provides extended health care to resident patients.

"NABP" means the National Association of Boards of Pharmacy.

"Nuclear pharmacy" means a pharmacy providing radiopharmaceutical services.

"On duty" means that a pharmacist is on the premises at the address of the permitted pharmacy and is available as needed.

"On-hold prescription" means a valid prescription that is received and maintained at the pharmacy for initial dispensing on a future date.

"Other EMS vehicle" means a vehicle used by the EMS agency or regional EMS council for the purpose of providing or facilitating emergency medical care or transporting controlled substances to and from the registered and designated locations. Such vehicles must be either owned by or registered to an EMS agency, regional EMS council, or jurisdiction and operated by an EMS agency or regional EMS council.

"Patient safety organization" means an organization that has as its primary mission continuous quality improvement under the Patient Safety and Quality Improvement Act of 2005 (P.L. 109-41) and is credentialed by the Agency for Healthcare Research and Quality.

"Permitted physician" means a physician who is licensed pursuant to § 54.1-3304 of the Code of Virginia to dispense drugs to persons to whom or for whom pharmacy services are not reasonably available.

"Perpetual inventory" means an ongoing system for recording quantities of drugs received, dispensed, or otherwise distributed by a pharmacy.

"Personal supervision" means the pharmacist must be physically present and render direct, personal control over the entire service being rendered or act being performed. Neither prior nor future instructions shall be sufficient nor shall

supervision rendered by telephone, written instructions, or by any mechanical or electronic methods be sufficient.

"Pharmacy closing" means that the permitted pharmacy ceases pharmacy services or fails to provide for continuity of pharmacy services or lawful access to patient prescription records or other required patient records for the purpose of continued pharmacy services to patients.

"PIC" means the pharmacist-in-charge of a permitted pharmacy.

"Practice location" means any location in which a prescriber evaluates or treats a patient.

"Prescription department" means any contiguous or noncontiguous areas used for the compounding, dispensing, and storage of all Schedules II through VI drugs and devices and any Schedule I investigational drug.

"Quality assurance plan" means a plan approved by the board for ongoing monitoring, measuring, evaluating, and, if necessary, improving the performance of a pharmacy function or system.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Regional EMS council" means an organization designated by the State Board of Health pursuant to § 32.1-111.4:2 of the Code of Virginia.

"Registered EMS agency headquarters" means the principal office and primary business location of an EMS agency that maintains a controlled substances registration issued by the board or a hospital-owned EMS agency that is covered by the registration of a hospital.

"Registered location" means, for the purposes of emergency medical services, a location that appears on a DEA certificate of registration or controlled substances registration issued to an EMS agency or regional EMS council, which shall be the location at which the agency or council receives Schedules II through VI controlled substances from those entities authorized to distribute controlled substances.

"Repackaged drug" means any drug removed from the manufacturer's original package and placed in different packaging.

"Robotic pharmacy system" means a mechanical system controlled by a computer that performs operations or activities

relative to the storage, packaging, compounding, labeling, dispensing, or distribution of medications and collects, controls, and maintains all transaction information.

"Safety closure container" means a container that meets the requirements of the federal Poison Prevention Packaging Act of 1970 (15 USC §§ 1471-1476), that is, in testing such containers, that 85% of a test group of 200 children of ages 41-52 months are unable to open the container in a five-minute period and that 80% fail in another five minutes after a demonstration of how to open it and that 90% of a test group of 100 adults must be able to open and close the container.

"Satellite pharmacy" means a pharmacy that is noncontiguous to the centrally permitted pharmacy of a hospital but at the location designated on the pharmacy permit.

"Special packaging" means packaging that is designed or constructed to be significantly difficult for children younger than five years of age to open to obtain a toxic or harmful amount of the drug contained therein within a reasonable time and not difficult for normal adults to use properly but does not mean packaging that all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

"Special use permit" means a permit issued to conduct a pharmacy of a special scope of service that varies in any way from the provisions of any board regulation.

"Station" means an enclosed structure that houses one or more EMS vehicles or other EMS vehicles in the state in which the EMS agency is registered that is actively and primarily being used for emergency response by the EMS agency.

"Storage temperature" means those specific directions stated in some monographs with respect to the temperatures at which pharmaceutical articles shall be stored, where it is considered that storage at a lower or higher temperature may produce undesirable results. The conditions are defined by the following terms:

1. "Cold" means any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which temperature is maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is controlled between -25° and -10°C (-13° and 14°F). In those instances in which articles may have a recommended storage condition below -20°C (-4°F), the temperature of the storage location should be controlled to plus or minus 10 degrees.
2. "Room temperature" means the temperature prevailing in a working area.
3. "Controlled room temperature" means a temperature maintained thermostatically that encompasses the usual and customary working environment of 20° to 25°C (68° to 77°F); that results in a mean kinetic temperature calculated to be not more than 25°C (77°F); and that allows for excursions between 15° and 30°C (59° and 86°F) that are experienced in pharmacies, hospitals, and warehouses.

4. "Warm" means any temperature between 30° and 40°C (86° and 104°F).

5. "Excessive heat" means any temperature above 40°C (104°F).

6. "Protection from freezing" means where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency or to the destructive alteration of its characteristics, the container label bears an appropriate instruction to protect the product from freezing.

7. "Cool" means any temperature between 8° and 15°C (46° and 59°F).

"Terminally ill" means a patient with a terminal condition as defined in § 54.1-2982 of the Code of Virginia.

"Ultimate user" means a person who has lawfully obtained, and who possesses, a controlled substance for ~~his~~ that person's own use or for the use of a member of ~~his~~ that person's household or for an animal owned by ~~him~~ that person or a member of ~~his~~ that person's household.

"Unit dose container" means a container that is a single-unit container, as defined in United States Pharmacopeia-National Formulary, for articles intended for administration by other than the parenteral route as a single dose, direct from the container.

"Unit dose package" means a container that contains a particular dose ordered for a patient.

"Unit dose system" means a system in which multiple drugs in unit dose packaging are dispensed in a single container, such as a medication drawer or bin, labeled only with patient name and location. Directions for administration are not provided by the pharmacy on the drug packaging or container but are obtained by the person administering directly from a prescriber's order or medication administration record.

"USP-NF" means the United States Pharmacopeia-National Formulary.

"Well-closed container" means a container that protects the contents from extraneous solids and from loss of the drug under the ordinary or customary conditions of handling, shipment, storage, and distribution.

~~18VAC110-20-500. Licensed emergency medical services (EMS) agencies. (Repealed.)~~

~~A. The pharmacy may prepare a kit for a licensed EMS agency provided:~~

- ~~1. The PIC of the hospital pharmacy shall be responsible for all prescription drugs and Schedule VI controlled devices contained in this kit. Except as authorized in 18VAC110-20-505, a pharmacist shall check each kit after filling and initial the filling record certifying the accuracy and integrity of the contents of the kit.~~

Regulations

2. The kit is sealed, secured, and stored in such a manner that it will deter theft or loss of drugs and devices and aid in detection of theft or loss.

a. The hospital pharmacy shall have a method of sealing the kits such that once the seal is broken, it cannot be reasonably resealed without the breach being detected.

b. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication or resealing. The pharmacy shall maintain a record of the seal identifiers when placed on a kit and maintain the record for a period of one year.

c. In lieu of a seal, a kit with a built-in mechanism preventing resealing or relocking once opened except by the provider pharmacy may be used.

3. Drugs and devices may be administered by an EMS provider upon an oral or written order or standing protocol of an authorized medical practitioner in accordance with § 54.1-3408 of the Code of Virginia. Oral orders shall be reduced to writing by the EMS provider and shall be signed by a medical practitioner. Written standing protocols shall be signed by the operational medical director for the EMS agency. A current copy of the signed standing protocol shall be maintained by the pharmacy participating in the kit exchange. The EMS provider shall make a record of all drugs and devices administered to a patient.

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. The record of the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year. A pharmacist, pharmacy technician, or nurse shall reconcile the Schedule II, III, IV, or V drugs in the kit at the time the opened kit is returned. A record of the reconciliation, to include any noted discrepancies, shall be maintained by the pharmacy for a period of two years from the time of exchange. The theft or any other unusual loss of any Schedule II, III, IV, or V controlled substance shall be reported in accordance with § 54.1-3404 of the Code of Virginia.

5. Accurate records of the following shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year:

a. The record of filling and verifying the kit to include the drug contents of the kit, the initials of the pharmacist verifying the contents, the date of verification, a record of an identifier if a seal is used, and the assigned expiration date for the kit, which shall be no later than the expiration date associated with the first drug or device scheduled to expire.

b. The record of the exchange of the kit to include the date of exchange and the name of EMS agency and EMS provider receiving the kit.

6. Destruction of partially used Schedules II, III, IV, and V drugs shall be accomplished by two persons, one of whom shall be the EMS provider and the other shall be a pharmacist, nurse, prescriber, pharmacy technician, or a second EMS provider. Documentation shall be maintained in the pharmacy for a period of two years from the date of destruction.

7. The record of the drugs and devices administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations for a period of not less than two years.

8. Intravenous and irrigation solutions provided by a hospital pharmacy to an emergency medical services agency may be stored separately outside the kit.

9. Any drug or device showing evidence of damage or tampering shall be immediately removed from the kit and replaced.

10. In lieu of exchange by the hospital pharmacy, the PIC of the hospital pharmacy may authorize the exchange of the kit by the emergency department. Exchange of the kit in the emergency department shall only be performed by a pharmacist, nurse, or prescriber if the kit contents include Schedule II, III, IV, or V drugs.

B. A licensed EMS agency may obtain a controlled substances registration pursuant to § 54.1-3423-D of the Code of Virginia for the purpose of performing a one-to-one exchange of Schedule VI drugs or devices.

1. The controlled substances registration may be issued to a single agency or to multiple agencies within a single jurisdiction.

2. The controlled substances registration issued solely for this intended purpose does not authorize the storage of drugs within the agency facility.

3. Pursuant to § 54.1-3434.02 of the Code of Virginia, the EMS provider may directly obtain Schedule VI drugs and devices from an automated drug dispensing device.

4. If such drugs or devices are obtained from a nurse, pharmacist, or prescriber, it shall be in accordance with the procedures established by the pharmacist in charge, which shall include a requirement to record the date of exchange, name of licensed person providing drug or device, name of the EMS agency and provider receiving the drug or device, and assigned expiration date. Such record shall be maintained by the pharmacy for one year from the date of exchange.

5. If an EMS agency is performing a one-to-one exchange of Schedule VI drugs or devices, Schedule II, III, IV, or V drugs shall remain in a separate, sealed container and shall only be exchanged in accordance with provisions of subsection A of this section.

18VAC110-20-505. Use of radio-frequency identification.

A. A hospital pharmacy may use radio-frequency identification (RFID) to verify the accuracy of drugs placed into a kit for ~~licensed~~ emergency medical services pursuant to ~~18VAC110-20-500~~ 18VAC110-20-591 or other kits used as floor stock throughout the hospital under the following conditions:

1. A pharmacist shall be responsible for performing and verifying the accuracy of the following tasks:
 - a. The addition, modification, or deletion of drug information into the RFID database for assignment of ~~a~~ an RFID tag to an individual drug; and
 - b. The development of the contents of the kit in the RFID database and the associated drug-specific RFID tags.
2. A pharmacy technician may place the RFID tag on the drugs, and a pharmacist shall verify that all drugs have been accurately tagged prior to storing the drugs in the pharmacy's inventory.
3. A pharmacy technician may remove RFID-tagged drugs from the pharmacy's inventory whose RFID tags have been previously verified for accuracy by a pharmacist and place the drugs into the kit's container. A pharmacy technician may then place the container into the pharmacy's device that reads the RFID tags to verify if the correct drugs have been placed into the container as compared to the list of the kit's contents in the RFID database.
4. A pharmacist shall perform a daily random check for verification of the accuracy of 5.0% of all kits prepared that day utilizing the RFID technology. A manual or electronic record from which information can be readily retrieved, shall be maintained that includes:
 - a. The date of verification;
 - b. A description of all discrepancies identified, if any; and
 - c. The initials of pharmacist, verifying the accuracy of the process.
5. Pharmacies engaged in RFID tagging of drugs shall be exempt from the requirements in subsection C of 18VAC110-20-490, subsection A of 18VAC110-20-460, and subsection A of 18VAC110-20-355.
6. All records required by this subsection shall be maintained for a period of one year from the date of verification by the pharmacist.

B. A registered EMS agency headquarters, regional EMS council, or designated location of the EMS agency or regional EMS council may use RFID to verify the accuracy of drugs placed into a kit for emergency medical services under the following conditions:

1. An EMS supervising practitioner or responsible party shall be responsible for performing and verifying the accuracy of the following tasks:
 - a. The addition, modification, or deletion of drug information into the RFID database for assignment of an RFID tag to an individual drug; and
 - b. The development of the contents of the kit in the RFID database and the associated drug-specific RFID tags.
2. A person authorized to administer drugs or a pharmacy technician may place the RFID tag on the drugs, and the EMS responsible party or designee authorized to administer drugs shall verify that all drugs have been accurately tagged prior to storing the drugs in the pharmacy's inventory.
3. A person authorized to administer drugs or a pharmacy technician may remove RFID-tagged drugs from the EMS inventory whose RFID tags have been previously verified for accuracy by the EMS responsible party or designee authorized to administer drugs and place the drugs into the kit's container. A person authorized to administer drugs may then place the container into the device that reads the RFID tags to verify if the correct drugs have been placed into the container as compared to the list of the kit's contents in the RFID database.
4. An EMS responsible party or designee authorized to administer drugs shall perform a weekly random check for verification of the accuracy of 5.0% of all kits prepared that week utilizing RFID technology. A manual or electronic record from which information can be readily retrieved shall be maintained that includes:
 - a. The date of verification;
 - b. A description of all discrepancies identified, if any; and
 - c. The initials of the EMS responsible party or designee authorized to administer drugs verifying the accuracy of the process.
5. All records required by this subsection shall be maintained for a period of one year from the date of verification by the EMS responsible party or designee authorized to administer drugs.

a. The addition, modification, or deletion of drug information into the RFID database for assignment of an RFID tag to an individual drug; and

b. The development of the contents of the kit in the RFID database and the associated drug-specific RFID tags.

2. A person authorized to administer drugs or a pharmacy technician may place the RFID tag on the drugs, and the EMS responsible party or designee authorized to administer drugs shall verify that all drugs have been accurately tagged prior to storing the drugs in the pharmacy's inventory.

3. A person authorized to administer drugs or a pharmacy technician may remove RFID-tagged drugs from the EMS inventory whose RFID tags have been previously verified for accuracy by the EMS responsible party or designee authorized to administer drugs and place the drugs into the kit's container. A person authorized to administer drugs may then place the container into the device that reads the RFID tags to verify if the correct drugs have been placed into the container as compared to the list of the kit's contents in the RFID database.

4. An EMS responsible party or designee authorized to administer drugs shall perform a weekly random check for verification of the accuracy of 5.0% of all kits prepared that week utilizing RFID technology. A manual or electronic record from which information can be readily retrieved shall be maintained that includes:

a. The date of verification;

b. A description of all discrepancies identified, if any; and

c. The initials of the EMS responsible party or designee authorized to administer drugs verifying the accuracy of the process.

5. All records required by this subsection shall be maintained for a period of one year from the date of verification by the EMS responsible party or designee authorized to administer drugs.

18VAC110-20-591. Allowances for emergency medical services agencies to obtain drugs.

A. This section contains specific provisions by which an EMS agency may obtain drugs for administration.

B. Unless prohibited by federal law, a pharmacy may prepare a kit for an EMS agency, provided:

1. The PIC of the pharmacy shall be responsible for all prescription drugs contained in this kit. Except as authorized in 18VAC110-20-505, a pharmacist shall (i) check each kit after filling and (ii) initial the filling record certifying the accuracy and integrity of the contents of the kit.

2. The kit containing drugs in Schedules II through V is sealed, secured, and stored in such a manner that will deter theft or loss of drugs and aid in detection of theft or loss. Kits

Regulations

containing only drugs in Schedule VI are not required to be sealed but must be secured in a manner to deter theft or loss.

a. The pharmacy shall have a method of sealing the kits such that once the seal is broken, it cannot be reasonably resealed without the breach being detected.

b. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication or resealing. The pharmacy shall maintain a record of the seal identifiers when placed on a kit and maintain the record for a period of one year.

c. In lieu of a seal, a kit with a built-in mechanism preventing resealing or relocking once opened except by the provider pharmacy may be used.

3. A current copy of the signed standing protocol shall be maintained by the pharmacy participating in the kit exchange. The EMS provider shall make a record of all drugs administered to a patient.

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. The record of the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year. A pharmacist, pharmacy technician, or nurse shall reconcile the Schedule II, III, IV, or V drugs in the kit at the time the opened kit is returned. A record of the reconciliation, to include any noted discrepancies, shall be maintained by the pharmacy for a period of two years from the time of exchange. The theft or any other unusual loss of any Schedule II, III, IV, or V controlled substance shall be reported in accordance with § 54.1-3404 of the Code of Virginia.

5. Accurate records of the following shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year:

a. The record of filling and verifying the kit, to include the drug contents of the kit, the initials of the pharmacist verifying the contents, the date of verification, a record of an identifier if a seal is used, and the assigned expiration date for the kit, which shall be no later than the expiration date associated with the first drug scheduled to expire.

b. The record of the exchange of the kit, to include the date of exchange and the name of EMS agency and EMS provider receiving the kit.

6. Destruction of partially used Schedules II, III, IV, and V drugs shall be accomplished by two persons, one of whom shall be the EMS provider and the other shall be a pharmacist, nurse, prescriber, pharmacy technician, or a second EMS provider. Documentation shall be maintained in the pharmacy for a period of two years from the date of destruction.

7. The record of the drugs administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations for a period of not less than two years.

8. Intravenous and irrigation solutions provided by a pharmacy to an emergency medical services agency may be stored separately outside the kit.

9. Any drug showing evidence of damage or tampering shall be immediately removed from the kit and replaced.

10. In lieu of exchange by a hospital pharmacy, the PIC of the hospital pharmacy may authorize the exchange of the kit by the emergency department. Exchange of the kit in the emergency department shall only be performed by a pharmacist, nurse, prescriber, or pharmacy technician if the kit contents include Schedule II, III, IV, or V drugs.

11. Drug kits shall be secured on the EMS vehicle or other EMS vehicle at all times, unless the vehicle is incapable of maintaining appropriate drug storage temperature or is out of service. The EMS agency is not required to obtain a controlled substances registration pursuant to § 54.1-3423 D of the Code of Virginia to participate in a pharmacy kit exchange in accordance with this section unless the EMS agency needs to temporarily store a secured drug kit within the EMS building when a vehicle is incapable of maintaining appropriate drug storage temperature or is out of service and the EMS agency does not otherwise serve as a designated location of a current, active controlled substances registration. An alarm system consistent with requirements in 18VAC110-20-710 is not required under these conditions.

C. An EMS agency or regional EMS council that has been issued a controlled substances registration pursuant to 18VAC110-20-690 G and a registration from DEA in accordance with federal law may receive drugs in Schedules II through VI and deliver or transfer the drugs to any designated location of the registered EMS agency headquarters or regional EMS council. Delivery of the drugs shall not constitute wholesale distribution.

D. For sites that are not designated locations of the entity providing the drug, nothing shall preclude a hospital, EMS agency, or regional EMS council from transferring or distributing drugs in Schedule VI to another EMS agency, regional EMS council, or a designated location of either entity during a shortage of drugs or in an emergency.

E. A hospital, EMS agency, regional EMS council, and designated locations may deliver drugs in Schedules II through V to each other consistent with federal law in the event of shortages of such drugs, a public health emergency, or a mass casualty event. All entities transferring, delivering, and receiving drugs shall comply with recordkeeping requirements listed in 18VAC110-20-721.

F. In compliance with federal law, a hospital pharmacy may provide drugs to a hospital-owned EMS agency operating as an extension of the hospital pharmacy's DEA registration.

G. If an EMS agency that is not hospital owned has obtained a controlled substances registration and a DEA registration in accordance with federal law, a pharmacy may provide that EMS agency drugs for restocking an EMS vehicle or other EMS vehicle, provided all of the following criteria are met:

1. The registered or designated location of the agency operating the EMS vehicle or other EMS vehicle maintains the record of receipt of drugs in accordance with state and federal law.

2. The pharmacy maintains a record of the delivery to the EMS agency in accordance with state and federal law.

3. If the EMS vehicle or other EMS vehicle is primarily situated at a designated location of an EMS agency, the designated location notifies the registered location of the agency within 72 hours of the EMS vehicle or other EMS vehicle receiving drugs in Schedules II through V.

4. Pursuant to § 54.1-3434.02 of the Code of Virginia, the EMS provider may directly obtain Schedule VI drugs from an automated drug dispensing device.

5. If such drugs are obtained from a nurse, pharmacist, or prescriber, it shall be in accordance with the procedures established by the pharmacist-in-charge, which shall include a requirement to record the date of exchange, name of licensed person providing the drug, name of the EMS agency and provider receiving the drug, and assigned expiration date. Such record shall be maintained by the pharmacy for one year from the date of exchange.

6. If an EMS agency is performing a one-to-one exchange of Schedule VI drugs, such Schedule VI drugs shall remain in a separate container.

H. Schedule VI drugs stored on an EMS vehicle or other EMS vehicle are not required to be stored in a sealed kit, but must be stored in a manner to deter theft or loss. Drugs in Schedules II through V stored on a ground EMS vehicle, other EMS vehicle, or EMS vehicle that is a licensed fixed-wing aircraft shall be stored in a sealed, secured kit or device within a locked cabinet that is accessible from the patient compartment of the vehicle. Drugs in Schedules II through V stored on an EMS vehicle that is a licensed rotary aircraft shall be stored in a sealed, secured kit or device to deter theft or loss.

1. The method of sealing the kits shall ensure that once the seal is broken, it cannot be reasonably resealed without the breach being detected.

2. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication or resealing. The EMS registered agency headquarters, regional EMS council, or designated location sealing and resealing the kit

shall maintain a record of the seal identifiers when placed on a kit and maintain the record for a period of one year.

3. In lieu of a seal, a kit with a built-in mechanism preventing resealing or relocking once opened except by EMS personnel may be used.

I. Registered EMS agency headquarters, regional EMS councils, and designated locations of the registered EMS agency headquarters or regional EMS councils shall implement a process to review expiration dates no less often than every three months to ensure drugs are not administered beyond the expiration date.

J. Registered EMS agency headquarters, regional EMS councils, and designated locations of the registered EMS agency headquarters or regional EMS councils shall perform drug inventories and report drug theft or unusual loss to the board in accordance with § 54.1-3404 of the Code of Virginia.

K. Registered EMS agency headquarters and regional EMS councils shall audit the security of the drug storage location and perform a random audit of Schedules II through V drugs and required recordkeeping for accuracy at least every six months at each designated location under the controlled substances registration. Documentation verifying the completion of the audit for each designated location shall be maintained at the registered EMS agency headquarters or regional EMS council for two years from the date performed.

18VAC110-20-690. Persons or entities authorized or required to obtain a controlled substances registration.

A. A person or entity that maintains or intends to maintain a supply of Schedules II through ~~Schedule~~ VI controlled substances, other than ~~manufacturers'~~ manufacturer samples, in accordance with provisions of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) may apply for a controlled substances registration on forms approved by the board.

B. Persons or entities that may be registered by the board shall include hospitals without in-house pharmacies, nursing homes without in-house pharmacies that use automated drug dispensing systems, ambulatory surgery centers, outpatient clinics, alternate delivery sites, crisis stabilization units, persons authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone and to dispense naloxone for opioid overdose reversal, ~~and~~ emergency medical services agencies, and regional EMS councils, provided such persons or entities are otherwise authorized by law and hold required licenses or appropriate credentials to administer the drugs for which the registration is being sought.

C. In determining whether to register an applicant, the board shall consider factors listed in subsections A and D of § 54.1-3423 of the Code of Virginia and compliance with applicable requirements of this chapter.

Regulations

1. The proposed location shall be inspected by an authorized agent of the board prior to issuance of a controlled substances registration.
2. Controlled substances registration applications that indicate a requested inspection date or requests that are received after the application is filed shall be honored provided a 14-day notice is allowed prior to the requested inspection date.
3. Requested inspection dates that do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.
4. Any person wishing to change an approved location of the drug stock, make structural changes to an existing approved drug storage location, or make changes to a previously approved security system shall file an application with the board and be inspected.
5. Drugs shall not be stocked within the proposed drug storage location or moved to a new location until approval is granted by the board.

D. The application shall be signed by a person who will act as a responsible party for the controlled substances. The responsible party may be a prescriber, nurse, pharmacist, pharmacy technician for alternate delivery sites, a person authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone and to dispense naloxone for opioid overdose reversal, or other person approved by the board who is authorized to administer the controlled substances.

E. The board may require a person or entity to obtain a controlled substances registration upon a determination that Schedules II through VI controlled substances have been obtained and are being used as common stock by multiple practitioners and that one or more of the following factors exist:

1. A federal, state, or local government agency has reported that the person or entity has made large purchases of controlled substances in comparison with other persons or entities in the same classification or category.
2. The person or entity has experienced a diversion, theft, or other unusual loss of controlled substances which requires reporting pursuant to § 54.1-3404 of the Drug Control Act.
3. The person or entity has failed to comply with recordkeeping requirements for controlled substances.
4. The person or entity or any other person with access to the common stock has violated any provision of federal, state, or local law or regulation relating to controlled substances.

F. The board may issue a controlled substance registration to an entity at which a patient is being treated by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically

for the purpose of establishing a bona fide practitioner-patient relationship and is being prescribed Schedules II through VI controlled substances when such prescribing is in compliance with federal requirements for the practice of telemedicine and the patient is not in the physical presence of a practitioner registered with the U.S. Drug Enforcement Administration provided:

1. There is a documented need for such registration, and issuance of the registration of the entity is consistent with the public interest;
2. The entity is under the general supervision of a licensed pharmacist or a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine; and
3. The application is signed by a person who will act as the responsible party for the entity for the purpose of compliance with provisions of this subsection. The responsible party shall be a prescriber, nurse, pharmacist, or other person who is authorized by provisions of § 54.1-3408 of the Code of Virginia to administer controlled substances.

G. The board may issue a controlled substances registration to an EMS agency or regional EMS council to receive controlled substances in Schedules II through VI from a wholesale distributor, manufacturer, third-party logistics provider, warehouse, or pharmacy. The EMS agency or regional EMS council shall identify to the board any designated location to which the EMS agency or regional EMS council may deliver controlled substances. The EMS agency or regional EMS council shall also obtain a registration from DEA in accordance with federal law prior to delivery of Schedules II through V drugs. The EMS agency or regional EMS council shall identify on the controlled substances registration application the name and physical address of the designated locations and attest that each designated location of the EMS agency or regional EMS council complies with the storage and security requirements of 18VAC110-20-710. Any changes to the designated locations shall be submitted to the board in advance of delivering or ceasing to deliver controlled substances to that location and the designated locations must be approved sites under federal law.

H. An EMS agency receiving only Schedule VI drugs from a wholesale distributor, manufacturer, third-party logistics provider, warehouse, or pharmacy or temporarily storing a secured drug kit within the EMS building when the vehicle is incapable of maintaining appropriate drug storage temperature or is out of service shall obtain a controlled substance registration or operate as a designated location of a registered EMS agency headquarters.

18VAC110-20-710. Requirements for storage and security for controlled substances registrants.

A. Drugs shall be stored under conditions that meet USP-NF specifications or ~~manufacturers'~~ manufacturer's suggested storage for each drug.

B. Any drug that has exceeded the expiration date shall not be administered; it shall be separated from the stock used for administration and maintained in a separate, locked area until properly disposed.

C. If a controlled substances registrant wishes to dispose of unwanted or expired Schedules II through VI drugs, ~~he the~~ controlled substances registrant shall transfer the drugs to another person or entity authorized to possess and to provide for proper disposal of such drugs.

D. Drugs shall be maintained in a lockable cabinet, cart, device, or other area that shall be locked at all times when not in use. The keys or access code shall be restricted to the supervising practitioner and persons designated access in accordance with 18VAC110-20-700 C.

E. A registered EMS agency headquarters or regional EMS council may store controlled substances in an automated dispensing device that is located at a secured site at the registered location or designated location of the EMS agency or regional EMS council that is (i) installed and operated by the EMS agency or regional EMS council, (ii) not used to directly dispense controlled substances to an ultimate user, and (iii) is in compliance with the requirements of state law.

F. In a facility not staffed 24 hours a day, the drugs shall be stored in a fixed and secured room, cabinet, or area that has a security device for the detection of breaking that meets the following conditions:

1. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.
2. The installation and device shall be based on accepted alarm industry standards.
3. The device shall be maintained in operating order, have an auxiliary source of power, be monitored in accordance with accepted industry standards, be maintained in operating order; and shall be capable of sending an alarm signal to the monitoring entity if breached and the communication line is not operational.
4. The device shall fully protect all areas where prescription drugs are stored and shall be capable of detecting breaking by any means when activated.
5. Access to the alarm system shall be restricted to only designated and necessary persons, and the system shall be activated whenever the drug storage areas are closed for business.
6. An alarm system is not required for researchers; animal control officers; humane societies; alternate delivery sites as provided in 18VAC110-20-275, ~~emergency medical services agencies;~~ registered EMS agencies or regional EMS councils, or designated locations of registered EMS agency headquarters or regional EMS councils stocking only

~~intravenous fluids with no added drug, Schedule VI drugs or temporarily securing a secured drug kit that may contain Schedules II through VI drugs when the EMS vehicle or other EMS vehicle cannot maintain appropriate drug storage temperature or is out of service;~~ persons authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone and to dispense naloxone for opioid overdose reversal; and teaching institutions possessing only Schedule VI drugs.

G. A registered EMS agency headquarters or regional EMS council may store controlled substances at any of the following secured locations:

1. A registered location of the EMS agency or regional EMS council;
2. A designated location of the EMS agency or regional EMS council of which the board has been notified and DEA has granted approval if stocking drugs in Schedules II through V;
3. In an EMS vehicle or other EMS vehicle situated at a registered location or designated location of the EMS agency or regional EMS council; or
4. In an EMS vehicle or other EMS vehicle used by the EMS agency that is traveling from or returning to a registered location or designated location of the EMS agency or EMS council in the course of responding to an emergency or otherwise actively in use by the EMS agency.

H. Drugs secured in an EMS agency, regional EMS council, EMS vehicle, or other EMS vehicle shall be stored at an appropriate temperature pursuant to manufacturer's directions at all times. If the EMS vehicle or other EMS vehicle cannot maintain appropriate temperature or is out of service, the drug kit may be temporarily maintained within the building of the EMS agency. The drug kit shall be stored in compliance with this section.

18VAC110-20-720. Requirements for recordkeeping.

The person named as the responsible party on the controlled substances registration shall be responsible for recordkeeping for ~~Schedule~~ Schedules II through VI drugs in accordance with provisions of § 54.1-3404 of the Code of Virginia to include the reporting of any drug theft or unusual loss and the following:

1. Inventories and administration records of Schedule II drugs shall be maintained separately from all other records and shall be kept in chronological order by date of administration.
2. ~~All~~ Except as provided in subdivision 9 of this section, all records shall be maintained at the same location as listed on the controlled substances registration or, if maintained in an off-site database, retrieved and made available for inspection

Regulations

or audit within 48 hours of a request by the board or an authorized agent.

3. In the event that an inventory is taken as the result of a theft of drugs, the inventory shall be used as the opening inventory within the current biennial period. Such an inventory does not preclude the taking of the required inventory on the required biennial inventory date. All inventories required by § 54.1-3404 of the Code of Virginia shall be signed and dated by the person taking the inventory and shall indicate whether the inventory was taken prior to the opening or after the close of business on that date. An entity ~~which~~ that is open 24 hours a day shall clearly document whether the receipt or distribution of drugs on the inventory date occurred before or after the inventory was taken.

4. Any computerized system used to maintain records shall also provide retrieval via computer monitor display or printout of the history for drugs administered during the past two years. It shall also have the capacity of producing a printout of any data ~~which~~ that the registrant is responsible for maintaining under the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

5. The Department of Forensic Science may exclude from any inventory quantities of controlled substances used to conduct chemical analyses and controlled substances received for analyses as evidentiary material as provided in § 54.1-3404 G of the Code of Virginia.

6. Documents that describe the conditions and extent of the responsible party's authorization to dispense controlled substances for each EMS provider employed by or practicing at an EMS agency holding a controlled substances registration. Such documents shall be maintained in a readily retrievable manner and be available for inspection and copying by authorized agents of the board. Examples of such documentation include protocols, practice guidelines, or practice agreements.

7. Records of all controlled substances that are received, administered, or otherwise disposed of, records of deliveries of controlled substances between all locations of an EMS agency or regional EMS council pursuant to the controlled substance registration, and record of the standing or verbal orders issued or adopted.

8. Documentation verifying the completion of audit for each designated location pursuant to 18VAC110-20-591 K.

9. Records required to be maintained by an EMS agency or regional EMS council shall be maintained, whether electronically or otherwise, pursuant to subdivision 2 of this section or at each registered location, designated location of the EMS agency, or regional EMS council where the controlled substances involved are received, administered, or otherwise disposed of for two years from the date of execution of the record.

18VAC110-20-721. Additional recordkeeping requirements for EMS agencies.

A. Each EMS agency holding a controlled substances registration or serving as a designated location of an EMS agency or regional EMS council, including a hospital-owned EMS agency operating under a hospital registration, responsible for administering a drug must maintain written standing protocols signed by the operational medical director for the EMS agency that authorize the administration. Oral orders authorizing the administration shall be reduced to writing by the EMS provider and shall be signed by a medical practitioner and maintained by the EMS entity responsible for administering the drug.

B. A record for each dose of drug in Schedules II through VI administered and destruction of partially administered drug in the course of providing emergency medical services must also be maintained. Destruction of partially used Schedules II, III, IV, and V drugs shall be accomplished by two persons, one of whom shall be the EMS provider and the other shall be a pharmacist, nurse, prescriber, pharmacy technician, or a second EMS provider. Except as indicated in 18VAC110-20-591 for emergency drug kits provided by a pharmacy, documentation shall be maintained in the EMS agency or the designated location of an EMS agency or regional EMS council for a period of two years from the date of destruction.

C. The following records shall be maintained for each acquisition of a drug in Schedules II through VI from another registrant of the board or each distribution of a drug in Schedules II through VI to another registrant of the board:

1. For each acquisition of a drug from another registrant:

a. Name of the drug;

b. Finished form of the drug (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter);

c. Number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or 3-milliliter vial);

d. Number of commercial containers acquired;

e. Date of the acquisition;

f. Name, address, and registration number of the person from whom the substance was acquired; and

g. Name and title of the person acquiring the drug.

2. For each distribution of drug in Schedules II through VI to another registrant:

a. Name of the drug;

b. Finished form of the drug (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter);

c. Number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or 3-milliliter vial);

d. Number of commercial containers distributed;

- e. Date of the distribution;
- f. Name, address, and registration number of the person to whom the substance was distributed; and
- g. Name and title of the person in receipt of the distributed drugs.

3. For each delivery of drug in Schedules II through VI between a designated location and a registered location:

- a. Name of the drug;
- b. Finished form of the drug (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter);
- c. Number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or 3-milliliter vial);
- d. Number of units or volume of finished form in each commercial container and number of commercial containers delivered (e.g., 100-tablet bottle or 3-milliliter vial);
- e. Date of the delivery;
- f. Name and address of the designated location to which the substance was delivered; and
- g. Name and title of the person in receipt of the controlled substances.

4. For destruction of a drug in Schedules II through VI, unless otherwise authorized under federal law, expired or unwanted drugs shall be transferred to another person or entity authorized to possess or provide for proper disposal of such drugs.

D. A designated location of an EMS agency that receives drugs in Schedules II through V must notify the EMS agency's registered location within 72 hours of receipt of the drugs in the following circumstances:

- 1. An EMS vehicle or other EMS vehicle primarily situated at a designated location of the EMS agency acquires drug from a hospital while restocking following a response; or
- 2. The designated location of the EMS agency receives drugs from another designated location of the same agency.

E. To the extent permitted by federal law, registered EMS agency headquarters, regional EMS councils, or designated locations of the EMS agency or regional EMS council in which the repackaging or prepackaging of over-the-counter drugs is performed shall maintain adequate control records for a period of one year or until the expiration of the drugs, whichever is greater.

- 1. The records shall show the name of the drugs used; strength, if any; date repackaged; quantity prepared; initials of the pharmacist, EMS responsible party, or designee authorized to administer drugs verifying the process; the assigned lot or control number; the manufacturer or distributor name and lot or control number; and an expiration date.

2. Any subsequently repackaged units shall show the name of the drug; strength, if any; the assigned lot or control number or the manufacturer or distributor name and lot or control number; and an appropriate expiration date determined by the pharmacist, EMS responsible party, or designee authorized to administer drugs in accordance with USP guidelines.

3. Repackaging of drugs shall be performed in compliance with USP-NF standards.

VA.R. Doc. No. R25-7873; Filed August 16, 2024, 8:44 a.m.

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

Title of Regulation: 18VAC110-20. Regulations Governing the Practice of Pharmacy.

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

FORMS (18VAC110-20)

- [Application for a Pharmacy Permit \(rev. 1/2024\)](#)
- [Application for a Nonresident Pharmacy Registration \(rev. 1/2024\)](#)
- [Application for a Nonresident Wholesale Distributor Registration \(rev. 4/2024\)](#)
- [Application for Registration as Nonresident Manufacturer \(rev. 10/2020\)](#)
- [Application for a Nonresident Third-Party Logistics Provider Registration \(rev. 4/2024\)](#)
- [Application for Registration as a Nonresident Warehouser \(rev. 10/2020\)](#)
- [Application for a Nonresident Outsourcing Facility Registration \(rev. 10/2020\)](#)
- [Application for an Outsourcing Facility Permit \(rev. 10/2020\)](#)
- [Application for a Medical Equipment Supplier Permit \(rev. 10/2020\)](#)
- [Application for a Permit as a Restricted Manufacturer \(rev. 10/2020\)](#)
- [Application for a Permit as a Nonrestricted Manufacturer \(rev. 10/2020\)](#)

Regulations

[Application for a Wholesale Distributor Permit \(rev. 4/2024\)](#)

[Application for a Permit as Warehouse \(rev. 10/2020\)](#)

[Application for a Permit as a Third-Party Logistics Provider \(rev. 4/2024\)](#)

[Application for Registration as a Nonresident Medical Equipment Supplier \(rev. 10/2020\)](#)

~~[Application for a Controlled Substances Registration Certificate \(rev. 10/2020\)](#)~~

[Application for a Controlled Substances Registration Certificate \(rev. 8/2024\)](#)

[Closing of a Pharmacy \(rev. 5/2018\)](#)

[Application for Approval of an Innovative \(Pilot\) Program \(rev. 8/2023\)](#)

[Registration for a Pharmacy to be a Collection Site for Donated Drugs \(rev. 5/2018\)](#)

[Application for Approval of a Repackaging Training Program \(rev. 10/2020\)](#)

[Registration for a Facility to be an Authorized Collector for Drug Disposal \(rev. 5/2018\)](#)

[Application for Reinspection of a Facility \(rev. 3/2023\)](#)

[Notification of Distribution Cessation due to Suspicious Orders \(rev. 5/2018\)](#)

VA.R. Doc. No. R25-8040; Filed August 19, 2024, 12:25 p.m.

BOARD OF COUNSELING

Final Regulation

REGISTRAR'S NOTICE: The Board of Counseling is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC115-50. Regulations Governing the Practice of Marriage and Family Therapy (amending 18VAC115-50-40).**

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

Effective Date: October 9, 2024.

Agency Contact: Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4406, FAX (804) 527-4435, or email jaime.hoyle@dhp.virginia.gov.

Summary:

Pursuant to Chapter 431 of the 2024 Acts of Assembly, the amendments limit the requirements for what documentation an applicant for licensure by endorsement as a marriage and family therapist must submit.

18VAC115-50-40. Application for licensure by endorsement.

~~A.~~ Every applicant for licensure by endorsement shall hold or have held a valid and unrestricted marriage and family license in another jurisdiction in the United States and shall submit:

1. A completed application;
2. The application processing and initial licensure fee prescribed in 18VAC115-50-20;
3. Documentation of licensure ~~as follows:~~ ~~a. Verification through verification~~ of all mental health or health professional licenses or certificates ever held in any other jurisdiction. In order to qualify for endorsement, the applicant shall have no unresolved action against a license or certificate. The board will consider history of disciplinary action on a case-by-case basis; ~~and~~
~~b. Documentation of a marriage and family therapy license obtained by standards specified in subsection B of this section;~~
4. ~~Verification of a passing score on a marriage and family therapy licensure examination in the jurisdiction in which licensure was obtained;~~
5. ~~4.~~ An affidavit of having read and understood the regulations and laws governing the practice of marriage and family therapy in Virginia; and
6. ~~5.~~ A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).

~~B.~~ Every applicant for licensure by endorsement shall meet ~~one of the following:~~

1. ~~Educational requirements consistent with those specified in 18VAC115-50-50 and 18VAC115-50-55 and experience requirements consistent with those specified in 18VAC115-50-60;~~
2. ~~If an applicant does not have educational and experience credentials consistent with those required by this chapter, he shall provide:~~
 - a. ~~Documentation of education and supervised experience that met the requirements of the jurisdiction in which he was initially licensed as verified by an official transcript and a certified copy of the original application materials; and~~
 - b. ~~Evidence of clinical practice as a marriage and family therapist for 24 of the last 60 months immediately preceding his licensure application in Virginia. Clinical~~

~~practice shall mean the rendering of direct clinical services in marriage and family therapy or clinical supervision of marriage and family services; or~~

~~3. In lieu of transcripts verifying education and documentation verifying supervised experience, the board may accept verification from the credentials registry of the American Association of State Counseling Boards or any other board recognized entity.~~

VA.R. Doc. No. R25-8006; Filed August 20, 2024, 8:18 a.m.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Final Regulation

Title of Regulation: **18VAC120-30. Regulations Governing Polygraph Examiners (amending 18VAC120-30-200).**

Statutory Authority: § 54.1-1802.1 of the Code of Virginia.

Effective Date: November 1, 2024.

Agency Contact: Marjorie King, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, FAX (866) 430-1033, TDD (804) 527-4290, or email contractors@dpor.virginia.gov.

Summary:

The amendments require a polygraph examiner to disclose to an examinee that the polygraph examination is subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).

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

18VAC120-30-200. Polygraph examination procedures.

A. Each licensed polygraph examiner and registered polygraph examiner intern must post, in a conspicuous place for the examinee, his license or registration, or a legible copy of his license or registration to practice in Virginia.

B. The examiner shall provide the examinee with a written explanation of the provisions of 18VAC120-30-200, 18VAC120-30-210, and 18VAC120-30-220 at the beginning of each polygraph examination.

C. The examinee may request a recording of the polygraph examination being administered. Each examiner shall maintain recording equipment and recording media adequate for such recording. The examiner shall safeguard all examination recordings with the records he is required to keep pursuant to 18VAC120-30-230. All recordings shall be made available to the department, the examinee, or the examinee's attorney upon request. The examiner may charge the examinee a fee not to exceed \$35 only if the examinee requests and receives a copy of an examination.

D. The examinee shall be entitled to a copy of all portions of any written report pertaining to his examination ~~which~~ that is prepared by the examiner and provided to any person or organization. The examinee shall make his request in writing to the examiner. The examiner shall comply within 10 business days of providing the written report to any person or organization or receiving the examinee's written request, whichever occurs later. The examiner may collect not more than \$1.00 per page from the examinee for any copy provided.

E. The provisions of subsections B, C, and D of this section shall not be applicable to any examination conducted by or on behalf of the Commonwealth or any of its political subdivisions when the examination is for the purpose of preventing or detecting crime or the enforcement of penal laws. However, examiners administering examinations as described in this section shall comply with subsection B of this section through a verbal explanation of the provisions of 18VAC120-30-210 and 18VAC120-30-220.

F. The examiner must disclose to the examinee that the examination is subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).

VA.R. Doc. No. R23-7093; Filed August 20, 2024, 9:06 a.m.

REAL ESTATE BOARD

Final Regulation

REGISTRAR'S NOTICE: The Real Estate Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC135-20. Virginia Real Estate Board Licensing Regulations (amending 18VAC135-20-10, 18VAC135-20-65).**

Statutory Authority: §§ 54.1-201 and 54.1-2105 of the Code of Virginia.

Effective Date: November 1, 2024.

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

Summary:

Pursuant to Chapter 157 of the 2024 Acts of Assembly, the amendments revise definitions and provide for the qualifications necessary for individuals to receive a license, including (i) holding a current and valid license with a similar scope of practice in a neighboring state, (ii)

Regulations

paying an application fee, and (iii) passing the Virginia Real Estate Exam.

18VAC135-20-10. Definitions.

The following words and terms when used in this chapter ~~shall have the following meanings~~ unless a different meaning is provided or is plainly required by the context ~~shall have the following meanings:~~

"Active" means any broker or salesperson who is under the supervision of a principal or supervising broker of a firm or sole proprietor and who is performing those activities defined in §§ § 54.1-2100 ~~and 54.1-2101~~ of the Code of Virginia.

"Actively engaged" means active licensure with a licensed real estate firm or sole proprietorship in performing those activities as defined in §§ § 54.1-2100 ~~and 54.1-2101~~ of the Code of Virginia for an average of at least 40 hours per week. This requirement may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.

"Actively engaged in the brokerage business" means anyone who holds an active real estate license.

"Another state" means the same as the term is defined in § 54.1-205 of the Code of Virginia.

"Associate broker" means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

"Client" means a person who has entered into a brokerage relationship with a licensee as defined by § 54.1-2130 of the Code of Virginia.

"Firm" means any sole proprietorship (nonbroker owner), partnership, association, limited liability company, or corporation, other than a sole proprietorship (principal broker owner), which is required by 18VAC135-20-20 B to obtain a separate brokerage firm license. The firm's licensed name may be any assumed or fictitious name properly filed with the board.

"Inactive status" means any broker or salesperson who is not under the supervision of a principal broker or supervising broker, who is not active with a firm or sole proprietorship, and who is not performing any of the activities defined in §§ § 54.1-2100 ~~and 54.1-2101~~ of the Code of Virginia.

"Independent contractor" means a licensee who acts for or represents a client other than as a standard agent and whose duties and obligations are governed by a written contract between the licensee and the client.

"Licensee" means real estate brokers and salespersons as defined in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or real estate firms.

"Neighboring state" means the same as the term is defined in § 54.1-205 of the Code of Virginia.

"Principal broker" means the individual broker who shall be designated by each firm to ~~assure~~ ensure compliance with Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia; and this chapter; and to receive communications and notices from the board that may affect the firm or any licensee active with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees. The principal broker shall have signatory authority on all escrow accounts maintained by the firm.

"Principal to a transaction" means a party to a real estate transaction, including ~~without limitation~~ a seller or buyer, landlord or tenant, optionor or optionee, or licensor or licensee. For the purposes of this chapter, the listing or selling broker, or both, are not by virtue of their brokerage relationship, principals to the transaction.

"Sole proprietor" means any individual, not a corporation, limited liability company, partnership, or association, who is trading under the individual's name or under an assumed or fictitious name pursuant to the provisions of Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia.

"Standard agent" means a licensee who acts for or represents a client in an agency relationship. A standard agent shall have the obligations as provided in Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia.

"Supervising broker" means (i) the individual broker who shall be designated by the principal broker to supervise the provision of real estate brokerage services by the associate brokers and salespersons assigned to branch offices or real estate teams or (ii) the broker, who may be the principal broker, designated by the principal broker to supervise a designated agent as stated in § 54.1-2130 of the Code of Virginia.

18VAC135-20-65. Universal license recognition.

A. Licensed in a neighboring state. The board will issue a salesperson or broker license under universal license recognition to an individual who meets the following qualifications:

1. The individual holds a current and valid license with a similar scope of practice in a neighboring state;
2. The individual's other license is in good standing with no reported pending complaints;
3. The individual has met the requirements set in subdivision 4 of 18VAC135-20-30;
4. The individual has not been subject to professional discipline involving harm to the public or license probation, suspension, or revocation;
5. The individual pays the reciprocity application fee as listed in 18VAC135-20-80; and

6. The individual successfully passes the Virginia Real Estate Exam.

B. Licensed in another state. The board will issue a salesperson or broker license under universal license recognition to an individual who meets the following qualifications:

1. The individual holds a current and valid license with a similar scope of practice in another state, territory, possession, or jurisdiction of the United States for at least three years;
2. The individual was licensed in the other state after having passed a state required exam and met education, training, or experience requirements to obtain the license;
3. The individual's other license is in good standing with no reported pending complaints;
4. The individual has met the requirements set in subdivision 4 of 18VAC135-20-30;
5. The individual has not been subject to professional discipline involving harm to the public or license probation, suspension, or revocation;
6. The individual pays the reciprocity application fee as listed in 18VAC135-20-80; and
7. The individual successfully passes the Virginia Real Estate Exam.

B-C. Experience in a state that does not require licensure. The board will hold an individual to have met all experience, training, and education requirements if the applicant has three years of experience in a state that does not require licensure.

1. To be exam eligible under universal license recognition, an individual must have:
 - a. Demonstrated at least three years of experience as a salesperson or broker in another state that does not issue an occupational or professional license for that respective profession;
 - b. Met the requirements set in subdivision 4 of 18VAC135-20-30;
 - c. Not been subject to professional discipline involving harm to the public or license probation, suspension, or revocation; and
 - d. Paid the applicable application fee as listed in 18VAC135-20-80.
2. Under this subsection, individuals are required to pass all exams required of initial applicants for the license under 18VAC135-20-30.

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, Fourth Floor, Richmond, Virginia 23219.

FORMS (18VAC135-20)

- [Exchange to Salesperson License Application, A490-02DLIC-v3 \(eff. 11/2015\)](#)
- [Pre-license Prelicense Education Instructor Certification Application, A490-0230INSTR-v5 \(rev. 11/2015\)](#)
- [Proprietary School Certification Application, A490-0211SCHL-v2 \(rev. 11/2015\)](#)
- [Real Estate Firm/Sole Proprietorship Audit, F490-02AUD \(rev. 7/2014\)](#)
- [Individual - Name/Address Change Form, A954640-02NACHG-v2 \(rev. 5/2015\)](#)
- [Firm License Application, A490-0226FLIC-v2 \(rev. 2/2013\)](#)
- [Branch Office License Application, A490-0226BRLIC-v2 \(rev. 2/2013\)](#)
- [Business Entity License Transfer Application, A490-0226BETR-v2 \(rev. 2/2013\)](#)
- [Business Entity License/Reinstatement Application, A490-0226BELIC-v3 \(rev. 4/2013\)](#)
- [Add-on/Removal of Business Entity Member Application, A490-0226ARBEM-v2 \(rev. 2/2013\)](#)
- [Salesperson License Application, A490-0225SLIC-v2 \(rev. 2/2013\)](#)
- [Salesperson - Universal License Recognition \(ULR\) Application - A490-0225S-ULR-v3 \(rev. 7/2024\)](#)
- [Salesperson - Activate/Transfer Application, A490-0225SAT-v2 \(rev. 4/2015\)](#)
- [Place License Inactive Application, A490-0225INACT-v1 \(rev. 1/2013\)](#)
- [Concurrent Broker License Application, A490-0225CONCUR-v3 \(rev. 6/2013\)](#)
- [Concurrent Broker Acknowledgment Form, A490-0225CBA-v1 \(rev. 2/2015\)](#)
- [Broker License Application, A490-0225BLIC-v2 \(rev. 2/2013\)](#)
- [Broker - Universal License Recognition \(ULR\) Application - A490-0225B-UNIV-v4 \(rev. 7/2024\)](#)

Regulations

Broker - Activate/Transfer Application, A490-0225BAT-v2 (rev. 4/2015)

Online Approval - Broker Acknowledgment Form, A490-0225BACK-v1 (rev. 12/2014)

In-State Experience Verification Form, A490-02VAEXP-v2 (rev. 2/2013)

Signature Authority Application, A460-02SIG_AUT-v2 (rev. 1/2013)

Branch Office - Supervising Broker Change Form, A490-02SBCHG-v2 (rev. 2/2013)

Firm Principal Broker/Officer Change Form, A490-02PBOCHG-v2 (rev. 2/2013)

Out-of-State Experience Verification Form, A490-02OSEXP-v2 (rev. 2/2013)

Firm Name/Address Change Form, A490-02FNACHG-v1 (rev. 1/2013)

Supervising Broker Certification Form, A490-02CERTFRM-v1 (rev. 1/2013)

Prelicense Education Course Approval Application, A490-0214PRE-v2 (rev. 1/2014)

Additional Instructor Approval Application, A490-0214ADD-v3 (rev. 5/2013)

Continuing Education Course Approval Application, A490-0214CRS-v5 (rev. 6/2015)

Post License Education Course Approval Application, A490-0214PLE-v5 (rev. 6/2015)

VA.R. Doc. No. R25-7863; Filed August 13, 2024, 1:06 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Real Estate Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC135-20. Virginia Real Estate Board Licensing Regulations (amending 18VAC135-20-10, 18VAC135-20-20, 18VAC135-20-160).

Statutory Authority: §§ 54.1-201 and 54.1-2105 of the Code of Virginia.

Effective Date: November 1, 2024.

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

Summary:

Pursuant to Chapters 327 and 352 of the 2024 Acts of the Assembly, the amendments (i) add definitions; (ii) require every principal broker to have the firm license, principal broker license, and the license of every salesperson and broker active with the firm readily available to the public in the broker's primary place of business; and (iii) require each branch office to have the branch office license and a roster of every salesperson or broker assigned to that branch office readily available to the public.

18VAC135-20-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless a different meaning is provided or is plainly required by the context ~~shall have the following meanings:~~

"Active" means any broker or salesperson who is under the supervision of a principal or supervising broker of a firm or sole proprietor and who is performing those activities defined in §§ § 54.1-2100 ~~and 54.1-2101~~ of the Code of Virginia.

"Actively engaged" means active licensure with a licensed real estate firm or sole proprietorship in performing those activities as defined in §§ § 54.1-2100 ~~and 54.1-2101~~ of the Code of Virginia for an average of at least 40 hours per week. This requirement may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.

"Actively engaged in the brokerage business" means anyone who holds an active real estate license.

"Associate broker" means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

"Branch office" means the same as the term is defined in § 54.1-2100 of the Code of Virginia.

"Client" means a person who has entered into a brokerage relationship with a licensee as defined by § 54.1-2130 of the Code of Virginia.

"Firm" means any sole proprietorship (nonbroker owner), partnership, association, limited liability company, or corporation, other than a sole proprietorship (principal broker owner), which is required by 18VAC135-20-20 B to obtain a separate brokerage firm license. The firm's licensed name may be any assumed or fictitious name properly filed with the board.

"Inactive status" means any broker or salesperson who is not under the supervision of a principal broker or supervising broker, who is not active with a firm or sole proprietorship, and who is not performing any of the activities defined in §§ § 54.1-2100 ~~and 54.1-2101~~ of the Code of Virginia.

"Independent contractor" means a licensee who acts for or represents a client other than as a standard agent and whose

duties and obligations are governed by a written contract between the licensee and the client.

"Licensee" means real estate brokers and salespersons as defined in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or real estate firms.

"Place of business" means the same as the term is defined in § 54.1-2100 of the Code of Virginia.

"Principal broker" means the individual broker who shall be designated by each firm to ~~assure~~ ensure compliance with Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, and this chapter, and to receive communications and notices from the board that may affect the firm or any licensee active with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees. The principal broker shall have signatory authority on all escrow accounts maintained by the firm.

"Principal to a transaction" means a party to a real estate transaction, including ~~without limitation~~ a seller or buyer, landlord or tenant, optionor or optionee, or licensor or licensee. For the purposes of this chapter, the listing or selling broker, or both, are not by virtue of their brokerage relationship, principals to the transaction.

"Sole proprietor" means any individual, not a corporation, limited liability company, partnership, or association, who is trading under the individual's name or under an assumed or fictitious name pursuant to the provisions of Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia.

"Standard agent" means a licensee who acts for or represents a client in an agency relationship. A standard agent shall have the obligations as provided in Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia.

"Supervising broker" means (i) the individual broker who shall be designated by the principal broker to supervise the provision of real estate brokerage services by the associate brokers and salespersons assigned to branch offices or real estate teams or (ii) the broker, who may be the principal broker, designated by the principal broker to supervise a designated agent as stated in § 54.1-2130 of the Code of Virginia.

18VAC135-20-20. Necessity for license (Refer to § 54.1-2106.1 of the Code of Virginia.).

A. Sole proprietor (principal broker owner). A real estate broker's license shall be issued to an individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, only after the individual signs and acknowledges a certificate provided by the board that sets forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. The board will consider the application of an individual only after the

individual is authorized to conduct business in accordance with Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia.

B. Sole proprietor (nonbroker owner), partnership, association, limited liability company, or corporation. Every sole proprietor (nonbroker owner), partnership, association, limited liability company, or corporation must secure a real estate license for its firm before transacting real estate business. This license is separate and distinct from the individual broker license required of each partner, associate, manager of a limited liability company, and officer of a corporation who is active in the firm's brokerage business. Each applicant for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out to the public. Each applicant shall also disclose the business address of the firm. The board will consider the application of any partnership, association, corporation, or limited liability company only after the entity is authorized to conduct business in accordance with Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia.

C. Each real estate firm is required to have a principal broker whose license is in good standing with the board in order to transact real estate business.

D. Branch office license. If a real estate broker maintains more than one place of business within the state, a branch office license shall be issued for each additional place of business maintained other than the broker's primary place of business noted on the firm license application. Application for the license shall be made on forms provided by the board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising broker for that branch office. The branch office license shall be maintained at the branch office location. No branch office license shall be required for:

1. A location that the principal broker or those employed by or affiliated as an independent contractor with the principal broker does not own, lease, or maintain exclusive access to, maintenance of, and control of, unless it is held out to the public as a location where such persons or entities are regularly engaging in the activities of a real estate broker or salesperson;
2. A motor vehicle or watercraft;
3. A place that is solely devoted to advertising real estate matters of a general nature or to making a real estate broker's business name generally known, such as a trade show or expo;
4. A residence, unless it is held out to the public as a location where the principal broker or those employed by or affiliated as an independent contractor with the principal broker is regularly engaging in the activities of a real estate broker or salesperson;

Regulations

5. A post office box, mail drop location, or other similar facility; or

6. A public location, such as a coffee shop or restaurant.

18VAC135-20-160. Place of business.

~~A. Within the meaning and intent of § 54.1-2110 of the Code of Virginia, a place of business shall be an office where:~~

~~1. The principal broker, either through his own efforts or through the efforts of his employees or associates, regularly transacts the business of a real estate broker as defined in § 54.1-2100 of the Code of Virginia; and~~

~~2. The principal broker and his employees or associates can receive business calls and direct business calls to be made.~~

~~B. A. No place of business shall be in a residence unless it is separate and distinct from the living quarters of the residence with its own entrance and is accessible by the public.~~

~~C. B. Every principal broker shall have readily available to the public in the main primary place of business the firm license, the principal broker license, and the license of every salesperson and broker active with the firm. The Each branch office license and a roster of every salesperson or broker assigned to the branch office shall be posted in a conspicuous place in each branch office shall have readily available to the public the branch office license and a roster of every salesperson or broker assigned to that branch office.~~

VA.R. Doc. No. R25-7869; Filed August 13, 2024, 1:13 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Real Estate Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC135-20. Virginia Real Estate Board Licensing Regulations (amending 18VAC135-20-10, 18VAC135-20-60, 18VAC135-20-140, 18VAC135-20-155, 18VAC135-20-260, 18VAC135-20-360).

Statutory Authority: §§ 54.1-201 and 54.1-2105 of the Code of Virginia.

Effective Date: November 1, 2024.

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

Summary:

Pursuant to Chapters 459 and 621 of the 2024 Acts of Assembly, the amendments (i) add definitions, (ii) make

technical changes, and (iii) repeal references to § 54.1-2101 of the Code of Virginia.

18VAC135-20-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless a different meaning is provided or is plainly required by the context shall have the following meanings:

"Active" means any broker or salesperson who is under the supervision of a principal or supervising broker of a firm or sole proprietor and who is performing those activities defined in §§ § 54.1-2100 and 54.1-2101 of the Code of Virginia.

"Actively engaged" means active licensure with a licensed real estate firm or sole proprietorship in performing those activities as defined in §§ § 54.1-2100 and 54.1-2101 of the Code of Virginia for an average of at least 40 hours per week. This requirement may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.

"Actively engaged in the brokerage business" means anyone who holds an active real estate license.

"Associate broker" means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

"Client" means a person who has entered into a brokerage relationship with a licensee as defined by § 54.1-2130 of the Code of Virginia.

"Firm" means any sole proprietorship (nonbroker owner), partnership, association, limited liability company, or corporation, other than a sole proprietorship (principal broker owner), which is required by 18VAC135-20-20 B to obtain a separate brokerage firm license. The firm's licensed name may be any assumed or fictitious name properly filed with the board.

"Inactive status" means any broker or salesperson who is not under the supervision of a principal broker or supervising broker, who is not active with a firm or sole proprietorship, and who is not performing any of the activities defined in §§ § 54.1-2100 and 54.1-2101 of the Code of Virginia.

"Independent contractor" means a licensee who acts for or represents a client other than as a standard agent and whose duties and obligations are governed by a written contract between the licensee and the client.

"Licensee" means real estate brokers and salespersons as defined in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or real estate firms.

"Principal broker" means the individual broker who shall be designated by each firm to assure ensure compliance with Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, and this chapter, and to receive communications and notices from the board that may affect the firm or any licensee

active with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees. The principal broker shall have signatory authority on all escrow accounts maintained by the firm.

"Principal to a transaction" means a party to a real estate transaction, including ~~without limitation~~ a seller or buyer, landlord or tenant, optionor or optionee, or licensor or licensee. For the purposes of this chapter, the listing or selling broker, or both, are not by virtue of their brokerage relationship, principals to the transaction.

"Sole proprietor" means any individual, not a corporation, limited liability company, partnership, or association, who is trading under the individual's name or under an assumed or fictitious name pursuant to the provisions of Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia.

"Standard agent" means a licensee who acts for or represents a client in an agency relationship. A standard agent shall have the obligations as provided in Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia.

"Supervising broker" means (i) the individual broker who shall be designated by the principal broker to supervise the provision of real estate brokerage services by the associate brokers and salespersons assigned to branch offices or real estate teams or (ii) the broker, who may be the principal broker, designated by the principal broker to supervise a designated agent as stated in § 54.1-2130 of the Code of Virginia.

18VAC135-20-60. Qualifications for licensure by reciprocity.

An individual who is currently licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate license by meeting the following requirements:

1. The applicant shall be at least 18 years of age.
2. The applicant shall have a high school diploma or its equivalent.
3. The applicant shall have received the salesperson's or broker's license by virtue of having passed in the jurisdiction of licensure a written examination deemed to be substantially equivalent to the Virginia examination.
4. The applicant shall sign a statement verifying that ~~he the~~ applicant has read and understands the provisions of this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia.
5. The applicant, within 12 months prior to submitting a complete application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board covering Virginia real estate license law and regulations of the Real Estate Board.

6. The applicant shall follow all procedures established with regard to conduct at the examination. Failure to comply with all procedures established by the board with regard to conduct at the examination may be grounds for denial of application.

7. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson ~~which that~~ was suspended, revoked, or surrendered in connection with a disciplinary action or ~~which that~~ has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. The applicant shall be in compliance with all the terms of all board orders, including ~~but not limited to~~ paying imposed monetary penalties and costs, plus any accrued interest and other fees, and completing imposed education.

8. At the time of application for a salesperson's license, the applicant must have met educational requirements that are substantially equivalent to those required in Virginia. At the time of application for a broker's license, the applicant must have met educational requirements that are substantially equivalent to those required in Virginia, and the applicant must have been actively engaged as defined by 18VAC135-20-10 for 36 of the preceding 48 months. The broker applicant's experience must be verified by an individual who has direct knowledge of the applicant's activities as defined in ~~§§ § 54.1-2100 and 54.1-2101~~ of the Code of Virginia. These requirements may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.

9. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate salesperson or broker in such a manner as to safeguard the interests of the public.

10. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall submit to fingerprinting and shall disclose the following information:

- a. All misdemeanor convictions involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury within five years of the date of the application; and
- b. All felony convictions during ~~his~~ the applicant's lifetime.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

11. Applicants for licensure who do not meet the requirements set forth in subdivisions 7 and 10 of this section may be approved for licensure following consideration by the board.

18VAC135-20-140. Failure to renew; reinstatement required.

- A. All applicants for reinstatement must meet all requirements

Regulations

set forth in 18VAC135-20-101. Applicants for reinstatement who want to activate ~~their~~ a license must have completed the continuing education requirement in order to reinstate and activate the license. Applicants for reinstatement of an inactive license are not required to complete the continuing education requirement for license reinstatement.

B. If the requirements for renewal of a license, including receipt of the fee by the board, are not completed by the licensee within 30 days of the expiration date noted on the license, a reinstatement fee is required as follows:

Salesperson	\$100
Salesperson's or broker's license as a business entity	\$135
Broker	\$120
Concurrent Broker	\$120
Firm	\$245
Branch Office	\$135

C. A license may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the license may not be reinstated under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.

D. A licensee may not perform activities defined in §§ § 54.1-2100 and ~~54.1-2101~~ of the Code of Virginia with an expired license. Any real estate activity conducted subsequent to the expiration date may constitute unlicensed activity and be subject to prosecution under Chapter 1 (§ 54.1-100 et seq.) of Title 54.1 of the Code of Virginia.

18VAC135-20-155. Grounds for disciplinary action.

The board has the power to fine any licensee or certificate holder and to suspend or revoke any license or certificate issued under the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia and this chapter in accordance with subdivision A 7 of § 54.1-201 and § 54.1-202 of the Code of Virginia and the provisions of the Administrative Process Act, ~~Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2~~ of the Code of Virginia, where the licensee or certificate holder has been found to have violated or cooperated with others in violating any provision of Chapters 1 (§ 54.1-100 et seq.), 2 (§ 54.1-200 et seq.), 3 (§ 54.1-300 et seq.), and 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 of the Code of Virginia, or any regulation of the board. Any licensee failing to comply with the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the Real Estate Board in performing any acts covered by §§ § 54.1-2100 and ~~54.1-2101~~ of the Code of Virginia may be charged with a violation, regardless of whether those acts are in the licensee's personal capacity or in ~~his~~ the licensee's capacity as a real estate licensee.

18VAC135-20-260. Prohibited acts.

The following are prohibited acts:

1. Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license;
2. Holding more than one license as a real estate broker or salesperson in Virginia, except as provided in this chapter;
3. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;
4. As a currently licensed real estate broker, sitting for a real estate licensing examination;
5. Signing an experience verification form without direct supervision or actual knowledge of the applicant's activities as defined in §§ § 54.1-2100 and ~~54.1-2101~~ of the Code of Virginia or unreasonably refusing to sign an experience verification form;
6. Having been convicted or found guilty regardless of the manner of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury, or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision;
7. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty regardless of adjudication of any convictions as stated in subdivision 6 of this section;
8. Having had a license as a real estate broker or real estate salesperson that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction;
9. Failing to inform the board in writing within 30 days of a disciplinary action as stated in subdivision 8 of this section;
10. Having been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States, including ~~without limitation~~ Title VIII of the Civil Rights Act of 1968 (82 Stat. 73); or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal therefrom or the time for appeal having elapsed;
11. Actions constituting failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public, including ~~but not limited to~~ the following:
 - a. A principal broker or supervising broker failing to ensure proper supervision and accountability over the firm's day-to-day financial dealings, escrow account ~~or~~ accounts, and daily operations;

- b. A broker failing to disburse funds from an escrow account according to the regulations or failing to properly retain documents relating to the basis for disbursement;
- c. A broker failing to ensure the licensees for whom the broker has oversight responsibility hold active licenses while practicing real estate;
- d. A broker failing to provide accurate and timely reports to the board about a licensee's compliance with the board's laws and regulations;
- e. A broker failing to have signatory authority on all accounts;
- f. A broker failing to account for or remit any moneys coming into a licensee's possession that belong to another;
- g. A licensee failing to submit to the broker in a timely manner, all earnest money deposits, contracts, listing agreements, deeds of lease, or any other documents for which the broker has oversight responsibility;
- h. A licensee negotiating leases for a third party through an unlicensed firm or without a principal broker;
- i. A licensee operating an unlicensed firm or acting as a principal broker;
- j. A licensee practicing real estate with an inactive or expired license;
- k. A licensee knowingly providing the broker with an earnest money deposit check from an account with insufficient funds;
- l. A licensee allowing unsupervised access to a home without the owner's authorization;
- m. A licensee failing to inform the broker of a transaction; and
- n. A licensee submitting unauthorized altered copies of a contract ~~or contracts~~ to the broker; and

12. Actions constituting engaging in improper, fraudulent, or dishonest conduct, including ~~but not limited to~~ the following:

- a. A licensee attempting to divert commission from the firm or sole proprietorship and direct payment to a licensee or an unlicensed individual who is not a party to the transaction;
- b. A licensee fabricating or altering any document with the intent to mislead;
- c. A licensee signing any documents on a client's behalf without first obtaining a client's proper written permission or authorization to sign said documents on ~~his~~ the client's behalf;
- d. A licensee making an earnest money deposit payable to himself or negotiating the check without written authority;
- e. A licensee misrepresenting ownership of a property;
- f. A licensee submitting copies of the same earnest money deposit check for inclusion with multiple offers;

- g. A licensee entering into agreements to be compensated for real estate services while ~~his~~ the licensee's license is inactive;
- h. A licensee representing in offers ~~he~~ that the licensee received the earnest money deposit when ~~he~~ the licensee has not or ~~he~~ knows the check is worthless; and
- i. A licensee misrepresenting who is holding the earnest money deposit.

18VAC135-20-360. Proprietary school standards, instructor qualifications and course requirements.

A. Every applicant to the Real Estate Board for a proprietary school certificate shall meet the standards provided in subsection A of § 54.1-2105.02 of the Code of Virginia by submitting a CPA-certified letter attesting to the applicant's net worth or a balance sheet or financial statement certified to be accurate by the applicant. Such applicant shall show a minimum net worth of \$2,000.

B. Every applicant to the Real Estate Board for certification as an instructor for prelicense education must meet two of the qualifications outlined in subdivisions 1 through 6 of this subsection:

- 1. A baccalaureate degree, an active Virginia real estate broker's license, and two consecutive years of discipline-free active real estate experience immediately prior to application;
- 2. An active Virginia real estate broker's license and five consecutive years of discipline-free active real estate experience immediately prior to application;
- 3. A professional designation such as, but not limited to, Accredited Land Consultant (ALC), Certified Residential Specialist (CRS), Certified Commercial Investment Member (CCIM), Certified Property Manager (CPM), Certified Residential Broker (CRB), Counselor Real Estate (CRE), Member Appraisal Institute (MAI), Society Industrial Office Realtors (SIOR), Senior Residential Appraiser (SRA), or Senior Real Estate Property Appraiser (SRPA);
- 4. A fully designated membership of the Real Estate Educators Association holding the Designated Real Estate Instructor (DREI) designation;
- 5. Possession of a valid teaching credential or certificate issued by the Commonwealth of Virginia; or any other state with qualifications that are equal to or exceed Virginia teacher qualifications, or at least five years of teaching experience in an accredited public, private, or parochial school; or an accredited junior college, college, or university; and
- 6. An attorney member of the Virginia State Bar who is engaged in the field of real estate-related law.
- 7. The board shall also consider evaluations from previous education courses the applicant has instructed and

Regulations

recommendations of course providers, coordinators, administrators, and institutions that have employed the applicant.

8. The board may waive the requirements of subdivisions 1 through 6 of this subsection upon review of proof of experience in related fields of real estate. The board has discretion to deny an applicant who has been the subject of a disciplinary action.

C. Every applicant to the Real Estate Board for approval as an instructor for continuing education and post license education shall have expertise in a specific field of real estate with at least three years of active experience and will teach only in the area of ~~their~~ the applicant's expertise. Such applicants will be required to furnish proof of ~~their~~ expertise, possibly including ~~but not limited to~~ educational transcripts, professional certificates, letters of reference (a maximum of three), a resume, or any other type of documentation that will verify the applicant's expertise.

D. Prelicense courses must be acceptable to the board, be taught by a certified prelicense instructor, and are required to have a monitored, final written examination. Online distance learning courses must include a timer requiring licensees to be actively engaged online learning course content for at least 50 minutes to receive one hour of credit. Those schools which propose to offer prelicensing courses (Principles and Practices of Real Estate, Real Estate Brokerage, Real Estate Finance, Real Estate Law or Real Estate Appraisal, etc.) must submit a request, in writing, to the board prior to offering the ~~course(s)~~ courses and supply the following information:

1. Course content. All Principles and Practices of Real Estate courses must include the 25 topic areas specified in 18VAC135-20-400. All requests to offer broker courses must include a course syllabus acceptable to the board;
2. Name of the course's text and any research materials used for study assignments;
3. Description of any research assignments;
4. Copies of test or quizzes;
5. Information explaining how the "Principles" course will require 60 hours of study, or how each ~~broker-related~~ broker-related course will require 45 hours of study, in compliance with § 54.1-2105 of the Code of Virginia; and
6. Information about recordkeeping for the type of course delivery.

E. Providers of continuing education and post license education courses shall submit all subjects to the board for approval prior to initially offering the course. Correspondence and other distance learning courses offered by an approved provider must include appropriate testing procedures to verify completion of the course, including requiring licensees who complete correspondence or other distance learning courses to

file a notarized affidavit certifying compliance with the course requirements with the education provider or with the licensee's own records. Online distance learning courses must include a timer requiring licensees to be actively engaged online learning course content for at least 50 minutes to receive one hour of credit. The board shall approve courses and the number of hours approved for each course based on the relevance of the subject to the performance of the duties set forth in §§ ~~§ 54.1-2100 and 54.1-2101~~ of the Code of Virginia.

F. Approval of prelicense, continuing education, and post license education courses shall expire on December 31 three years from the year in which the approval was issued, as indicated on the approval document.

G. All schools must establish and maintain a record for each student. The record shall include: the student's name and address, the course name and clock hours attended, the course syllabus or outline, the name ~~or names~~ of the instructor, the date of successful completion, and the board's course code. Records shall be available for inspection during normal business hours by authorized representatives of the board. Schools must maintain all student and class records for a minimum of five years.

H. All schools must provide each student with a certificate of course completion or other documentation that the student may use as proof of course completion. Such documentation shall contain the student's name, school name, course name, course approval number, course completion date, hours of credit completed, and a statement that the course is "Approved by the Real Estate Board."

I. All providers of continuing education or post license education courses shall electronically transmit course completion data to the board in an approved format within five business days of the completion of each individual course. The transmittal will include each student's name, license number, or social security number; the date of successful completion of the course; the school's code; and the board's code.

VA.R. Doc. No. R25-7865; Filed August 13, 2024, 1:10 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Real Estate Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC135-20. Virginia Real Estate Board Licensing Regulations (amending 18VAC135-20-101).**

Statutory Authority: §§ 54.1-201 and 54.1-2105 of the Code of Virginia.

Effective Date: November 1, 2024.

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

Summary:

Pursuant to Chapters 29 and 120 of the 2024 Acts of Assembly, the amendments (i) revise the continuing education requirements for salespersons and brokers licensed by the board to renew licensure and (ii) increase the number of hours for required courses and decrease the number of elective hours allowed.

18VAC135-20-101. Qualification for renewal; continuing education requirements.

As a condition of renewal, and pursuant to § 54.1-2105.03 of the Code of Virginia, all active salespersons, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course of not less than a total of 16 classroom, correspondence, or other distance learning instruction hours during each licensing term, except for salespersons who are renewing for the first time and are required to complete 30 hours of post-license education regardless of whether ~~their~~ the licenses are active or inactive. All active brokers, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course of not less than a total of 24 classroom, correspondence, or other distance learning instruction hours during each licensing term. Active licensees called to active duty in the Armed Forces of the United States may complete these courses within six months of ~~their~~ release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see 18VAC135-20-70, Activation or transfer of license).

1. Providers shall be those as defined in 18VAC135-20-350;
2. For salespersons, ~~eight~~ 11 of the required 16 hours shall include two hours in fair housing laws; three hours in ethics and standards of conduct; two hours in real estate agency; two hours in real estate contracts; and ~~a minimum of one hour each~~ two hours in legal updates and emerging trends, to include flood zone areas and the National Flood Insurance Program, ~~real estate agency, and real estate contracts.~~ For brokers, ~~16~~ 19 of the 24 required hours shall include eight hours in supervision and management of real estate agents and the management of real estate brokerage firms, two hours of which shall include an overview of the broker supervision requirements under this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia; two hours in fair housing laws; three hours in ethics and standards of conduct; two hours in real estate agency; two hours in real estate contracts; and ~~a minimum of one hour each~~ two hours in legal updates and emerging trends, to

include flood zone areas and the National Flood Insurance Program, ~~real estate agency, and real estate contracts.~~ If the licensee submits a notarized affidavit to the board that certifies that ~~he~~ the licensee does not practice residential real estate brokerage, residential management, or residential leasing and shall not do so during the licensing term, training in fair housing shall not be required; instead, such licensee shall receive training in other applicable federal and state discrimination laws and regulations. The remaining elective hours shall be on subjects from the following list:

- a. Property rights;
- b. Contracts;
- c. Deeds;
- d. Mortgages and deeds of trust;
- e. Types of mortgages;
- f. Leases;
- g. Liens;
- h. Real property and title insurance;
- i. Investment;
- j. Taxes in real estate;
- k. Real estate financing;
- l. Brokerage and agency contract responsibilities;
- m. Real property management;
- n. Search, examination, and registration of title;
- o. Title closing;
- p. Appraisal of real property;
- q. Planning subdivision developments and condominiums;
- r. Regulatory statutes;
- s. Housing legislation;
- t. Fair housing;
- u. Real Estate Board regulations;
- v. Land use;
- w. Business law;
- x. Real estate economics;
- y. Real estate investments;
- z. Federal real estate law;
- aa. Commercial real estate;
- bb. Americans ~~With~~ with Disabilities Act;
- cc. Environmental issues impacting real estate;
- dd. Building codes and design;
- ee. Local laws and zoning;
- ff. Escrow requirements;
- gg. Ethics and standards of conduct; and
- hh. Common interest ownership.

3. Salespersons holding licenses in other jurisdictions must complete ~~eight~~ 11 hours that shall include ~~fair housing laws~~

Regulations

~~and legal updates and emerging trends, to include flood zone areas and the National Flood Insurance Program, ethics and standards of conduct, real estate agency, and real estate contracts and two hours in fair housing laws; three hours in ethics and standards of conduct; two hours in real estate agency; two hours in real estate contracts; and two hours of legal updates and emerging trends, to include flood zone areas and the National Flood Insurance Program. Such salespersons may substitute education completed in their the salesperson's jurisdiction for the remaining elective hours required by subdivision 2 of this section. Brokers holding licenses in other jurisdictions must complete 46 19 hours that shall include supervision and management of real estate agents and the management of real estate brokerage firms, two hours of which shall include an overview of the broker supervision requirements under this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia; fair housing laws; legal updates and emerging trends, to include flood zone areas and the National Flood Insurance Program; ethics and standards of conduct; and real estate agency and real estate contracts and eight hours in supervision and management of real estate agents and the management of real estate brokerage firms, two hours of which shall include an overview of the broker supervision requirements under this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia; two hours in fair housing laws; three hours in ethics and standards of conduct; two hours in real estate agency; two hours in real estate contracts; and two hours in legal updates and emerging trends, to include flood zone areas and the National Flood Insurance Program. Such brokers may substitute education completed in their the broker's jurisdiction for the remaining elective hours required by subdivision 2 of this section.~~

4. The board may approve additional subjects at its discretion and in accordance with § 54.1-2105.03 of the Code of Virginia.

5. Credit for continuing education course completion is given for each class hour/clock hour as defined in 18VAC135-20-350.

6. Licensees are responsible for retaining for three years and providing proof of continuing education. Proof of course completion shall be made on a form prescribed by the board. Failure to provide documentation of completion as directed by the board may result in the license not being renewed, disciplinary action pursuant to this chapter, or both.

7. Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses.

8. Any continuing education credits completed by the licensee in excess of that required in the current license term that are obtained in the six months immediately prior to the

license expiration date shall carry over into the next two-year renewal period.

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, Fourth Floor, Richmond, Virginia 23219.

FORMS (18VAC135-20)

[Exchange to Salesperson License Application, A490-02DLIC-v3 \(eff. 11/2015\)](#)

[Pre-license Education Instructor Certification Application, A490-0230INSTR-v5 \(rev. 11/2015\)](#)

[Proprietary School Certification Application, A490-0211SCHL-v2 \(rev. 11/2015\)](#)

[Real Estate Firm/Sole Proprietorship Audit, F490-02AUD \(rev. 7/2014\)](#)

[Individual - Name/Address Change Form, A954640-02NACHG-v2 \(rev. 5/2015\)](#)

[Firm License Application, A490-0226FLIC-v2 \(rev. 2/2013\)](#)

[Branch Office License Application, A490-0226BRLIC-v2 \(rev. 2/2013\)](#)

[Business Entity License Transfer Application, A490-0226BETR-v2 \(rev. 2/2013\)](#)

[Business Entity License/Reinstatement Application, A490-0226BELIC-v3 \(rev. 4/2013\)](#)

[Add-on/Removal of Business Entity Member Application, A490-0226ARBEM-v2 \(rev. 2/2013\)](#)

[Salesperson License Application, A490-0225SLIC-v2 \(rev. 2/2013\)](#)

[Salesperson - Activate/Transfer Application, A490-0225SAT-v2 \(rev. 4/2015\)](#)

[Place License Inactive Application, A490-0225INACT-v1 \(rev. 1/2013\)](#)

[Concurrent Broker License Application, A490-0225CONCUR-v3 \(rev. 6/2013\)](#)

[Concurrent Broker Acknowledgment Form, A490-0225CBA-v1 \(rev. 2/2015\)](#)

[Broker License Application, A490-0225BLIC-v2 \(rev. 2/2013\)](#)

[Broker - Activate/Transfer Application, A490-0225BAT-v2 \(rev. 4/2015\)](#)

[Online Approval - Broker Acknowledgment Form, A490-0225BACK-v1 \(rev. 12/2014\)](#)

[In-State Experience Verification Form, A490-02VAEXP-v2 \(rev. 2/2013\)](#)

[Signature Authority Application, A460-02SIG_AUT-v2 \(rev. 1/2013\)](#)

[Branch Office - Supervising Broker Change Form, A490-02SBCHG-v2 \(rev. 2/2013\)](#)

[Firm Principal Broker/Officer Change Form, A490-02PBOCHG-v2 \(rev. 2/2013\)](#)

[Out-of-State Experience Verification Form, A490-02OSEXP-v2 \(rev. 2/2013\)](#)

[Firm Name/Address Change Form, A490-02FNACHG-v1 \(rev. 1/2013\)](#)

[Supervising Broker Certification Form, A490-02CERTFRM-v1 \(rev. 1/2013\)](#)

[Prelicense Education Course Approval Application, A490-0214PRE-v2 \(rev. 1/2014\)](#)

[Additional Instructor Approval Application, A490-0214ADD-v3 \(rev. 5/2013\)](#)

~~[Continuing Education Course Approval Application, A490-0214CRS v5 \(rev. 6/2015\)](#)~~

~~[Post License Education Course Approval Application, A490-0214PLE v5 \(rev. 6/2015\)](#)~~

[Continuing Education/Post License Course Approval Application, A490-214CE_PLE-vs10 \(rev. 7/2024\)](#)

VA.R. Doc. No. R25-7867; Filed August 13, 2024, 1:16 p.m.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Proposed Regulation

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

Title of Regulation: 20VAC5-340. Rules Governing Shared Solar Program (amending 20VAC5-340-10 through 20VAC5-340-60, 20VAC5-340-70, 20VAC5-340-80, 20VAC5-340-90, 20VAC5-340-110; adding 20VAC5-340-65; repealing 20VAC5-340-100).

Statutory Authority: §§ 12.1-13 and 56-594.3 of the Code of Virginia.

Public Hearing Information: A public hearing will be held upon request.

Public Comment Deadline: September 26, 2024.

Agency Contact: Matthew Unger, Senior Analyst, Division of Public Utility Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9849, FAX (804) 371-9350, or email matthew.unger@scc.virginia.gov.

Summary:

The proposed action implements Chapters 715, 716, 763, and 765 of the 2024 Acts of Assembly and (i) extends the existing program to customers of a Phase I Utility, (ii) increases the caps on participation by customers of a Phase II Utility, and (iii) requires the commission to recalculate the minimum bill that prescribes the amount a participating customer must pay the utility each month after accounting for any bill credits.

AT RICHMOND, AUGUST 8, 2024

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2024-00122

Ex Parte: In the matter of amending regulations governing shared solar programs

ORDER ESTABLISHING PROCEEDING

The Regulations Governing Shared Solar Program, 20VAC5-340-10 et seq. ("Shared Solar Rules"), adopted by the State Corporation Commission ("Commission") pursuant to Code § 56-594.3, establish the requirements for customers of Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion") to participate in shared solar projects.¹ The Shared Solar Rules include, inter alia, requirements for licensing and registration of subscriber organizations, billing and payment and dispute resolution.

Chapters 715, 716, 763 and 765 of the 2024 Virginia Acts of Assembly (collectively, "2024 Shared Solar Legislation") amended Code § 56-594.3 and enacted new Code § 56-594.4, effective July 1, 2024. The 2024 Shared Solar Legislation modified certain statutory provisions applicable to Dominion's shared solar program and directed the establishment of a similar program for customers of Appalachian Power Company ("APCo"). Additionally, the 2024 Shared Solar Legislation directs the Commission to recalculate the minimum bill that prescribes the amount a participating customer must pay to the utility each month after accounting for any bill credits.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that a proceeding should be established to amend the Shared Solar Rules to reflect the 2024 Shared Solar Legislation.

To initiate this proceeding, the Commission Staff ("Staff") has prepared proposed amendments to the Shared Solar Rules

Regulations

("Proposed Amendments"), which are appended to this Order. The Commission finds that notice of the Proposed Amendments should be given to the public; that interested persons should be provided an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Amendments; and that Dominion should serve a copy of this Order upon each of its shared solar customers and each of its registered subscriber organizations and file a certificate of service.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2024-00122.

(2) All comments and other documents and pleadings filed in this matter shall be submitted electronically to the extent authorized by Rule 5VAC5-20-150, Copies and format, of the Commission's Rules of Practice and Procedure.² Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and shall comply with Rule 5VAC5-20-170, Confidential information, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(3) Pursuant to 5VAC5-20-140, Filing and service, of the Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) The Commission's Division of Information Resources shall forward a copy of this Order Establishing Proceeding to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(5) On or before August 26, 2024, Dominion shall serve a copy of this Order upon each of its existing shared solar customers and each of its registered subscriber organizations and shall file with the Clerk of the Commission a certificate of service no later than September 9, 2024, consistent with the findings above.

(6) An electronic copy of the Proposed Amendments may be obtained by submitting a request to Matthew Unger in the Commission's Division of Public Utility Regulation at the following email address: matthew.unger@scc.virginia.gov. An electronic copy of the Proposed Amendments can also be found at the Division of Public Utility Regulation's website: scc.virginia.gov/pages/Rulemaking. Interested persons may also download unofficial copies of the Order and the Proposed Amendments from the Commission's website: scc.virginia.gov/pages/Case-Information.

(7) On or before September 26, 2024, any interested person may comment on, propose modifications or supplements to, or request a hearing on the Proposed Amendments following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments.

Those unable, as a practical matter, to submit such documents electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All such documents shall refer to Case No. PUR-2024-00122. Individuals should be specific in their comments, proposals, or supplements to the Proposed Amendments and should address only those issues pertaining to the 2024 Shared Solar Legislation. Issues outside the scope of addressing these amendments will not be open for consideration. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed in written comments. If a sufficient request for hearing is not received, the Commission may consider the matter and enter an order based upon the comments, documents or other pleadings filed in this proceeding.

(8) On or before October 10, 2024, the Staff shall file with the Clerk of the Commission a report on or a response to any comments, proposals, or requests for hearing submitted to the Commission on the Proposed Amendments.

(9) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

¹ Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of establishing regulations for a shared solar program pursuant to § 56-594.3 of the Code of Virginia, Case No. PUR-2020-00125, 2020 SCC Ann. Rept. 574, Order Adopting Rules (Dec. 23, 2020).

² 5VAC5-20-10 et seq. ("Rules of Practice").

20VAC5-340-10. Applicability.

A. This chapter is promulgated pursuant to § ~~§§~~ 56-594.3 and 56-594.4 of the Code of Virginia. The provisions of this chapter apply to Phase I Utilities, Phase II Utilities, subscriber organizations, and subscribers. The provisions of this chapter govern the development of shared solar facilities and participation in the shared solar program.

~~B. The maximum cumulative size~~ For a Phase I Utility, the maximum aggregate capacity of the shared solar program shall be 50 megawatts or 6.0% of peak load, whichever is less.

~~C. For a Phase II Utility, part one aggregate capacity of the shared solar program initially shall not exceed 150 be 200 megawatts, at least 30% of which must be comprised of low-income customers. The program shall be expanded as part two by 50 up to 150 megawatts upon qualification of satisfying the 30% requirement of low income participation a State~~

Corporation Commission determination that at least 90% of the part one aggregate capacity has been subscribed and that project construction is substantially complete. In part two of the shared solar program, no more than 51% of up to 75 megawatts of aggregated capacity shall serve low-income customers.

~~C. D.~~ Any shared solar facility may collocate on the same parcel of land as another shared solar facility only if such facilities are owned by the same entity and do not exceed an accumulative maximum capacity of 5,000 kilowatts among all such facilities. Such facilities will also be responsible for any special interconnection arrangements with the utility.

~~D. E.~~ Customers participating in this program shall remain in ~~their~~ the customer's present customer class but may not participate in the multi-family solar program, pursuant to Chapters 1187, 1188, 1189, and 1239 of the 2020 Acts of Assembly, or the net metering program, pursuant to 20VAC5-315, while participating in this program.

~~E. Each utility~~ F. A Phase I Utility must file any tariffs, agreements, or forms necessary for implementation of the program ~~within 60 days of the utility's full implementation of a new customer information platform or~~ by July 1, 2023, ~~whichever occurs first, to process customer subscriptions~~ 2025. A Phase II Utility must file updated tariffs, agreements, or forms necessary for implementation of the program by December 1, 2025. Subscriber organizations may apply for licenses, register projects, interact with potential customers, and otherwise develop shared solar projects beginning in 2021.

~~F. G.~~ The provisions of this chapter shall be deemed not to prohibit the Phase I Utility or Phase II Utility, in emergency situations, from taking actions it is otherwise authorized to take that are necessary to ensure public safety and reliability of the distribution system. The ~~commission~~ State Corporation Commission, upon a claim of inappropriate action or its own motion, may investigate and take such corrective actions as may be appropriate.

~~G. H.~~ A request for a waiver of any of the provisions in this chapter shall be considered by the State Corporation Commission on a case-by-case basis and may be granted upon such terms and conditions as the State Corporation Commission may ~~impose~~ require.

20VAC5-340-20. Definitions.

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

"Administrative cost" means the reasonable incremental cost to the investor-owned utility to process subscriber bills for the program.

"Affordable housing provider" means any multi-family residential housing project that is one or more of the following:

1. A federal, state, or local financing program requiring that the real estate remains subject to land use restriction and rental housing affordability covenants that limit allowable rents charged to individuals or families;
2. A federal low-income housing tax credit project, as defined in § 42 of the Internal Revenue Code of 1986;
3. A project funded with federal grants made to states for low-income housing tax credits under § 1602 of the American Recovery and Reinvestment Act of 2009;
4. A rental assistance demonstration public housing conversion under the federal Consolidated and Further Continuing Appropriations Act of 2020; or
5. Affordable housing meeting the applicable requirements of another federal, state, or local program.

"Applicable bill credit rate" means the dollar-per-kilowatt-hour rate used to calculate the subscriber's bill credit.

"Bill credit" means the monetary value of the electricity, in kilowatt-hours, generated by the shared solar facility allocated to a subscriber to offset that subscriber's electricity bill.

"Commission" means the State Corporation Commission.

"Dual-use agricultural facility" means agricultural production and electricity production from solar photovoltaic panels occurring simultaneously on the same property.

"Gross bill" means the amount that a customer would pay to the utility based on the customer's monthly energy consumption before any bill credits are applied.

"Incremental cost" means any cost directly caused by the implementation of the shared solar program that would not have occurred absent the implementation of the shared solar program.

"Low-income customer" means any person or household whose income is no more than 80% of the median income of the locality in which the customer resides. The median income of the locality is determined by the U.S. Department of Housing and Urban Development.

"Low-income service organization" means a nonresidential customer of an investor-owned utility whose primary purpose is to serve low-income individuals and households.

"Low-income shared solar facility" means a shared solar facility at least 30% of the capacity of which is subscribed by low-income customers or low-income service organizations.

"Low-income subscription plan" means a plan submitted to the commission by an applicant providing a commitment for low-income subscription and demonstrating the ability to subscribe low-income customers.

"Minimum bill" means a dollar per month amount determined by the commission ~~under § 56-594.3 D of the Code of Virginia~~ that ~~subscribers are~~ a subscriber is required to pay, at a

Regulations

minimum, on ~~the~~ the subscriber's utility bill each month after accounting for any bill credits.

"Net bill" means the resulting amount a customer must pay the utility after deducting the bill credit from the customer's monthly gross bill.

"Non-ministerial permit" permits" means all necessary governmental permits and approvals to construct the project (other than ministerial permits, such as electrical and building permits), notwithstanding any pending legal challenges to one or more permits or approvals.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other private legal entity, and the Commonwealth or any municipality.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1 of the Code of Virginia.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1 of the Code of Virginia.

"REC" means a Renewable Energy Certificate originating from a renewable energy standard eligible source as defined in subdivision C of § 56-585.5 of the Code of Virginia.

"Shared solar facility" means a facility that:

1. Generates electricity by means of a solar photovoltaic device with a nameplate capacity rating that does not exceed 5,000 kilowatts of alternating current;
2. ~~Is located in the service territory of an investor-owned electric utility~~ interconnected with the distribution system of a Phase I Utility or Phase II Utility in the Commonwealth;
3. ~~Is connected to the electric distribution grid serving the Commonwealth~~ Has at least three subscribers;
4. ~~Has at least three subscribers;~~ 40% of its capacity subscribed by customers with subscriptions of 25 kilowatts or less; and
5. ~~Has at least 40% of its capacity subscribed by customers with subscriptions of 25 kilowatts or less; and~~
6. ~~5.~~ Is located on a single parcel of land.

"Shared solar program" or "program" means the program created through this chapter to allow for the development of shared solar facilities.

"Subscriber" means a retail customer of a utility that (i) owns one or more subscriptions of a shared solar facility that is interconnected with the utility and (ii) receives service in the service territory of the same utility in whose service territory the shared solar facility is ~~located~~ interconnected.

"Subscriber organization" means any for-profit or nonprofit entity that owns or operates one or more shared solar facilities. A subscriber organization shall not be considered a utility

solely as a result of its ownership or operation of a shared solar facility. A subscriber organization licensed with the commission, unless otherwise exempt or granted a waiver from the commission, shall be eligible to own or operate shared solar facilities in more than one investor-owned utility service territory. A Phase I Utility or Phase II Utility shall not be a subscriber organization.

"Subscribed" means, in relation to a subscription, that a subscriber has made initial payments or provided a deposit to the owner of a shared solar facility for such subscription.

"Subscription" means a contract or other agreement between a subscriber and the owner of a shared solar facility. A subscription shall be sized such that the estimated bill credits do not exceed the subscriber's average annual bill for the customer account to which the subscription is attributed.

"Substantial Completion" means all requirements for interconnection with the electric transmission or distribution system have been met. Substantial completion is signified by a letter from the utility authorizing the shared solar facility to interconnect, energize, and operate. The utility must provide this letter to the shared solar facility as soon as reasonably practical, but no later than 30 days after final interconnection.

"Utility" means a the respective Phase I Utility or Phase II Utility.

20VAC5-340-30. Licensing of subscriber organizations.

A. Each entity seeking to conduct business as a subscriber organization, unless otherwise exempt or granted a waiver from the commission, shall obtain a license from the commission prior to commencing business operations. Each entity applying for a license to conduct business as a subscriber organization shall file an application with the ~~clerk of the~~ commission and contemporaneously provide a copy of the application to the utility. Applications for licensure shall be filed by the legal entity with control of, or prospective control of, shared solar projects rather than each individual project needing a separate license. If the applicant becomes aware of any material changes to any information while the application is still pending, the applicant shall inform the commission within 10 calendar days. Applications shall include the following information:

1. Legal name of the applicant, as well as any trade names.
2. Physical business addresses and telephone numbers of the applicant's principal office and all offices in Virginia.
3. A description of the applicant's authorized business structure, identifying the state authorizing such structure and the associated date (e.g., if incorporated, the state and date of incorporation; if a limited liability company, the state issuing the certificate of organization and the date of issuance).

4. Name and business address of all principal corporate officers and directors, partners, and limited liability company (LLC) members, as appropriate.

5. If a foreign corporation, a copy of the applicant's authorization to conduct business in Virginia from the commission or if a domestic corporation, a copy of the certificate of incorporation from the commission.

6. A list of the states in which the applicant and the applicant's affiliates conduct business related to participation in a shared solar program, the names under which such business is conducted, and a description of the business conducted.

7. The applicant shall disclose if it is an affiliate of the incumbent utility. If it is, it shall further provide a description of internal controls the applicant has designed to ensure that ~~it~~ the applicant and its employees, contractors, and agents that are engaged in the ~~(i) merchant~~;

a. Merchant, operations, transmission, or reliability functions of the electric generation systems; or

~~(ii) customer~~ b. Customer service, sales, marketing, metering, accounting, or billing functions; do not receive information from the utility or from entities that provide similar functions for or on behalf of the utility as would give the affiliated subscriber organization an undue advantage over nonaffiliated subscriber organizations.

8. Name, title, and address of the applicant's registered agent in Virginia for service of process.

9. Name, title, address, telephone number, and email address of the applicant's liaison with the commission.

10. Sufficient information to demonstrate, for purposes of licensure with the commission, financial fitness commensurate with the services proposed to be provided. Applicant shall submit the following information related to general financial fitness:

a. If available, proof of a minimum bond rating or other senior debt of at least "BBB-" or an equivalent rating by a major rating agency, or a guarantee with a guarantor possessing a credit rating of "BBB-" or higher from a major rating agency. If not available, other evidence that will demonstrate the applicant's financial responsibility.

b. If available, the applicant's audited balance sheet, income and cash flow statements for the most recent fiscal year, or published financial information such as the most recent Securities and Exchange Commission forms 10-K and 10-Q. If not available, other financial information for the applicant or any other entity that provide financial resources to the applicant may be provided.

c. If applicable, information to demonstrate that the applicant is a bona fide nonprofit entity. The information provided shall establish that the applicant (i) has the status of a tax-exempt organization under § 501(C)(3) of the

Internal Revenue Code of 1986; (ii) conducts ~~its~~ the applicant's activities in a manner that serves public or charitable purposes rather than commercial purposes; (iii) will apply for qualification of projects that serve primarily or exclusively low-income customers; and (iv) was not created for the purpose of avoiding the financial fitness requirements or otherwise under the control of a for profit entity.

11. Sufficient information to demonstrate technical fitness commensurate with the service to be provided, to include:

a. A description of the applicant's experience developing solar facilities and engaging as a subscriber organization or other relevant services. Provide a discussion of the applicant's qualifications, including a summary of other projects developed and managed by the applicant with location, status, and operational history.

b. The names and a description of the managerial and technical experience of each principal officer and appropriate senior management person with direct responsibility for the business operations conducted in Virginia. Include a description of ~~their~~ the person's experience related to developing solar facilities and providing shared solar services.

c. Billing service options the applicant intends to offer and a description of the applicant's billing capability, including a description of any related experience.

d. A copy of the applicant's dispute resolution procedure, including the business website, email address, mailing address, and toll-free number for the customer service department.

~~12. A copy of the applicant's dispute resolution procedure, including the toll-free number for the customer service department.~~

~~13.~~ 12. A copy of the applicant's proposed standard agreement it plans to use with prospective subscribers.

~~14.~~ 13. A \$250 registration fee payable to the commission.

~~15.~~ 14. The following information related to the applicant's fitness to operate as a subscriber organization:

a. Disclosure of any (i) civil, criminal, or regulatory sanctions or penalties imposed or in place within the previous five years against the applicant, any of ~~its~~ the applicant's affiliates, or any officer, director, partner, or member of an LLC or any of ~~its~~ the LLC's affiliates, pursuant to any state or federal law or regulation; and (ii) felony convictions within the previous five years that relate to the business of the company or to an affiliate thereof, of any officer, director, partner, or member of an LLC.

b. Disclosure of whether any application for license or authority to conduct a similar type of business as ~~it~~ the applicant proposes to offer in Virginia has ever been

Regulations

denied, and whether any license or authority issued to ~~it~~ the applicant or an affiliate has ever been suspended or revoked and whether other sanctions have been imposed.

~~16.~~ 15. A copy of the applicant's low-income subscription plan, as applicable.

B. An officer with appropriate authority shall attest that all information supplied on the application for licensure is true and correct and that, if a license is granted, the applicant will abide by all applicable laws of the Commonwealth and regulations of the commission.

C. Any application that fails to provide all required information in this section shall be regarded as incomplete. No action shall be taken on any application until deemed complete and filed.

D. Upon receipt of an application for a license to conduct business as a subscriber organization, the commission shall enter an order providing notice to appropriate persons and an opportunity for comments on the application. The commission shall issue a license to conduct business as a subscriber organization upon finding the applicant satisfies the requirements established by this chapter.

E. A license granted pursuant to this chapter is valid until revoked or suspended by the commission after providing due notice and an opportunity for a hearing, or until the subscriber organization abandons its license.

F. ~~Commission approval~~ Approval of the commission is required for transfer or assignment of a license issued under this section to any third party. The commission may condition its approval on any terms it determines appropriate to protect customers.

20VAC5-340-40. Registration with the utility.

A. Subscriber organizations; ~~that are licensed or otherwise, exempt, or granted a waiver from the commission consistent with 20VAC5-340-30~~ shall register each proposed shared solar facility with the utility by ~~entering into an agreement containing information as prescribed in this section.~~ B. A subscriber organization shall provide:

1. Providing proof of licensure, exemption, or waiver by the commission, as applicable.

~~C. A subscriber organization shall submit~~ 2. Submitting to the utility the full name of the subscriber organization, address, and type of entity (e.g. partnership, corporation, etc.).

~~D. Subscriber organizations shall provide~~ 3. Providing the identity of the shared solar facility participating in the shared solar program, including an address of record and a copy of the executed ~~interconnection agreement~~ Small Generation Interconnection Agreement or an Interconnection Service Agreement for the shared solar facility. Subscriber organizations also shall state the amount of capacity for the facility, ~~meeting or exceeding~~

~~the minimum of 30%, including any percentage that will be subscribed by low-income subscribers and provide proof that non-ministerial permits have been obtained for the shared solar facility.~~ Subscriber organizations shall also state the facility's anticipated substantial completion date.

~~E. 4.~~ For a low-income shared solar facility, the subscriber organization shall provide a copy of its low-income subscription plan, as applicable.

~~F. Subscriber organizations and the utility shall exchange~~ 5. Providing the names, telephone numbers, and email addresses of appropriate internal points of contact to address operational, business coordination, and customer account issues, and the names and addresses of their registered agents in Virginia.

~~G. 6.~~ In the event a license granted under 20VAC5-340-30 is transferred to another entity with approval from the commission, the subscriber organization must notify the utility within five business days of approval by the commission.

~~H. The utility may require~~ 7. Providing reasonable financial security ~~from the subscriber organization if required by the utility~~ to safeguard the utility and its customers from the reasonably expected net financial impact due to the nonperformance of the subscriber organization. The amount of such financial security shall be commensurate with the level of risk assumed by the utility. Such financial security may include a letter of credit, a deposit in an escrow account, a prepayment arrangement, a surety bond, or other arrangements that may be mutually agreed upon by the utility and the subscriber organization. ~~F. Subscriber organizations deemed bona fide nonprofits shall be exempt from the \$50 per kilowatt alternating current security deposit or surety bond.~~

B. The utility shall provide to the subscriber organization the names, telephone numbers, and email addresses of appropriate internal points of contact to address operational, business coordination, and customer account issues.

C. The utility shall notify the subscriber organization within 30 days after the subscriber organization submits a shared solar facility registration to the utility whether the shared solar facility has been awarded capacity in the program queue or placed on a waiting list. When awarded capacity in the program queue, the subscriber organization shall pay to the utility a security deposit or surety bond in the amount of \$50 per kilowatt (kW) of alternating-current (AC) rated capacity of the shared solar facility within 10 days. ~~This deposit~~ Security deposits shall be held by the utility in an interest-bearing account. Deposits shall be returned in full, including interest, upon commercial operation of the shared solar facility and demonstration that low-income subscription requirements have been met. ~~As program capacity is awarded, the utility~~

~~shall ensure that the cumulative capacity of such projects meets or exceeds 30% of project capacity (or savings equivalent) for low-income customers as demonstrated by approved low-income subscription plans. Subscriber organizations deemed bona fide nonprofits shall be exempt from the \$50 per kW alternating current (AC) utility deposit.~~

~~J. D. Shared solar facility meter requirements. A shared solar facility must have a utility-provided meter capable of measuring output of the facility on a 30-minute interval basis.~~

~~1. The shared solar facility's meter shall not be located behind another utility customer account.~~

~~2. Costs of installation, maintenance, and reading of the meter shall be billed to the subscriber organization.~~

~~E. If a project fails to reach mechanical substantial completion within 24 months of the date ~~#~~ the project was awarded capacity, the utility shall remove the project from the program queue unless the subscriber organization of the project provides to the utility an additional deposit of ~~\$25~~ \$75 per kW to maintain its position within the program queue. If, after paying the additional deposit, the project still fails to reach ~~mechanical~~ substantial completion within an additional ~~12~~ four months, the utility shall remove the project from the program queue.~~

~~K. F. The utility shall maintain, on a publicly available website, a list of projects accepted into the program queue and those projects that are on the wait list. This project list shall rank projects primarily by the date of the awarded capacity and secondarily by the date of a fully executed interconnection agreement. The utility shall update the list within two business days of any change to the projects in the program queue. The list shall include project applicant name, project location, the alternating current capacity rating of the project, the date the application was accepted into the program queue, and ~~whether the project is a low-income shared solar facility~~ L. the date the project reached substantial completion.~~

~~1. For each accepted project in the program queue, the project list shall rank projects primarily by the date of the awarded capacity and secondarily by the date of anticipated substantial completion. The utility shall update the list within two business days of any change to the primary project dates in the program queue, and within 14 business days of any change to the secondary project date.~~

~~2. For each wait-listed project in the program queue, the list shall rank projects by the date the project was placed on the wait list.~~

~~G. Any project on the wait list that is moved off the wait list and receives a capacity award in the program queue shall have 10 business days to make the required deposit of \$50 per kW of alternating-current rated capacity to retain the project's award.~~

~~M. H. As part of its public program queue, the utility shall monitor and report the amount of capacity that has been allocated to low-income customers, which also shall be published on the utility's website. Upon qualification of 45 megawatts (MW) of alternating current (AC) of capacity committed to low-income subscribers as demonstrated by the approved low-income subscription plans of projects that have secured capacity in the program, the utility shall submit a request to the commission to release an additional 50 MW of capacity for the program, which Capacity shall be released without undue delay and allocated first to projects on the wait list and, if capacity remains, to new applicants on a first-come, first-served basis following the registration requirements and process set forth in this section.~~

~~I. Certain shared solar program projects shall be entitled to receive incentives, as established by the Virginia Department of Energy, when they are located on rooftops, brownfields, or landfills; are dual-use agricultural facilities; or meet the definition of another category established by the Department of Energy.~~

20VAC5-340-50. Marketing and enrollment.

~~A. A subscriber organization shall not conduct any marketing activities related to participation in the shared solar program until after the subscriber organization ~~(i)~~ receives:~~

~~1. Receives a license, exemption, or waiver from the commission; and~~

~~(ii) has 2. Has begun registration with the utility, as set forth in 20VAC5-340-40.~~

~~B. A subscriber organization shall not enroll subscribers until after the earlier of when the utility's customer information system is operating or July 1, 2023, and the project receives the executed Small Generator Interconnection Agreement pursuant to 20VAC5-314-40 through 20VAC5-314-70 and any other applicable local and state permits for the shared solar facility. the project receives the executed Small Generator Interconnection Agreement pursuant to 20VAC5-314-40 through 20VAC5-314-70, non-ministerial permits, and any ministerial permits for the shared solar facility and:~~

~~1. For a Phase I Utility, after July 1, 2025; or~~

~~2. For a Phase II Utility, after July 1, 2023.~~

~~C. A subscriber organization shall not use credit checks as a means to establish the eligibility of a residential customer to become a subscriber.~~

~~D. A subscriber organization is prohibited from credit reporting and charging early termination fees for any low-income customer receiving service from a Phase II Utility.~~

~~E. A subscriber organization shall maintain adequate records allowing it to verify the customer's enrollment authorization. Authorization shall be in the form of a written contract with affirmed written signature, electronic signature, or recorded~~

Regulations

verbal affirmation. The subscriber organization shall maintain a copy of the contract for at least one year after the date of expiration. Such enrollment contracts shall be provided within five business days to the customer, the utility, or the commission staff upon request.

~~F.~~ F. A subscriber organization shall provide accurate and understandable information in any advertisements, solicitations, marketing materials, or customer service contracts. All such materials shall, in a manner that is not misleading, include a statement that price for the subscription does not include charges to be billed by the utility.

~~F.~~ G. A subscriber organization shall provide to prospective subscribers, prior to executing a written contract, consumer disclosure information and a description of how the shared solar program will function. Such description shall include explanations of the respective roles of the subscriber organization and the utility, and a detailed description of how customers will be billed, frequency of contract reviews, and methods of continued customer education and engagement.

~~G.~~ H. Subscriber contracts shall include, at a minimum, the following information:

1. Contract price expressed in per kilowatt-hour, or if price is not easily specified, an explanation of how the subscription price will be calculated.
2. Size of the subscriber subscription. The contract must address modification of subscriptions in the event a shared solar facility underperforms during a period.
3. Length of the contract.
4. Provisions for terminating the contract, including any termination fees.
5. Location of the shared solar facility.
6. Size of the shared solar facility.
7. Description of billing terms and conditions.
8. List of applicable fees, including start up fees, cancellation fees, late payment fees, and fees for returned payments for insufficient funds.
9. Clear descriptions of the responsibilities of the subscriber organization and the utility, consistent with this chapter.
10. Toll-free number and address for complaints and inquiries.
11. A clear statement that ~~(i) the~~
 - a. The maximum size of the subscriber's subscription shall not exceed their estimated annual usage;
 - ~~(ii) each~~ b. Each customer may only participate in one shared solar facility or one multi-family solar facility; and
 - ~~(iii) a~~ c. A net metering customer may not participate in this program.

12. In a conspicuous location, confirmation of the customer's authorization for the utility and subscriber organization to exchange, at a minimum, the following billing information:

- a. Customer name;
- b. Billing address and premise address;
- c. Utility account number; and
- d. Share solar subscription information, including, at a minimum:
 - (1) Pricing;
 - (2) Subscription size;
 - (3) Contract start date and length; and
 - (4) Terms of subscription.

13. In a conspicuous location, signatures confirming the customer's request to enroll and the approximate date the enrollment will be effective.

~~H.~~ I. Upon a subscriber's request, the subscriber organization may transfer the subscription to a new address under the existing contract without restriction provided the new address is also located in the utility's service territory. An existing subscriber may transfer the subscription to a new subscriber so long as the new subscriber meets applicable requirements established by the utility and subscriber organizations that exist at the time of transfer. The subscriber organization must provide the utility with updated billing information set forth in subdivision ~~F~~ H 12 of this section.

~~I.~~ J. The subscriber organization shall provide to the utility, in a format acceptable to the utility, an initial list of subscribers enrolled in the shared solar facility and their subscription information at least 60 days prior to the shared solar facility supplying service to any customer.

~~J.~~ K. In the event multiple enrollment requests are submitted for the same customer, the utility shall process the request with the earliest dated contract and shall notify the customer within five business days of receipt of the enrollment request of such enrollment. The utility shall only terminate enrollment with sufficient proof of termination presented by either the customer or the subscriber organization.

~~K.~~ L. At least 60 days prior to the termination or abandonment of a shared solar facility, a subscriber organization must provide advanced written notice to the customer, the utility, and the commission.

~~L.~~ M. A subscriber organization shall ~~safeguard~~ safeguard adequately all customer information and shall not disclose such information unless the customer authorizes disclosure or unless the information to be disclosed is already in the public domain. This provision, however, shall not restrict the disclosure of credit and payment information as permitted currently or required by federal and state statutes.

~~M.~~ A subscriber may remain subscribed to the program even if the subscriber moves to another location within the utility's

~~territory and may transfer the subscription to a new subscriber so long as the new subscriber meets applicable requirements established by the utility and subscriber organizations that exist at the time of transfer. N. Phase I Utility low-income customer net financial savings. The subscriber organization must ensure net financial savings of at least 10% relative to the subscription fee throughout the life of the subscription for a low-income customer. Any contract not meeting the 10% minimum on an annual basis must have the financial savings difference returned to the low-income customer in a lump sum payment.~~

20VAC5-340-60. Phase I Utility: Billing and payment.

A. Subscriber organizations shall provide subscriber information to the utility as follows:

1. Subscriber organizations must provide, on a monthly basis and in a standard electronic format and pursuant to this chapter, a subscriber list indicating the kilowatt-hours of generation attributable to each of the subscribers participating in a shared solar facility in accordance with the subscriber's portion of the output of the shared solar facility.
2. Subscriber lists may be updated monthly to reflect canceling subscribers and to add new subscribers.
3. Monthly subscriber information must be provided by the fifth business day of the month.
4. Data transfer protocols for exchange of data between the subscriber organization and the utility shall be established to include:
 - a. Data components;
 - b. Data format;
 - c. Timing of monthly data exchanges;
 - d. Encryption level; and
 - e. Channel of data submission.

~~B. A subscriber organization may offer separate billing or consolidated billing service (net crediting) in which the utility will be the billing party to the customer shall separately bill the subscriber for any applicable portion of the shared solar subscription fee.~~

- ~~1. Where a subscriber organization chooses to use consolidated billing, the subscriber organization's marketing materials and contracts must identify clearly that the utility may charge a net crediting fee not to exceed 1.0% of the bill credit value.~~
- ~~2. Where a subscriber organization chooses to use net crediting, any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits.~~
- ~~3. All billing of the customer shall occur and comply with the utility's normal billing and credit cycles.~~

C. Credits to ~~subscriber's~~ subscriber bills shall occur within two billing cycles following the cycle during which the energy was generated by the shared solar facility.

~~Each~~ The utility shall, on a monthly basis and in a standardized electronic format, provide the subscriber organization a report indicating the total value of bill credits generated by the shared solar facility in the prior month, as well as the amount of the bill credit applied to each subscriber.

~~Failure~~ Except for low-income customers, failure of a subscriber to pay any regulated charges shall subject the subscriber to the same credit consequences set forth in the utility's commission-approved terms and conditions of service, including the potential requirement to post a security or disconnection of service. The utility shall advise provide a notice of intent to terminate service to the subscriber directly of any pending disconnection action for nonpayment, consistent with ~~current the utility's practice, separate as found in its approved tariff and 20VAC5-330, and this notice will occur separately~~ from the customer bill. Such notice ~~The bill shall clearly identify clearly~~ the amount that must be paid and the date by which such amount must be received and provide instructions for direct payment to the utility to avoid disconnection. A subscriber may not be disconnected for nonpayment of unregulated service charges.

F. Bill credits.

1. Bill credits shall be for a particular calendar month, regardless of the billing period or billing cycle of the individual customer's account.
2. Bill credits shall be calculated by multiplying the subscriber's portion of the kilowatt-hour electricity production from the shared solar facility by the applicable bill credit rate for the subscriber. Any portion of a bill credit that exceeds the subscriber's monthly bill, minus the minimum bill, shall be carried over and applied to subsequent bills until the earlier of when the credit is satisfied or up to 12 months.
3. In the event that all of the electricity generated by a shared solar facility is not allocated to subscribers in a given month, a subscriber organization may accumulate bill credits. The subscriber organization shall provide the utility allocation instructions for distributing excess bill credits to subscribers on an annual basis.
4. The commission shall establish the yearly applicable bill credit rate for the subscriber's residential, commercial, or industrial rate class.
5. The utility shall provide bill credits to a shared solar facility's subscribers for not less than 25 years from the date the shared solar facility becomes commercially operational.
6. The bill credits associated with the shared solar program shall be applied through the utility's fuel factor.

Regulations

G. Minimum bill. ~~4.~~ In a proceeding, as prescribed in 20VAC5-340-80, the commission will determine the specific costs and formula to determine the minimum bill for program participants.

~~2. Low income customers shall be exempt from the minimum bill. Costs associated with such customers' participation shall be recovered by the utility in a manner to be determined by the commission in the proceeding set forth in 20VAC5-340-80.~~

~~H. Net crediting.~~

~~1. Net crediting functionality shall be part of any new customer information platform approved by the commission.~~

~~2. Under net crediting, the utility shall include the shared solar subscription fee on the customer's utility bill and provide the customer with a net credit equivalent to the total bill credit value for that generation period minus the shared solar subscription fee as set by the subscriber organization.~~

~~3. The net crediting fee shall not exceed 1.0% of the bill credit value.~~

~~4. Net crediting shall be optional for subscriber organizations, and any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits.~~

I. Shared solar facility requirements. A shared solar facility must have a utility provided meter capable of measuring output of the facility on a 30 minute interval basis.

1. The shared solar facility's meter shall not be located behind another utility customer account.

2. Costs of installation, maintenance, and reading of the meter shall be billed to the subscriber organization.

H. Termination fees and credit reporting. Early termination fees and credit reporting are prohibited for any low-income customer.

I. Environmental attributes associated with a shared solar facility, including renewable energy credits or RECs.

1. Any renewable energy certificates associated with a shared solar facility shall be distributed to a Phase I Utility to be retired for compliance with such Phase I Utility's renewable portfolio standard obligations pursuant to § 56-585.5 C of the Code of Virginia.

2. As directed by § 56-594.4 B 7 of the Code of Virginia, mandatory distribution or transfer to the utility of the previous calendar year's RECs, ending December 31, shall take place prior to the annual report filing date for FERC Form 1 as defined in 18 CFR § 141.1.

20VAC5-340-65. Phase II Utility: Billing and Payment.

A. Subscriber organizations shall provide subscriber information to the utility as follows:

1. Subscriber organizations must provide, on a monthly basis and in a standard electronic format and pursuant to this chapter, a subscriber list indicating the kilowatt-hours of generation attributable to each of the subscribers participating in a shared solar facility in accordance with the subscriber's portion of the output of the shared solar facility.

2. Subscriber lists may be updated monthly to reflect canceling subscribers and to add new subscribers.

3. Monthly subscriber information must be provided by the fifth business day of the month.

4. Data transfer protocols for exchange of data between the subscriber organization and the utility shall be established to include:

a. Data components;

b. Data format;

c. Timing of monthly data exchanges;

d. Encryption level; and

e. Channel of data submission.

B. A subscriber organization may offer separate billing of its subscription fees or choose to use the utility's consolidated billing service.

C. Consolidated billing will reflect net crediting, as set forth in subsection I of this section, and the utility will be the billing party to the customer.

1. Where a subscriber organization chooses to use consolidated billing, the subscriber organization's marketing materials and contracts must identify clearly that the utility may charge a net crediting fee not to exceed 1.0% of the bill credit value.

2. Where a subscriber organization chooses to use net crediting, any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits.

3. All billing of the customer shall occur and comply with the utility's normal billing and credit cycles.

D. Credits to subscriber bills shall occur within two billing cycles following the cycle during which the energy was generated by the shared solar facility.

E. The utility shall, on a monthly basis and in a standardized electronic format, provide the subscriber organization a report indicating the total value of bill credits generated by the shared solar facility in the prior month, as well as the amount of the bill credit applied to each subscriber.

F. Except for low-income customers, failure of a subscriber to pay any regulated charges shall subject the subscriber to the same credit consequences set forth in the utility's commission-approved terms and conditions of service, including the potential requirement to post a security or disconnection of service. The utility shall provide a notice of intent to terminate service to the subscriber directly of any pending disconnection action for nonpayment consistent with the utility's practice as found in its approved tariff and 20VAC5-330, and this notice of intent to terminate service will occur separately from the customer bill. The bill shall clearly identify the amount that must be paid and the date by which such amount must be received and provide instructions for direct payment to the utility to avoid disconnection. A subscriber may not be disconnected for nonpayment of unregulated service charges.

G. Bill credits.

1. Bill credits shall be for a particular calendar month, regardless of the billing period or billing cycle of the individual customer's account.

2. Bill credits shall be calculated by multiplying the subscriber's portion of the kilowatt-hour electricity production from the shared solar facility by the applicable bill credit rate for the subscriber. Any portion of a bill credit that exceeds the subscriber's monthly bill, minus the minimum bill, shall be carried over and applied to subsequent bills until the earlier of when the credit is satisfied or up to 12 months.

3. In the event that all of the electricity generated by a shared solar facility is not allocated to subscribers in a given month, a subscriber organization may accumulate bill credits. The subscriber organization shall provide the utility allocation instructions for distributing excess bill credits to subscribers on an annual basis.

4. The commission shall establish the yearly applicable bill credit rate for the subscriber's residential, commercial, or industrial rate class.

5. The utility shall provide bill credits to a shared solar facility's subscribers for not less than 25 years from the date the shared solar facility becomes commercially operational.

6. The bill credits associated with the shared solar program shall be applied through the utility's fuel factor.

H. Minimum bill.

1. In a proceeding, as prescribed in 20VAC5-340-80, the commission will determine the specific costs and formula to determine the minimum bill for program participants.

2. Low-income customers shall be exempt from the minimum bill. Costs associated with low-income customer participation shall be recovered by the utility in a manner to be determined by the commission in the proceeding set forth in 20VAC5-340-80.

I. Net crediting.

1. Net crediting functionality shall be part of any new customer information platform approved by the commission.

2. Under net crediting, the utility shall include the shared solar subscription fee on the customer's utility bill and provide the customer with a net credit equivalent to the total bill credit value for that generation period minus the shared solar subscription fee as set by the subscriber organization.

3. The net crediting fee shall not exceed 1.0% of the bill credit value.

4. Net crediting shall be optional for subscriber organizations, and any shared solar subscription fees charged via the net crediting model shall be set to ensure that subscribers do not pay more in subscription fees than they receive in bill credits.

J. Environmental attributes associated with a shared solar facility, including renewable energy certificates or RECs.

1. A subscriber organization that registers a shared solar facility in the program within the first 200 megawatts alternating current of awarded capacity shall own all environmental attributes. At such subscriber organization's discretion, such environmental attributes may be distributed to subscribers, sold to load-serving entities with compliance obligations or other buyers, accumulated, or retired.

2. For a shared solar facility registered in the program after the first 200 megawatts alternating current of awarded capacity, the registering subscriber organization shall transfer renewable energy certificates to a Phase II Utility to be retired for compliance with such Phase II Utility's renewable portfolio standard obligations pursuant to § 56-858.5 C of the Code of Virginia.

3. As directed by § 56-594.3 B 7 of the Code of Virginia, mandatory distribution or transfer to the utility of the previous calendar year's RECs, ending December 31, shall take place prior to the annual report filing date for FERC Form 1 as defined in 18 CFR § 141.1.

20VAC5-340-70. Disputes.

A. The parties agree to attempt to resolve all disputes arising out of the shared solar program process according to the provisions of this section.

B. A subscriber organization shall establish an explicit dispute resolution procedure that identifies clearly identifies the process that shall be followed when resolving customer disputes. A copy of such dispute resolution procedure shall be provided to a customer or the commission upon request.

C. If the dispute remains unresolved, either party may petition the commission to handle the dispute as a formal complaint or

Regulations

may exercise whatever rights and remedies ~~it~~ the party may have in equity or law.

D. A subscriber organization shall furnish to customers ~~at a website, email address, and mailing address and a~~ a 24-hour toll-free telephone number for customer inquiries and complaints regarding services provided by the subscriber organization. The 24-hour toll-free telephone number shall be stated on all customer-billing statements and shall provide customers the opportunity to speak to a customer representative during normal business hours. Outside of normal business hours, a recorded message shall direct customers how to obtain customer assistance.

E. A subscriber organization shall direct a customer to contact the utility immediately if the customer has a service emergency. Such direction may be given either by a customer service representative or by a recorded message on ~~its~~ the subscriber organization's 24-hour toll-free telephone number.

F. A subscriber organization shall retain customer billing and account records and complaint records for at least three years and provide copies of such records to a customer or the commission upon request.

G. In the event that a customer has been referred to the utility by a subscriber organization, or to a subscriber organization by the utility, for response to an inquiry or a complaint, the party that is contacted second shall ~~(i) resolve;~~

1. Resolve the inquiry or complaint in a timely fashion; or
- ~~(ii) contact~~ 2. Contact the other party to determine responsibility for resolving the inquiry or complaint.

H. In the event a subscriber organization and customer cannot resolve a dispute, the subscriber organization shall provide the customer with the toll-free number and address of the commission.

20VAC5-340-80. Minimum bill composition.

~~A.~~ The commission shall convene a proceeding to determine any monthly administrative charge and the components of the minimum bill.

With respect to the minimum bill:

1. Each subscriber, other than a low-income customer of a Phase II Utility, shall pay a minimum monthly bill, which shall, as approved by the commission, include the costs of all utility infrastructure and services used to provide electric service and administrative costs of the shared solar program. The commission may modify the minimum bill over time. ~~In establishing the minimum bill, the commission shall (i) consider further costs the commission deems relevant to ensure subscribing customers pay a fair share of the costs of providing electric services to the subscribers, and (ii) minimize the costs shifted to customers not in a shared solar program.~~

2. In establishing the minimum bill for a Phase I Utility, the commission shall:

- a. Consider further costs the commission deems relevant to ensure subscribing customers pay a fair share of the costs of providing electric services;
- b. Minimize the costs shifted to customers not in a shared solar program; and
- c. Calculate the benefits of shared solar to the electric grid and to the Commonwealth and deduct such benefits from other costs.

3. In establishing the minimum bill for a Phase II Utility, the commission shall:

- a. Consider further costs the commission deems relevant to ensure subscribing customers pay a fair share of the costs of providing electric services and generation sufficient to meet customer needs at all times;
- b. Minimize the costs shifted to customers not in a shared solar program;
- c. Calculate the benefits of shared solar to the electric grid and to the Commonwealth and deduct such benefits from other costs; and
- d. Exempt low-income customers from the minimum bill.

4. ~~The minimum bill components established as set forth in subdivision 1 subdivisions 2 and 3~~ of this subsection and updated as deemed necessary by the commission shall be limited to such costs as determined by the commission to be just and reasonable based on evidence provided by the parties to the evidentiary hearing process. Such costs must reflect incremental costs of the shared solar program and not otherwise recovered by the utility from participating subscribers. The following factors shall be considered by the commission in determining whether costs proposed by the utility are incremental to the shared solar program and eligible for inclusion in the minimum bill:

- a. The extent to which the costs are utility infrastructure and services used to provide electric service for the shared solar program;
- b. The extent to which the costs are administrative costs of the shared solar program;
- c. Whether including the cost in the minimum bill is necessary to ensure subscribing customers pay a fair share of the costs of providing electric services to the subscribers;
- d. Whether including the cost in the minimum bill will minimize the costs shifted to customers not in a shared solar program; and
- e. Whether including the cost in the minimum bill is otherwise consistent with the requirements of ~~§~~ §§ 56-594.3 and 56-594.4 of the Code of Virginia.

~~3. 5.~~ The commission shall also consider how the utility will recover the minimum bill charges for exempt low-income customers.

~~B. The bill credit shall be calculated in accordance with 20VAC5-340-60 F₂ and § 56-594.3 C of the Code of Virginia.~~

6. The commission shall explicitly set forth its findings as to each cost and benefit or other value used to determine the minimum bill.

20VAC5-340-90. Recordkeeping and reporting requirements.

A. Subscriber organizations. Prior to commercial operation of any shared solar facility, each subscriber organization shall report to the commission and the applicable utility its achievement of contracting with low-income customers. Thereafter, this report shall be updated and filed semi-annually with the commission by January 31 and July 31, respectively, of each calendar year for the previous calendar year, commencing in 2024. When making the annual report, the subscriber organization shall provide the following information:

1. Total number of subscribers and the amount of kilowatts subscribed to by each subscriber;
2. Total number of low-income customers and the amount of kilowatts subscribed to by each low-income customer;
3. Detailed plan for meeting ~~its~~ the organization's low-income customer target in the upcoming year if the target was not met for the annual period covered by the report; and
4. Certification that there is no subscriber whose subscription size exceeds the subscriber's average annual bill over the past 12 months for the customer account to which the subscription is attributed.

The utility shall maintain a list of requests from active subscriber organizations associated with providing access to customer billing and usage data. The utility shall keep complete documentation of the customer's affirmative consent and duration of consent by written or electronic signature as provided by the subscriber organization to the utility. If the affirmative consent documentation is in the form of a copy of the customer's contract with the subscriber organization, the utility shall maintain a copy of the contract for at least one year after the date of expiration. Such affirmative consent contracts shall be provided within five business days to the customer, the active subscriber organization, or the commission staff upon request.

The utility shall maintain a consolidated list of active subscriber organizations, including the number of low-income customers for each organization.

Each subscriber organization shall retain a record of all disclosure forms, low-income customer proof of eligibility, and subscriber allocation lists for a period of at least three

years. Each subscriber organization shall retain copies of subscriber contracts for a period of at least one year from the date of ~~their~~ expiration. Each of these documents must be made available immediately upon request from the commission or commission staff.

A subscriber organization shall retain customer billing and account records and complaint records for at least three years.

B. Affordable housing providers. Affordable housing providers subscribing on behalf of ~~their~~ low-income tenants shall annually, on or before January 31, commencing in 2024, submit a written report for the shared solar program to the commission staff describing how bill savings or other tangible benefits were provided to the tenants in the last year. The report shall include a detailed accounting and expense report for the bill savings achieved.

C. Utility. The utility shall maintain conformance with the commission's Regulations Governing Interconnection of Small Electric Generators (20VAC5-314), and specifically, 20VAC5-314-130.

20VAC5-340-100. ~~Low-income participation stakeholder process. (Repealed.)~~

~~The Commission shall initiate a stakeholder process including low-income community representatives and community solar providers to facilitate low-income customer and low-income service organization participation in the program.~~

20VAC5-340-110. Licensing exemption process for subscriber organizations.

A. Each entity seeking to conduct business as a subscriber organization that provides less than a total of 500 kW AC solar at any one location or multiple locations shall provide notice to the commission prior to commencing any business operations. Each entity must notify the commission by electronic mail to ~~PURUtilityReports@sec.virginia.gov~~ sharedsolarproject@scc.virginia.gov and contemporaneously provide a copy of the information to the ~~investor-owned utility~~, Phase I Utility or Phase II Utility, as applicable. If the applicant becomes aware of any material changes to any information within the application, the applicant shall inform the commission within 10 calendar days. Notices shall include the following information:

1. Legal name of the applicant, as well as any trade names.
2. Physical business addresses and telephone numbers of the applicant's principal office and all offices in Virginia.
3. A description of the applicant's authorized business structure.
4. Name and business address of all principal entity officers and directors.

5. If a foreign corporation, a copy of the applicant's authorization to conduct business in Virginia from the commission or if a domestic corporation, a copy of the certificate of incorporation from the commission.

6. A list of the states, if any, in which the applicant and the applicant's affiliates conduct business related to participation in a multi-family shared solar program, the names under which such business is conducted, and a description of the business conducted.

7. Name, title, and address of the applicant's registered agent in Virginia for service of process.

8. Name, title, address, telephone number, and email address of the applicant's liaison with the commission.

9. Sufficient information to demonstrate viability to provide ~~said~~ service to its subscribers- (i.e., location and size of the solar installation, expected number of subscribers, expected in-service date, identity of solar developer and operator, contract term, facility maintenance agreement, revenue source, description of facility financing, and nonprofit certification, etc.).

10. A copy of the applicant's dispute resolution procedure, including a telephone number.

11. A copy of the applicant's proposed standard agreement it plans to use with prospective subscribers.

12. A \$100 notice fee payable to the commission.

13. Disclosure of any civil, criminal, or regulatory sanctions or penalties imposed or in place within the previous five years against the applicant.

14. An affidavit from an appropriate officer of the applicant certifying that the applicant will indemnify and hold harmless any and all subscribers from and against claim, damage, loss, and expense arising out of the applicant's negligence or misconduct.

15. A copy of the applicant's low-income subscription plan, as applicable.

B. An officer with appropriate authority shall attest that all information supplied on the notice is true and correct and that the applicant will abide by all applicable laws of the Commonwealth and regulations of the commission.

C. Notification to the commission is required for transfer or assignment of said services to any third party.

D. The commission may impose conditions on any terms it determines are appropriate.

VA.R. Doc. No. R25-7988; Filed August 9, 2024, 11:30 a.m.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

DEPARTMENT OF MOTOR VEHICLES

Fast-Track Regulation

Title of Regulation: **24VAC20-121. Virginia Driver Training Schools Regulations (amending 24VAC20-121-20).**

Statutory Authority: §§ 46.2-203 and 46.2-1703 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 9, 2024.

Effective Date: October 24, 2024.

Agency Contact: Nicholas Megibow, Senior Policy Analyst, Department of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-6701, FAX (804) 367-4336, or email nicholas.megibow@dmv.virginia.gov.

Basis: Section 46.2-203 of the Code of Virginia provides the Department of Motor Vehicles (DMV) with specific and general authority to adopt reasonable administrative regulations necessary to carry out the laws administered by the DMV. Section 46.2-1703 of the Code of Virginia authorizes DMV to provide adequate training for students and protect student and public safety.

Purpose: The proposed amendments would reduce the regulatory burden on driver training school businesses while not detrimentally affecting the health, safety, or welfare of citizens of the Commonwealth.

Rationale for Using Fast-Track Rulemaking Process: DMV determined that these changes would reduce the regulatory burden on driver training school businesses while not detrimentally affecting citizens of the Commonwealth. As such, DMV anticipates that the amendments would be noncontroversial and therefore appropriate for the fast-track rulemaking process.

Substance: The amendments remove the phrase "and a minimum of 10 square feet per student attending at any given time" from 24VAC20-121-20 B 1.

Issues: The advantage to the public and the Commonwealth is that this regulatory action would remove an unnecessary regulatory requirement from the regulation and lessen the regulatory burden on driver training school businesses. The amendments do not present any disadvantages to the public 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 Department of Motor Vehicles (DMV) proposes to eliminate the requirement that driver training schools provide a minimum of 10 square feet per student attending at any given time.

Background. The regulation specifies that driver training schools must comply with federal, state, and local health, fire, and building code requirements. According to DMV, there are sections of the Uniform Statewide Building Code (USBC) that govern the number of individuals that can be in a given area of a business. The agency believes that this is sufficient to effectively regulate space per student.

Estimated Benefits and Costs. Given USBC requirements and since no instructional requirements are proposed to be amended or repealed, the proposal to eliminate the requirement that driver training schools provide a minimum of 10 square feet per student attending at any given time is not likely to have substantial impact.

Businesses and Other Entities Affected: The proposed amendment potentially affects the 324 licensed driver training schools.² According to DMV, all or almost all are small businesses.

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 benefit for any entity, even if the benefits exceed the costs for all entities combined.⁴ The proposed amendment neither increases costs nor reduces benefits. Thus, no adverse impact is indicated.

Small Businesses⁵ Affected.⁶ The proposed amendment does not adversely affect small businesses.

Localities⁷ Affected.⁸ The proposed amendment neither disproportionately affect particular localities nor introduces costs for local governments.

Projected Impact on Employment. The proposed amendment does not affect total employment.

Effects on the Use and Value of Private Property. The proposed amendment neither substantively affects the use and value of private property nor affects real estate development costs.

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

² Data source: DMV.

³ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a

locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁴ 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁵ Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

⁶ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁷ "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.

⁸ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency's Response to Economic Impact Analysis: The Department of Motor Vehicles has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The amendments remove the phrase "and a minimum of 10 square feet per student attending at any given time" from the regulation.

24VAC20-121-20. Business office and classroom requirements.

A. No school license shall be issued unless the school has an established place of business in the Commonwealth that is owned, rented, or leased by the school. Such established place of business shall:

1. Be the premises of the licensed location of the school;
2. Satisfy all local business licensing and zoning regulations;
3. Have office space devoted exclusively to the driver training school;
4. Contain all records that are required to be maintained under the provisions of these regulations unless the school has been permitted to maintain ~~them~~ the records elsewhere pursuant to 24VAC20-121-40;

Regulations

5. Be equipped with a desk, chairs, filing space, working utilities, and a working telephone listed in the name of the school;
6. Comply with federal, state, and local health, fire, and building code requirements, including the Americans with Disabilities Act (42 USC § 12101 et seq.);
7. Be open to the general public a minimum of eight hours per week during normal business hours; and
8. Not share space with a school classroom.

The school shall also provide to the department the street address and physical address of any other business offices maintained by the school in addition to the licensed location office.

In addition to business office addresses, all addresses, physical locations of classrooms, driving simulators, or any other facilities used by the school shall be provided to the department in a format prescribed by the department. If any such classroom, driving simulator, or other facility is not owned by the school, then a copy of all agreements associated with the use of such property by the school shall be provided to the department. Schools shall not use classrooms, driving simulators, or other driver training facilities prior to receiving approval for ~~their~~ use from the department.

A school owner's residence may be used as the licensed location of a school if ~~the residence~~ qualifies for a federal tax deduction of expenses related to the business use of part of the residence and meets the established place of business requirements set forth in these regulations.

B. Any school that engages in classroom instruction shall provide a classroom with the following:

1. Seating arrangements and writing surfaces for each student ~~and a minimum of 10 square feet per student attending at any given time;~~
2. Blackboards or other visual aids that shall be visible from all seating positions;
3. Driver education reference books, including, when applicable, current curriculum guides, student ~~work books~~ workbooks and appropriate textbooks for each student;
4. Appropriate audio/video equipment and screen in good working order; and
5. Restroom facilities that are clean, accessible, and in good working order.

C. Office and instruction hours shall be posted in a conspicuous location outside the licensed location and any other business office in a manner that is visible and easily accessible to the public from outside of the licensed location and business.

D. The school license and any notice of the department that limits or restricts training shall be prominently posted at the licensed location office. A copy of the school license and notice, if applicable, ~~also~~ shall also be prominently posted in each school classroom and any other business office maintained by the school.

In addition, schools shall display, in a conspicuous location in all ~~their~~ classrooms and ~~their~~ business offices, signs provided by the department that notify students and the public about the department's toll-free hotline.

E. Any school licensed by the department shall notify the department, in a format prescribed by the department, 30 days prior to a change of address for the licensed location, any other business office or classroom, or other instructional facility. The department will issue a revised license reflecting such changes. The school shall return the current license to the department upon receipt of a revised school license. All school-related business, classroom, and instructional locations are subject to approval by the department, as required in these regulations.

F. The location of a school's licensed location, other business offices, classrooms, or practice driver training areas shall be a distance of at least 1,500 feet from any property owned, leased, or maintained by the department for examining motor vehicle operators. Such distance shall be measured in a straight line from the nearest point of the primary building of the department's property to the nearest point of the school licensed location, business office, classroom, or practice driver training area, whichever is closest. This distance requirement may be waived by the department if the licensed location, other business office, classroom, or practice driver training area has been previously allowed to be within the ~~1,500-foot~~ 1,500-foot limit as a result of an action or omission on the part of the department. All school-related business, classroom, or instructional locations must be approved by the department prior to use.

VA.R. Doc. No. R25-7905; Filed August 20, 2024, 9:41 a.m.

Fast-Track Regulation

Title of Regulation: **24VAC20-121. Virginia Driver Training Schools Regulations (repealing 24VAC20-121-170).**

Statutory Authority: § 46.2-1703 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: October 9, 2024.

Effective Date: October 24, 2024.

Agency Contact: Nicholas Megibow, Senior Policy Analyst, Department of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-6701, FAX (804) 367-4336, or email nicholas.megibow@dmv.virginia.gov.

Basis: Section 46.2-203 of the Code of Virginia provides the Department of Motor Vehicles (DMV) with specific and

general authority to adopt reasonable administrative regulations necessary to carry out the laws administered by the DMV. Section 46.2-1703 of the Code of Virginia authorizes DMV to provide adequate training for students and protect student and public safety.

Purpose: The proposed amendment would reduce the regulatory burden on driver training school businesses while not detrimentally affecting the health, safety, or welfare of citizens of the Commonwealth.

Rationale for Using Fast-Track Rulemaking Process: DMV determined that this change would reduce the regulatory burden on driver training school businesses while not detrimentally affecting citizens of the Commonwealth. As such, DMV anticipates that the amendment would be noncontroversial and therefore appropriate for the fast-track rulemaking process.

Substance: The amendment repeals 24VAC20-121-170.

Issues: The advantage to the public and the Commonwealth is that this regulatory action would remove unnecessary regulatory requirements from the regulation and lessen the regulatory burden on driver training school businesses. The amendment does not present any disadvantages to the public 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 Department of Motor Vehicles (DMV) proposes to remove curriculum requirements for Class A driver training courses from the regulation.

Background. Class A training is for drivers of commercial motor vehicles. According to DMV, when the regulation was originally drafted, there was no federal guidance with regards to curriculum requirements for Class A driver training courses. With the promulgation of the Entry Level Driver Training (ELDT) federal regulations, this is no longer the case. The ELDT requirements were subsequently codified by Virginia.²

Estimated Benefits and Costs. Statutes supersede regulations when there is any conflict. Thus, the ELDT requirements already apply for Class A driver curriculum requirements. Removing the curriculum requirements for Class A driver training courses from the regulation would have no impact beyond perhaps reducing the possibility of confusion for those who have read the regulation, but not the applicable statute, concerning Class A driver curriculum requirements.

Businesses and Other Entities Affected. The proposed amendment pertains to the 30 Class A licensed driver training

schools in the Commonwealth.³ According to DMV, all or almost all are small businesses.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁵ The proposed amendment neither increases costs nor reduces benefits. Thus, no adverse impact is indicated.

Small Businesses⁶ Affected.⁷ The proposed amendment does not adversely affect small businesses.

Localities⁸ Affected.⁹ The proposed amendment neither disproportionately affect particular localities nor introduces costs for local governments.

Projected Impact on Employment. The proposed amendment does not affect total employment.

Effects on the Use and Value of Private Property. The proposed amendment neither substantively affects the use and value of private property nor affects real estate development costs.

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

² See "Entry-level driver training" definition in § 46.2-341.4 of the Code of Virginia: <https://law.lis.virginia.gov/vacode/46.2-341.4/>.

³ Data source: DMV.

⁴ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁵ 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

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

⁷ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving

Regulations

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.

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

Agency's Response to Economic Impact Analysis: The Department of Motor Vehicles has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The amendment repeals 24VAC20-121-170.

24VAC20-121-170. Curriculum requirements for Class A licensed schools. (Repealed.)

~~Course curriculum requirements will be established and made available by the department to Class A licensed schools, Class A license applicants and the public. A course curriculum meeting the established requirements must be submitted to the department at the time of Class A license application or renewal application, and must be approved by the department prior to the beginning of course instruction.~~

~~The department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the department, in consultation with all affected schools that are licensed by the department at the time of the update and other interested parties as identified by the department.~~

~~The department shall notify the affected schools when and if new relevant topics are added to the course curriculum. Schools shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the department in a format prescribed by the department that the school has added the new topics to the course curriculum.~~

VA.R. Doc. No. R25-7908; Filed August 20, 2024, 9:39 a.m.

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.

STATE BOARD OF EDUCATION

Title of Document: [Board of Education Approved Industry Certifications, Occupational Competency Assessments, and Professional Licenses.](#)

Guidelines for Prescribed Professional Teacher's Examinations.

Public Comment Deadline: October 9, 2024.

Effective Date: October 10, 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.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

Titles of Documents: [Information Technology Procurement: Emergency Procurement.](#)

[Information Technology Procurement: Sole Source Policy.](#)

Public Comment Deadline: October 9, 2024.

Effective Date: October 10, 2024.

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

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Document: [Rehabilitation Manual, Chapter 6.](#)

Public Comment Deadline: October 9, 2024.

Effective Date: October 10, 2024.

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

BOARD OF NURSING

Title of Document: [Medication Administration Training Curriculum.](#)

Public Comment Deadline: October 9, 2024.

Effective Date: October 10, 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, or email erin.barrett@dhp.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.

STATE BOARD OF EDUCATION

Titles of Documents: [Career and Technical Education Work-Based Learning Guide.](#)

[Policy Statement for Implementing in Virginia-Approved Programs the Virginia Communication and Literacy Assessment.](#)

[Virginia Community School Framework.](#)

Public Comment Deadline: October 9, 2024.

Effective Date: October 10, 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.

Guidance Documents

DEPARTMENT OF THE TREASURY

Titles of Documents: [Local Government Investment Pool \(LGIP\) Circular](#).

[LGIP Emerging Markets \(EM\) Portfolio](#).

[LGIP Financial Statements](#).

[LGIP EM Rated 'AAAf_S1+' by Standard & Poor's](#).

[LGIP Rated 'AAAm' by Standard & Poor's](#).

[LGIP Standard & Poor's Fund Profile](#).

[LGIP EM Standard & Poor's Pool Profile](#).

[LGIP EM Quarterly Performance Report](#).

[LGIP Newsletter](#).

[LGIP Portfolio](#).

Public Comment Deadline: October 9, 2024.

Effective Date: October 10, 2024.

Agency Contact: Bill Watt, Senior Policy Analyst, Department of the Treasury, James Monroe Building, 101 North 14th Street, Third Floor, Richmond, VA 23219, telephone (804) 836-8523, or email william.watt@trs.virginia.gov.

GENERAL NOTICES

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Great Oaks Partners LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Great Oaks Partners LLC for violations of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations at Great Oaks Subdivision, Bedford, Virginia. A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. The DEQ contact will accept comments by email or postal mail from September 9, 2024, through October 9, 2024.

Contact Information: Timothy Fletcher, Enforcement Specialist, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 524-0665, or email timothy.fletcher@deq.virginia.gov.

Proposed Enforcement Action for Joseph S. Kauffman

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Joseph S. Kauffman for violations of the State Water Control Law and regulations in Buckingham County, Virginia. 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 September 9, 2024, through October 9, 2024.

Contact Information: Matt Richardson, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, Virginia 23060, telephone (804) 659-2696, or email matthew.richardson@deq.virginia.gov.

Proposed Enforcement Action for Lynchburg Fabrication Inc.

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Lynchburg Fabrication Inc. of Virginia for violations of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations at Lynchburg Fabrication Expansion, Lynchburg, Virginia. A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. The DEQ contact will accept comments by email or postal mail from September 9, 2024, through October 9, 2024.

Contact Information: Timothy Fletcher, Enforcement Specialist, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 524-0665, or email timothy.fletcher@deq.virginia.gov.

Proposed Enforcement Action for OtterView Inc.

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for OtterView Inc. for violations of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations at Jefferson Village Townhomes, Forest, Virginia. A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. The DEQ contact will accept comments by email or postal mail from September 9, 2024, through October 9, 2024.

Contact Information: Timothy Fletcher, Enforcement Specialist, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 524-0665, or email timothy.fletcher@deq.virginia.gov.

Proposed Enforcement Action for Pentapotamia Hospitality Group LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Pentapotamia Hospitality Group LLC for violations of the State Water Control Law and regulations and applicable permit at the Hampton Inn, Zion Crossroads, Louisa, Virginia. 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 September 9, 2024, to October 9, 2024.

Contact Information: Holly Shupe, Regional Enforcement Specialist, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia 22193, telephone (571) 866-6923, or email holly.shupe@deq.virginia.gov.

Proposed Enforcement Action for Sheetz Inc.

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Sheetz Inc. for violations of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations at a proposed Sheetz Store - Plantation, Roanoke, Virginia. A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. The DEQ contact will accept comments by email or postal mail from September 9, 2024, through October 9, 2024.

Contact Information: Timothy Fletcher, Enforcement Specialist, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 524-0665, or email timothy.fletcher@deq.virginia.gov.

General Notices

Proposed Enforcement Action for Tricord Incorporated

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Tricord Incorporated for violations of the State Water Control Law and regulations and applicable permit at the Wilderness Shores facility, Locust Grove, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/permits/public-notices>. The DEQ contact will accept written comments from August 27, 2024, to September 26, 2024.

Contact Information: Katherine Mann, Enforcement Specialist, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia 22193, telephone (571) 866-6095, or email katherine.mann@deq.virginia.gov.

Boston Hill Solar LLC Notice of Intent for a Small Renewable Energy Project (Solar) - Cumberland County

Boston Hill Solar, LLC has provided the Department of Environmental Quality a notice of intent (NOI) to submit the necessary documents for a permit by rule for a small renewable energy project in Cumberland County, Virginia, pursuant to 9VAC15-60. The project name is Boston Hill Solar, the owner is Boston Hill Solar LLC, and the project developer is Sun Tribe. The DEQ project number is RE0000327.

The proposed project parcels encompass approximately 1,066 acres, with 600 of those acres within the project fence line (solar panels, solar equipment, stormwater management), and a geographic information system (GIS) centroid of Latitude 37.665 and Longitude -78.153. As proposed, the project will have a maximum rated capacity of 115 megawatts alternating current and include approximately 252,368 photovoltaic panels.

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

Cumberland Solar LLC Notice of Intent for a Small Renewable Energy Project (Solar) - Cumberland County

Cumberland Solar LLC has provided the Department of Environmental Quality a notice of intent (NOI) to submit the necessary documents for a permit by rule for a small renewable energy project in Cumberland County, Virginia, pursuant to 9VAC15-60. The project name is Cumberland Solar, the owner is Cumberland Solar LLC, and the project developer is Sun Tribe. The DEQ project number is RE0000326.

The proposed project parcels encompass approximately 1,794 acres, with 900 of those acres within the project fence line

(solar panels, solar equipment, stormwater management) with a GIS centroid of Latitude 37.654 and Longitude -78.231. As proposed, the project will have a maximum rated capacity of 100 megawatts alternating current and include approximately 220,347 photovoltaic panels.

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

Opportunity for Public Comment on Proposed State Implementation Air Quality Plan Revision

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed revision to the Commonwealth of Virginia State Implementation Plan (SIP). The SIP is a plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA). The Commonwealth intends to submit the regulation amendments to EPA as a revision to the plan in accordance with the requirements of § 110(a) of the federal Clean Air Act.

Provisions affected: The regulation of the board affected by this action is 9VAC5-10 (General Definitions), Regulation Revision A23.

Purpose of notice: DEQ is seeking comment on the issue of whether the regulation amendments should be submitted as a revision to the plan.

Public comment period: September 9, 2024, to October 9, 2024.

Public hearing: A public hearing may be conducted if a request is made in writing to the contact listed. In order to be considered, the request must include the full name, address, and telephone number of the person requesting the hearing and be received by DEQ by the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice, and another 30-day comment period will be conducted.

Public comment stage: The regulation included in this plan has been adopted by the State Air Pollution Control Board in accordance with the Code of Virginia; DEQ is accepting comment only on the issue cited under "purpose of notice" and not on the content of the regulation amendments.

Description of proposal: This revision updates the definition of volatile organic compound (VOC) at 9VAC5-10-20 to add trans-1,1,1,4,4,4-hexafluorobut-2-ene (also known as HFO-1336mzz(E)) to the list of substances excluded from the definition of VOC on the basis that this substance makes a negligible contribution to tropospheric ozone formation.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102) and not any provision of state law.

How to comment: DEQ accepts written comments by email and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ on the last day of the comment period. All materials received are part of the public record.

To review documents: The proposal and any supporting documents are available on the DEQ Air Public Notices website at <https://www.deq.virginia.gov/permits-regulations/public-notices/air>. The documents may also be obtained by contacting the DEQ representative listed in this notice. The public may schedule an appointment to review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations:

1. Main Street Office, 22nd Floor, 1111 East Main Street, Richmond, VA, (804) 698-4000;
2. Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA, (540) 676-4800;
3. Blue Ridge Regional Office, 3901 Russell Drive, Salem, VA, (540) 562-6700;
4. Valley Regional Office, 4411 Early Road, Harrisonburg, VA, (540) 574-7800;
5. Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA, (804) 527-5020;
6. Northern Regional Office, 13901 Crown Court, Woodbridge, VA, (703) 583-3800; and
7. Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA, (757) 518-2000.

Contact Information: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1973, or email karen.sabasteanski@deq.virginia.gov.

VIRGINIA CODE COMMISSION Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 201 North Ninth Street, Fourth Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 D of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumulatab.pdf>.

Filing Material for Publication in the Virginia Register of Regulations: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

ERRATA

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12VAC30-60. Standards
Established and Methods Used to Assure High Quality
Care.

Publication: 41:1 VA.R. 177-193 August 26, 2024.

Correction to Fast-Track Regulation:

Page 182, 12VAC30-60-302 A, line 8, after "DMAS-
97)" unstrike comma and insert "and"

VA.R. Doc. No. R22-6578; Filed August 26, 2024, 11:39 p.m.