



# VIRGINIA

## REGISTER OF REGULATIONS

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# THE VIRGINIA REGISTER INFORMATION PAGE

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

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

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

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

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

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*.

If the Governor finds that the final regulation contains changes made after publication of the proposed regulation that have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his

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

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

## FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

## EMERGENCY REGULATIONS

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

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# PUBLICATION SCHEDULE AND DEADLINES

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

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## June 2025 through June 2026

<b><u>Volume: Issue</u></b>	<b><u>Material Submitted By Noon*</u></b>	<b><u>Will Be Published On</u></b>
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
42:5	October 1, 2025	October 20, 2025
42:6	October 15, 2025	November 3, 2025
42:7	October 29, 2025	November 17, 2025
42:8	November 10, 2025 ( <b>Monday</b> )	December 1, 2025
42:9	November 24, 2025 ( <b>Monday</b> )	December 15, 2025
42:10	December 9, 2025	December 29, 2025
42:11	December 22, 2025 ( <b>Monday</b> )	January 12, 2026
42:12	January 6, 2026 ( <b>Tuesday</b> )	January 26, 2026
42:13	January 21, 2026	February 9, 2026
42:14	February 4, 2026	February 23, 2026
42:15	February 18, 2026	March 9, 2026
42:16	March 4, 2026	March 23, 2026
42:17	March 18, 2026	April 6, 2026
42:18	April 1, 2026	April 20, 2026
42:19	April 15, 2026	May 4, 2026
42:20	April 29, 2026	May 18, 2026
42:21	May 13, 2026	June 1, 2026
42:22	May 27, 2026	June 15, 2026
42:23	June 10, 2026	June 29, 2026

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF MEDICINE

#### Initial Agency Notice

Title of Regulation: **18VAC85-21. Regulations Governing Prescribing of Opioids and Buprenorphine.**

Statutory Authority: §§ 54.1-2400 and 54.1-2928.2 of the Code of Virginia.

Name of Petitioner: Virginia Society of Addiction Medicine.

Nature of Petitioner's Request: The petitioner requests that the Board of Medicine amend 18VAC85-21-150 and 18VAC85-21-160 to (i) remove provision of counseling services or provision of a referral for counseling services to the patient, (ii) remove documentation requirements of the rationale for prescriptions of buprenorphine that exceed 24 milligrams per day, and (iii) remove the restriction on prescribing buprenorphine to patients younger than 16 years of age.

Agency Plan for Disposition of Request: The petition for rulemaking will be published in the Virginia Register of Regulations on June 2, 2025. The petition will also be published on the Virginia Regulatory Town Hall at [www.townhall.virginia.gov](http://www.townhall.virginia.gov) to receive public comment, which opens June 2, 2025, and closes July 2, 2025. The board will consider the petition and all comments in support or opposition at the next meeting after the close of public comment. Currently that meeting is scheduled for August 1, 2025. The petitioner will be notified of the board's decision after that meeting.

Public Comment Deadline: July 2, 2025.

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) 750-3912, or email [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov).

V.A.R. Doc. No. PFR25-43; Filed May 05, 2025, 2:59 p.m.

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# PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

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## TITLE 2. AGRICULTURE

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

#### Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and a small business impact review: **2VAC5-20, Standards for Classification of Real Estate as Devoted to Agricultural Use and to Horticultural Use under the Virginia Land Use Assessment Law; 2VAC5-30, Rules and Regulations Pertaining to Reporting Requirements for Contagious and Infectious Diseases of Livestock and Poultry in Virginia; 2VAC5-40, Rules and Regulations Governing the Prevention, Control and Eradication of Bovine Tuberculosis in Virginia; 2VAC5-90, Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia; 2VAC5-141, Health Requirements Governing the Admission of Agricultural Animals, Pet Animals, and Other Animals or Birds into Virginia; 2VAC5-170, Rules and Regulations for the Registration of Poultry Dealers; 2VAC5-206, Regulation for Scrapie Eradication; 2VAC5-310, Rules and Regulations-Official Standards for Enforcement of the Virginia Apples: Grading, Packing, and Marking Law; 2VAC5-317, Regulations for the Enforcement of the Noxious Weeds Law; 2VAC5-440, Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine; and 2VAC5-610, Rules Governing the Solicitation of Contributions.** The review will be guided by the principles in Executive Order 19 (2022). The purpose of this review is to determine whether these regulations should be repealed, amended, or retained in their current forms. Public comment is sought on the review of any issue relating to these regulations, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins June 2, 2025, and ends June 23, 2025.

Comments must include the commenter's name and address (physical or email) in order to receive a response to the comment from the agency.

Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Erin Williams, Regulatory Coordinator, Department of Agriculture and Consumer Services, Oliver Hill Building, 102 Governor Street, Richmond, VA 23219, telephone (804) 786-7157, FAX (804) 371-7679, or email [erin.williams@vdacs.virginia.gov](mailto:erin.williams@vdacs.virginia.gov).

## TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

### COMMONWEALTH TRANSPORTATION BOARD

#### Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **24VAC30-315, Standards for Use of Traffic Control Devices to Classify, Designate, Regulate, and Mark State Highways.** The review will be guided by the principles in Executive Order 19 (2022). The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins June 2, 2025, and ends June 23, 2025.

Comments must include the commenter's name and address (physical or email) in order to receive a response to the comment from the agency.

Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: JoAnne P. Maxwell, Agency Regulatory Coordinator, Governance and Legislative Affairs Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, FAX (804) 225-4700, or email [joanne.maxwell@vdot.virginia.gov](mailto:joanne.maxwell@vdot.virginia.gov).





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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 13. HOUSING

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

#### 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 Housing and Community Development intends to consider amending **13VAC5-31, Virginia Amusement Device Regulations**. The purpose of the proposed action is to update the Virginia Amusement Device Regulations (VADR) to incorporate by reference the newest available nationally recognized American Society for Testing and Materials standards. The updated standards address new designs and arrangements of amusement devices. An amusement device is a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion, including passenger tramways. This action will also consider amendments to the administrative and enforcement provisions of the regulation and amendments to ensure continued correlation with the Uniform Statewide Building Code (13VAC5-63). This action is exempt from Article 2 of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) in accordance with § 2.2-4006 A 12 of the Code of Virginia.

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

Statutory Authority: § 36-98.3 of the Code of Virginia.

Public Comment Deadline: December 2, 2025.

Agency Contact: Chase Sawyer, Policy and Legislative Services Manager, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 310-5872, FAX (804) 371-7090, TDD (804) 371-7089, or email [chase.sawyer@dhcd.virginia.gov](mailto:chase.sawyer@dhcd.virginia.gov).

VA.R. Doc. No. R25-8333; Filed May 13, 2025, 4:37 p.m.

#### 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 Housing and Community Development intends to consider amending **13VAC5-52, Virginia Statewide Fire Prevention Code**. The purpose of the proposed action is to update the Statewide Fire Prevention Code (SFPC) to incorporate by reference the 2024 edition of the model codes from the International Code Council, which are nationally recognized model building codes and standards. The SFPC provides for the regulation of structure maintenance, processes, and premises and provides safeguards for the protection of life and property from the hazards of fire or explosion and for the handling, storage, and use of fireworks, explosives, or blasting agents. This action will also

consider amendments to the administrative and enforcement provisions of the regulation.

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

Statutory Authority: § 27-97 of the Code of Virginia.

Public Comment Deadline: December 2, 2025.

Agency Contact: Chase Sawyer, Policy and Legislative Services Manager, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 310-5872, FAX (804) 371-7090, TDD (804) 371-7089, or email [chase.sawyer@dhcd.virginia.gov](mailto:chase.sawyer@dhcd.virginia.gov).

VA.R. Doc. No. R25-8332; Filed May 13, 2025, 4:37 p.m.

#### 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 Housing and Community Development intends to consider amending **13VAC5-63, Virginia Uniform Statewide Building Code**. The purpose of the proposed action is to update the Uniform Statewide Building Code (USBC) to incorporate by reference the 2024 edition of the model codes from the International Code Council and the National Fire Protection Association, which are nationally recognized model building codes and standards. The USBC provides regulation based on nationally recognized codes and standards for the construction, reconstruction, alteration, repair, and conversion of use and maintenance of buildings and structures through minimum standards for the health, safety, and welfare of the citizens of Virginia. This action will also consider amendments to the administrative and enforcement provisions of the regulation.

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

Statutory Authority: § 36-98 of the Code of Virginia.

Public Comment Deadline: December 2, 2025.

Agency Contact: Chase Sawyer, Policy and Legislative Services Manager, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 310-5872, FAX (804) 371-7090, TDD (804) 371-7089, or email [chase.sawyer@dhcd.virginia.gov](mailto:chase.sawyer@dhcd.virginia.gov).

VA.R. Doc. No. R25-8334; Filed May 13, 2025, 4:38 p.m.

#### 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 Housing and Community Development intends to consider amending **13VAC5-91, Virginia Industrialized Building Safety Regulations**. The purpose of the proposed action is to update the Industrialized Building Safety Regulations (IBSR) to incorporate by reference the 2024 edition of the model codes from the International Code Council and the National Fire Protection Association, which are nationally recognized model building

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# Notices of Intended Regulatory Action

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codes and standards. The ISBR provides regulation for industrial buildings, which are buildings constructed in a factory or plant for subsequent installation or erection on property in Virginia cities, counties, or towns. This action will also consider amendments to the administrative and enforcement provisions of the regulation to ensure that industrialized buildings meet the same minimum codes and standards as site-built structures.

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

Statutory Authority: § 36-73 of the Code of Virginia.

Public Comment Deadline: December 2, 2025.

Agency Contact: Chase Sawyer, Policy and Legislative Services Manager, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 310-5872, FAX (804) 371-7090, TDD (804) 371-7089, or email [chase.sawyer@dhcd.virginia.gov](mailto:chase.sawyer@dhcd.virginia.gov).

VA.R. Doc. No. R25-8335; Filed May 13, 2025, 4:38 p.m.

## 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 Counseling intends to consider amending **18VAC115-20, Regulations Governing the Practice of Professional Counseling**. The purpose of the proposed action is to respond to a petition for rulemaking by adding a requirement in 18VAC115-20-52 that supervisors of residents in counseling evaluate a resident's competency and report total residency hours within a set timeframe.

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

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

Public Comment Deadline: July 2, 2025.

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](mailto:jaime.hoyle@dhp.virginia.gov).

VA.R. Doc. No. R24-35; Filed May 1, 2025, 11:00 a.m.

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## 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 amend 18VAC110-20-690 to prohibit issuance of a controlled substances registration at a location that is a private dwelling or residence and make 18VAC110-20-690 consistent with 18VAC110-20-110 J, which prohibits issuance of a pharmacy permit to locations that are private dwellings or residences, and 18VAC110-50-30 C, which prohibits issuance of a license, permit, or registration to a wholesale distributor, manufacturer, warehouser, nonresident warehouser, nonresident wholesale distributor, nonresident manufacturer, third-party logistics provider, or nonresident third-party logistics provider operating out of a private dwelling or residence.

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: July 2, 2025.

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](mailto:caroline.juran@dhp.virginia.gov).

VA.R. Doc. No. R25-8068; Filed May 1, 2025, 11:03 a.m.



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# REGULATIONS

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

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## Symbol Key

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

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### DEPARTMENT OF ENERGY

#### 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:** 4VAC25-20. Board of Coal Mining Examiners Certification Requirements.

**Agency Contact:** Larry Corkey, Policy and Planning Manager, Department of Energy, 1100 Bank Street, Eighth Floor, Richmond, VA 23219, telephone (804) 692-3239, or email [larry.corkey@energy.virginia.gov](mailto:larry.corkey@energy.virginia.gov).

FORMS (4VAC25-20)

~~Application for Certification Examination, DM-BCME-1 (rev. 5/09).~~

~~Verification of Work Experience, DM-BCME-2 (rev. 10/05).~~

~~Verification of Training Completed for General Coal Miner Certification, DM-BCME-3 (rev. 5/09).~~

[Application for Certification Examination, DM-CMS-01 \(rev. 6/2024\)](#)

[Verification of Work Experience, DM-CMS-02 \(rev. 7/2024\)](#)

[Verification of Training Completed for General Coal Miner Certification, DM-CMS-03 \(rev. 7/2024\)](#)

Application for Recertification: DMLR Endorsement/Blaster's Certification, DMLR-BCME-3 (rev. ~~6/95~~ 6/1995).

Verification for Training Completed for Continuing Education, DM-BCME-4 (rev. ~~10/05~~ 10/2005).

Application for DMLR Endorsement: Blaster's Certification (Coal Surface Mining Operation), DMLR-BCME-4 (rev. ~~6/95~~ 6/1995).

Advanced First Aid Practical Stations ~~&~~ and CPR (Written ~~&~~ and Practical), DM-BCME-5 (rev. ~~10/05~~ 10/2005).

V.A.R. Doc. No. R25-8313; Filed May 7, 2025, 10:29 a.m.

## Fast-Track Regulation

**Title of Regulation:** 4VAC25-160. Virginia Gas and Oil Board Regulations (amending 4VAC25-160-10, 4VAC25-160-90).

**Statutory Authority:** § 45.2-103 of the Code of Virginia.

**Public Hearing Information:** No public hearing is currently scheduled.

**Public Comment Deadline:** July 2, 2025.

**Effective Date:** July 17, 2025.

**Agency Contact:** Larry Corkey, Policy and Planning Manager, Department of Energy, 1100 Bank Street, Eighth Floor, Richmond, VA 23219, telephone (804) 692-3239, or email [larry.corkey@energy.virginia.gov](mailto:larry.corkey@energy.virginia.gov).

**Basis:** Section 45.2-103 of the Code of Virginia authorizes the Department of Energy to promulgate regulations necessary or incidental to the performance of its duties or execution of its powers.

**Purpose:** The purpose of this action is to ensure that provisions are clear and reflective of current agency practice and to streamline processes related to the welfare of citizens by defining the escrow procedure for unknown or unlocatable gas and oil owners.

**Rationale for Using Fast-Track Rulemaking Process:** This action is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process because the amendments are nonsubstantive; the amendments only clarify current agency practice.

**Substance:** The amendments (i) add a definition for escrow and (ii) update standards for escrow accounts to reflect current agency practice.

**Issues:** The primary advantage of this action to the public and the agency is that the amendments ensure that the regulation is defined and reflective of current agency practice. There are no disadvantages to the public or the Commonwealth.

**Department of Planning and Budget Economic Impact Analysis:**

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

Summary of the Proposed Amendments to Regulation. The Department of Energy (NRG) proposes to amend the

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# Regulations

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regulation concerning current practice on the distribution of funds for unknown or unlocatable gas and oil owners.

**Background.** The current regulation does not clearly address what should be done with funds that are intended to be disbursed to unknown or unlocatable gas and oil owners. For many years in practice, funds for unknown or unlocatable gas and oil owners have been held by an escrow agent in the Virginia Gas and Oil Board (board) escrow account at a contracted bank.<sup>2</sup> In November of 2019, the Virginia Department of Treasury (Treasury) directed the board (under the provisions of §§ 55.1-2500 through 55.1-2545 of the Virginia Disposition of Unclaimed Property Act) to release all unknown and unlocatable funds to them to be held until the rightful owners come forward and make a claim.<sup>3</sup> No further deposits need to be made into the Gas and Oil Board escrow account for unknown and unlocatable gas owners. The agency has in practice been instructing operators to send remaining royalty payments directly to Treasury. Thus, NRG is proposing that the regulation be amended so that it reflects this current agency practice.

**Estimated Benefits and Costs.** The proposed amendments clarify current procedure and would have no impact on requirements. Nevertheless, the amendments may be beneficial in that readers of the regulation could become better informed.

**Businesses and Other Entities Affected.** Since the proposed amendments reflect current practice, no entity is directly affected. The regulation concerns the gas and oil industry in the Commonwealth. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>4</sup> 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.<sup>5</sup> As the proposed amendments neither increase net costs nor reduce net benefits, no adverse impact is indicated.

**Small Businesses<sup>6</sup> Affected.**<sup>7</sup> The proposed amendments do not adversely affect small businesses.

**Localities<sup>8</sup> Affected.**<sup>9</sup> According to NRG, gas and oil wells in Virginia are located in the Counties of Buchanan (51%), Dickenson (24%), Tazewell (10%), Russell (7.0%), Wise (6.0%), Lee (less than 1.0%), and Scott (less than 1.0%). The proposed amendments do not affect costs for local governments.

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

**Effects on the Use and Value of Private Property.** The proposed amendments neither affect the use and value of private property nor real estate development costs.

affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

<sup>2</sup> Source: NRG.

<sup>3</sup> Ibid.

<sup>4</sup> Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<sup>5</sup> 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.

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

<sup>7</sup> If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

<sup>8</sup> "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>9</sup> Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

**Agency Response to Economic Impact Analysis:** The Department of Energy concurs with the economic impact analysis prepared by the Department of Planning and Budget.

## **Summary:**

*The amendments (i) add a definition for escrow and (ii) update standards for escrow accounts to reflect current agency practice.*

## **4VAC25-160-10. Definitions.**

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

"Act" means the Virginia Gas and Oil Act of 1990, Chapter 16 (§ 45.2-1600 et seq.) of Title 45.2 of the Code of Virginia.

"Applicant" means a person or business who files an application, petition, appeal, or other request with the Division of Gas and Oil.

"Board" means the Virginia Gas and Oil Board.

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

"Complete application" means all the materials required to be filed by the applicant under this chapter.

"Department" means the Department of Energy.

"Director" means the Director of the Department of Energy or ~~his~~ the director's authorized agent.

"Directional survey" means a well survey that measures the degree of deviation of a hole, or distance, from the vertical and the direction of departure.

"Division" means the Division of Gas and Oil of the Department of Energy.

"Division director" means the Director of the Division of Gas and Oil.

"Election" means the performance of an act within the time established or required by statute, order, or regulation. An election required to be made by board order or regulation must be in writing and (i) be personally delivered to the person or agent of the person described in the order or regulation by the date established or required, or (ii) be mailed to the person or agent of the person described in the order or regulation at the address stated ~~therein in the order or regulation~~ and be postmarked by the ~~United States~~ U.S. Postal Service before midnight on the date established or required.

"Escrow" means an account held in trust. In the case of a gas or oil owner whose identity or location is unknown, escrow includes the deposit of funds with the Department of Treasury Unclaimed Property Division on behalf of such owner.

"Field" means the general area underlain by one or more pools.

"Gas/oil ratio" means the product of the number of Mcf of natural gas produced from a well divided by the number of barrels of oil produced from the well as determined by a gas/oil ratio test.

"Gas well" means any well ~~which~~ that produces or appears capable of producing a ratio of 6,000 cubic feet (6 Mcf) of gas or more to each barrel of oil; on the basis of a gas-oil ratio test.

"Inclination survey" means a well survey to determine the deviation, using the surface location of the well as the apex, of a well bore from the true vertical beneath the apex on the same horizontal subsurface plane.

"Mcf" means, when used with reference to natural gas, 1,000 cubic feet of gas at a pressure base of 14.73 pounds per square inch gauge and a temperature base of 60°F.

"Mine development plan" means a permit or license application filed with the Division of Mines or Mined Land Repurposing for legal permission to engage in extraction of coal resources.

"Oil well" means any well ~~which~~ that produces or appears capable of producing a ratio of less than 6,000 cubic feet (6 Mcf) of gas to each barrel of oil; on the basis of a gas-oil ratio test.

"Petitioner" means any person or business who files a petition, appeal, or other request for action with the Division of Gas and Oil or the Virginia Gas and Oil Board.

"Pooling" means the combining of all interests or estates in a gas, oil, or coalbed methane drilling unit for the development and operations thereof. Pooling may be accomplished either through voluntary agreement or through a compulsory order of the board.

"Respondent" means a person named in an application, petition, appeal, or other request for board action and against whom relief is sought by the applicant; or a person who, under the terms of a board order, is required to make an election.

"Unit operator" means the gas or oil owner designated by the board to operate in or on a pooled unit.

## 4VAC25-160-90. Standards for escrow accounts.

Payment of funds into escrow accounts shall be made in accordance with the standards established in each order of the board requiring such payment. In addition, the unit operator of a drilling unit subject to a voluntary pooling agreement may petition the board under 4VAC25-160-140 ~~of this chapter~~ for an order authorizing the escrow of funds subject to conflicting claims in accordance with board standards or regulations regarding escrow of such funds in units subject to a compulsory pooling order.

When any gas or oil owner's identity and location remain unknown, the operator may, pursuant to § 45.2-1600 of the Code of Virginia, dispose of the unknown lessor's funds directly with the Department of Treasury Unclaimed Property Division to be held and distributed pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq. of the Code of Virginia).

VA.R. Doc. No. R25-8081; Filed May 7, 2025; 9:07 a.m.

## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### STATE BOARD OF LOCAL AND REGIONAL JAILS

#### Fast-Track Regulation

Title of Regulation: **6VAC15-45. Regulations for Private Management and Operation of Prison Facilities (repealing 6VAC15-45-10 through 6VAC15-45-2130).**

Statutory Authority: § 53.1-266 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: July 2, 2025.

Effective Date: July 17, 2025.

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# Regulations

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Agency Contact: Mary-Huffard Kegley, Policy Analyst, Department of Corrections, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 887-9589, FAX (804) 674-3587, or email [mary-huffard.kegley@vadoc.virginia.gov](mailto:mary-huffard.kegley@vadoc.virginia.gov).

Basis: Section 53.1-5 of the Code of Virginia authorizes the State Board of Local and Regional Jails to promulgate such regulations as may be necessary to carry out the provisions of Title 53.1 of the Code of Virginia.

Purpose: This action is necessary because the regulation is no longer under the board's authority. The repeal will benefit the public welfare by removing the confusion regarding the private management of prisons, which is not within the board's authority.

Rationale for Using Fast-Track Rulemaking Process: This action is noncontroversial and therefore appropriate for the fast-track rulemaking process because the regulation is no longer valid.

Substance: The amendments repeal Regulations for Private Management and Operation of Prison Facilities (6VAC15-45) in its entirety.

Issues: The primary advantages of this action to the Commonwealth and the public are clarification and reduction of unnecessary and burdensome regulatory requirements. The action also clarifies that the board does not have the authority to regulate the private management of prisons. There are no disadvantages to the public or the Commonwealth associated with this action.

## Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. The State Board of Local and Regional Jails (board) proposes to repeal Regulations for Private Management and Operation of Prison Facilities (6VAC15-45).

Background. Chapter 759 of the 2020 Acts of Assembly<sup>2</sup> removed board authority to promulgate the regulation. The legislation gave the authority to the Director of the Department of Corrections (DOC). Regulations for Private Management and Operation of Prison Facilities are currently under development by DOC. According to DOC, there are currently no prison facilities under private management and operation.

Estimated Benefits and Costs. The legislation effectively made board regulation void. Consequently, repealing it would have no impact beyond reducing the likelihood that readers of regulations would believe that the requirements in the regulation were still in effect.

Businesses and Other Entities Affected. Because no prison facilities are under private management and operation, the

proposed repeal only affects readers of regulations. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation. 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. Since there is no increase in net cost nor reduction in net benefit for any entity, no adverse impact is indicated.

Small Businesses<sup>3</sup> Affected.<sup>4</sup> The proposed repeal of the regulation does not adversely affect small businesses.

Localities<sup>5</sup> Affected.<sup>6</sup> The proposed repeal neither disproportionately affects particular entities nor affects costs for local government.

Projected Impact on Employment. The proposed repeal of the regulation does not affect employment.

Effects on the Use and Value of Private Property. The proposed repeal neither affects the use and value of private property, nor affects real estate development costs.

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

<sup>2</sup> See <https://legacylis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0759>.

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

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

<sup>5</sup> "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>6</sup> Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The State Board of Local and Regional Jails concurs with the Department of Planning and Budget's economic impact analysis.

**Summary:**

*Pursuant to Chapter 759 of the 2020 Acts of Assembly, the amendments repeal Regulations for Private Management and Operation of Prison Facilities (6VAC15-45), which is no longer under the authority of the State Board of Local and Regional Jails.*

VA.R. Doc. No. R22-7155; Filed May 14, 2025, 1:25 p.m.

## TITLE 8. EDUCATION

### VIRGINIA MUSEUM OF FINE ARTS

#### Fast-Track Regulation

**Title of Regulation:** 8VAC103-10. Museum and Grounds Use and Access (amending 8VAC103-10-30).

**Statutory Authority:** § 23.1-3218 of the Code of Virginia.

**Public Hearing Information:** No public hearing is currently scheduled.

**Public Comment Deadline:** July 2, 2025.

**Effective Date:** July 17, 2025.

**Agency Contact:** David Cary, Director of Government Relations, Virginia Museum of Fine Arts, 200 North Arthur Ashe Boulevard, Richmond, VA 23220, telephone (804) 340-1628, or email [david.cary@vmfa.museum](mailto:david.cary@vmfa.museum).

**Basis:** Section 23.1-3218 of the Code of Virginia authorizes the Board of Trustees of the Virginia Museum of Fine Arts (VMFA) to manage, control, maintain, and operate the VMFA, including its contents, furnishings, grounds, funds, property, and endowments.

**Purpose:** This action is essential to protect the welfare of citizens because it facilitates clear, simple, and accurate information regarding the use of grounds and access to public parking at the VMFA.

**Rationale for Using Fast-Track Rulemaking Process:** This action is noncontroversial and appropriate for the fast-track rulemaking process because the amendments do not significantly alter anything visitors can or cannot do on the museum grounds.

**Substance:** The amendments reduce the number of regulations governing what visitors can do on museum grounds without making any change to the intent of the regulation. These changes simply consolidate and simplify the regulation.

**Issues:** The primary advantage to the public is that VMFA will have a simpler and shorter regulation. The primary advantage to VMFA is reduced confusion among staff about parking regulation and enforcement and permissible actions on the grounds. The board does not anticipate any disadvantages to the public, the agency, or the Commonwealth.

**Department of Planning and Budget Economic Impact Analysis:**

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

**Summary of the Proposed Amendments to Regulation.** In response to Executive Order 19 (2022) and Executive Directive 1 (2022), the Board of Trustees of the Virginia Museum of Fine Arts (VMFA) proposes to amend the regulation governing access to and the use of the museum, museum grounds, and other properties of the museum.

**Background.** Executive Directive 1 (2022) directs executive branch entities under the authority of the Governor to initiate regulatory processes to reduce by at least 25% the number of regulations not mandated by federal or state statute, in consultation with the Office of the Attorney General, and in a manner consistent with the laws of the Commonwealth.<sup>2</sup> Specifically, the VMFA proposes to shorten and simplify 8VAC103-10-30, Procedures. The proposed changes include combining provisions pertaining to the posting of hours for the museum and for other properties. Other changes largely serve to remove duplicative language.

**Estimated Benefits and Costs.** The proposed amendments largely serve to condense the text and remove requirements that the board has deemed obsolete, but without changing the intent of the regulation. According to the board, the changes do not significantly alter VMFA policy and simply shorten the current regulatory document and make it simpler to read and comprehend. Thus, to the extent that the proposed changes are consistent with current agency practice and statute, they are not expected to create new costs.

**Businesses and Other Entities Affected.** As mentioned previously, the proposed changes would only shorten the text of the regulation, without making substantive changes to any requirements. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>3</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.<sup>4</sup> Since the proposed changes do not change the substance of the regulation or create new costs, no adverse impact is indicated.

**Small Businesses<sup>5</sup> Affected.**<sup>6</sup> The proposed amendments do not adversely affect small businesses.

**Localities<sup>7</sup> Affected.**<sup>8</sup> The proposed amendments do not disproportionately affect particular localities or affect costs for local governments.

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



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# Regulations

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Effects on the Use and Value of Private Property. The proposed amendments neither affect the use and value of private property nor real estate development costs.

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

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

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

<sup>4</sup> 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.

<sup>5</sup> Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>6</sup> If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

<sup>7</sup> "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>8</sup> Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

**Agency Response to Economic Impact Analysis:** The Virginia Museum of Fine Arts concurs with the Department of Planning and Budget's economic impact analysis.

## Summary:

*The amendments (i) provide for where bicycles may be used on museum grounds; (ii) clarify when the director may suspend prohibitions on meetings, gatherings, or assemblages and the displaying of flags, banners, or devices that are not part of a museum-sponsored activity or event; and (iii) revise procedures for pedestrian walkways.*

## 8VAC103-10-30. Procedures.

### A. Public service hours.

1. Museum building and other museum properties. Unless otherwise posted, the public exhibition areas of the museum building shall be open to the public during the hours posted at each public entrance and on the website: <http://www.vmfa.museum>. These ~~opening/closing~~ opening and closing times do not apply to members of the public attending functions or programs in the museum that are sponsored by the museum or are held at the museum pursuant to contract with the museum. ~~Opening/closing~~ Opening and closing times will be posted at each public entrance to the building. Unauthorized persons found on the premises after the posted closing times will be subject to arrest and prosecution.

2. Museum grounds. Unless otherwise posted, the grounds of the museum shall be open to the public every day, ~~year round~~ year-round.

a. Dogs may be brought onto the museum grounds provided that ~~they~~ the dogs are leashed and under the control of the owner at all times and that the owner assumes responsibility for cleaning up ~~afterwards~~ after the dog. Nothing ~~herein in this chapter~~ shall prohibit the use on museum grounds, in museum buildings, or in other properties of service animals actively serving ~~the~~ handicapped persons with a disability.

b. Bicycles are permitted only on all paved or wooden roadways, sidewalks, or pathways that do not have steps with the exception of times when sidewalks and pathways have pedestrians. During such times, bicyclists shall dismount completely and walk. Pedestrians always have the right of way. ~~Bicycles are not permitted on grass areas.~~

c. ~~Skateboards~~ No skateboards, in-line skates, ~~and or~~ roller skates are ~~not~~ permitted.

~~3. Other properties. The public service hours of other properties of the museum shall be posted on those properties. Unauthorized persons found on these other properties during times other than the posted public service hours may be subject to arrest and prosecution.~~

B. Prohibited activities. No soliciting, pamphleteering, assemblages, or the displaying of flags, banners, or devices designed or adapted to bring into public notice any party, organization, or movement shall be permitted within the museum, ~~its~~ museum grounds, or other properties except as provided ~~herein~~ in subsection C of this section.

C. Exceptions. With the approval of the director, the prohibitions set forth in subsection B of this section may be suspended by the director to permit meetings, gatherings, or assemblages and the displaying of flags, banners, or devices that are not part of a museum-sponsored activity or event; if, in the director's reasonable discretion, (i) the general enjoyment and use of the museum building, ~~its~~ museum grounds, and



other properties are not impaired; (ii) ~~the public visiting the museum or attending an approved function is not disrupted;~~ (iii) the security or condition of the collection or the welfare, health, and safety of visitors and persons performing various duties on the premises are not endangered; and (iv) ~~it does not impose~~ (iii) the suspension of the prohibition imposes no additional expenditure of staff or facility resources.

D. Permit required. Assemblages, meetings, or functions that are not sponsored by the museum or that are not held at the museum pursuant to a contract with the museum require a permit. Requests for permits for assemblages, meetings, or functions by any party, organization, movement, or other private group must be in writing, ~~must~~ be submitted to the director at least 15 working days prior to the requested date, and ~~must~~ contain the following information:

1. Name of organization, date of origin, status (e.g., corporation, unincorporated association, partnership, nonprofit corporation, ~~etc.~~), and name and address of registered agent; if a corporation.
2. Name, title within the organization, permanent address, occupation, and telephone number of the individual member who shall be responsible for the conduct of the meeting or function.
3. Statement as to the approximate number of members or other persons who will attend.
4. Date and specific period of time requested (from.....to.....).
5. Purpose of meeting or function, to include names and titles of speakers, if any.

E. Parking lots and walkways. Except for approved functions, the vehicular drives ~~and~~, parking lots, ~~and~~ pedestrian walkways within the museum grounds must remain unencumbered ~~and~~ the pedestrian walkways must afford reasonable movement of pedestrians at all times during public service hours.

F. Denial of permit. Requests for meetings or functions of organizations shall be denied if, after proper inquiry, the director determines that the proposed event will impair the general enjoyment or use of the museum building, ~~its~~ museum grounds, and other properties; will disrupt the public visiting the museum or attending an approved function; will endanger the security or condition of the collection or the welfare, health, and safety of visitors and persons performing various duties on the premises; or will impose additional expenditure of staff or facility resources.

G. Violation of Virginia law. The director may refuse authorization for the use of the museum building, ~~its~~ museum grounds, or other property, if there is reason to believe that the organization requesting a permit is organized, functioning, or conducting business in violation of Virginia law.

H. Written approval. Authorization for the use of the museum building, ~~its~~ museum grounds, or other property will be set forth in a letter addressed to the individual named in subdivision D 2 of this section.

I. Revocation of permit. Violations of this policy may result in immediate revocation of the permit by the director and in the event such revocation occurs, all participants shall be ~~immediately~~ required to leave the museum building, ~~its~~ museum grounds, or other property ~~forthwith~~.

VA.R. Doc. No. R25-8125; Filed May 14, 2025, 11:29 a.m.

## Fast-Track Regulation

**Title of Regulation:** **8VAC103-20. Parking Regulations, Appeals and Fines (amending 8VAC103-20-20, 8VAC103-20-30, 8VAC103-20-50).**

**Statutory Authority:** § 23.1-3218 of the Code of Virginia.

**Public Hearing Information:** No public hearing is currently scheduled.

**Public Comment Deadline:** July 2, 2025.

**Effective Date:** July 17, 2025.

**Agency Contact:** David Cary, Director of Government Relations, Virginia Museum of Fine Arts, 200 North Arthur Ashe Boulevard, Richmond, VA 23220, telephone (804) 340-1628, or email [david.cary@vmfa.museum](mailto:david.cary@vmfa.museum).

**Basis:** Section 23.1-3218 of the Code of Virginia authorizes the Board of Trustees of the Virginia Museum of Fine Arts (VMFA) to manage, control, maintain, and operate the VMFA, including its contents, furnishings, grounds, funds, property, and endowments.

**Purpose:** This action is essential to protect the welfare of citizens because it facilitates clear, simple, and accurate information regarding the use of grounds and access to public parking at the VMFA.

**Rationale for Fast-Track Rulemaking Process:** This action is noncontroversial and therefore appropriate for the fast-track rulemaking process because the amendments do not significantly alter VMFA parking policy and have no direct impact on museum revenue.

**Substance:** The amendments reduce the number of regulatory requirements regarding parking for visitors on the museum grounds without making any change to the intent of the original document. These changes simply consolidate and simplify the regulation. The changes also remove references to parking meters, which were removed from the grounds of the museum approximately 14 years ago.

**Issues:** The primary advantage to the public is that the VMFA will have simpler, shorter regulatory documents. The primary advantage to the VMFA is reduced confusion among staff about parking regulation and enforcement and permissible actions on the grounds. The board does not anticipate any disadvantages to the public, the agency, or the Commonwealth.

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# Regulations

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## Department of Planning and Budget Economic Impact Analysis:

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

Summary of the Proposed Amendments to Regulation. In response to Executive Order 19 (2022) and Executive Directive One (2022), the Virginia Museum of Fine Arts (VMFA) proposes to amend the regulation governing parking on the museum campus and areas covered in the regulation.

Background. Executive Directive One (2022) directs executive branch entities under the authority of the Governor to initiate regulatory processes to reduce by at least 25% the number of regulations not mandated by federal or state statute, in consultation with the Office of the Attorney General, and in a manner consistent with the laws of the Commonwealth.<sup>2</sup> The proposed changes include removing duplicative language, combining similar provisions, and condensing the schedule of fines by combining fines of the same value. Subsections pertaining to metered parking, and a \$10 fine for exceeding the metered parking time limit, would be struck; the VMFA reports that the parking meters were removed in the 2010s.

Estimated Benefits and Costs. The proposed amendments largely serve to condense the text and remove requirements that the board has deemed obsolete, such as references to parking meters that no longer exist, but without changing the intent of the regulation. According to the board, the changes do not significantly alter VMFA policy and simply shorten the current regulatory document and make it simpler to read and comprehend. Thus, to the extent that the proposed changes are consistent with current agency practice and statute, they are not expected to create new costs.

Businesses and Other Entities Affected. As mentioned previously, the proposed changes would primarily shorten the text of the regulation, without making substantive changes to requirements. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>3</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.<sup>4</sup> Since the proposed changes do not change the substance of the regulation or create new costs, no adverse impact is indicated.

Small Businesses<sup>5</sup> Affected.<sup>6</sup> The proposed amendments do not adversely affect small businesses.

Localities<sup>7</sup> Affected.<sup>8</sup> The proposed amendments do not disproportionately affect particular localities or affect costs for local governments.

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

Effects on the Use and Value of Private Property. The proposed amendments neither affect the use and value of private property nor real estate development costs.

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

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

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

<sup>4</sup> 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.

<sup>5</sup> Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>6</sup> If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

<sup>7</sup> "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>8</sup> Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Virginia Museum of Fine Arts concurs with the Department of Planning and Budget's economic impact analysis.

## Summary:

*The amendments (i) revise requirements on the display of valid parking permits; (ii) remove requirements on parking meters, which no longer exist on museum grounds; (iv) revise fee schedules; and (v) clarify language on loading zones and handicap and reserved spaces.*

## 8VAC103-20-20. General provisions.

### A. Registration requirements.

1. All employees parking motorized vehicles on the Virginia Museum of Fine Arts campus must display a parking permit issued by the Parking Services Manager, unless the employee has parked in a designated visitor parking area and is paying the going daily rate.
2. Failure to properly register employee vehicles and to display the permit may result in a fine for the parking violation and possible immobilization of the vehicle.

### B. Eligibility for permanent parking permits.

1. A current VMFA ID card; or other evidence of eligibility (e.g., an authorizing signature on a an ID card request form or a letter of employment) will be required when registering for a permanent parking permit.
2. Employees may register motorcycles, mopeds, or motorized scooters in addition to passenger vehicles. No more than one registered employee vehicle may be parked in the designated staff parking area at any time.
3. All vehicles registered must be owned by the registrant or a member of the registrant's family.
4. Each trustee will be automatically issued an ID card that serves as a permanent parking pass for the term of his the trustee's appointment to the board. Trustees unable to produce their electronic ID card will pay the going daily visitor rate to exit the parking facility.

### C. Volunteer and intern parking.

1. Departments using the services of volunteer staff may register with the Parking Services Manager for parking privileges at no charge for ~~their~~ the use of a limited number of designated parking spaces. Volunteer permits are valid for no more than a single year (12 months).
2. Departments using the services of interns should direct such persons to visit the Parking Services Office to obtain a temporary parking permit. No fee will be collected for the temporary permit assigned for the terms and duration of the assignment. Availability of permits is limited. Interns will be permitted to park in designated areas as space is available.
3. All permits will be recovered and returned to the Parking Services Manager at the termination of the respective agreement.

### D. Visitor parking.

1. Visitors may park in the park and pay facilities or pay-by-the-hour parking areas. All visitors are subject to receiving fines or being immobilized or towed for unauthorized parking in permit only or nonparking areas.
2. Only the Parking Services Office may authorize a visitor to park in an area not designated for visitors.

### E. Temporary ~~permits/museum~~ permits and museum guest parking.

1. Departments receiving guests may purchase from the Parking Services Office a temporary parking permit at a reduced daily rate.
2. Employees of companies involved in construction or similar projects on campus may park in a designated job site without a permit. This area should be defined in cooperation with the Parking Services Manager. When parking outside the designated zone, a permit is required and must be purchased from the Parking Services Office.

### F. Permit usage and requirement.

1. A permanent parking permit or a temporary permit displayed from the rearview mirror of a passenger vehicle (~~or in the wind screen of vehicles without rearview mirrors~~), is required for parking on the VMFA campus in any area other than park and pay and pay-by-the-hour areas. Convertibles, jeeps, or other ~~open-top~~ open-top vehicles that may leave a temporary permit unsecured may be issued special decals to be affixed to the windshield.
2. Motorcycles and similar vehicles shall have the parking permit permanently affixed to the vehicle on the front or back fender for visibility. Motorcycles are prohibited from parking in bicycle racks, fire lanes, yellow zones, sidewalks, decks, handicap spaces, access zones, or any other unauthorized space.
3. While permits may be transferred to any vehicle driven by the permit holder, the registered permit holder is responsible for all citations issued to that permit. ~~Permits are not transferable from person to person.~~ No permit is considered legal unless it is purchased directly from the Parking Services Office by the individual and the individual is currently eligible for the permit issued. ~~Vehicles displaying illegal permits will be issued a citation in addition to being immobilized or towed at owner's expense.~~
4. It is the responsibility of the registrant to remove permanent parking permits from a vehicle when ~~#~~ the vehicle is sold, transferred, or otherwise disposed of.
5. ~~Failure to obtain and display a valid permit may result in parking fines or immobilization of the vehicle until fines are paid.~~

### G. Refunds on parking permits.

1. ~~Employees~~ An employee terminating employment must turn in ~~their~~ the parking permit in order to receive a prorated refund. ~~Employees~~ The employee will be charged from the time the permit was issued through the full month in which ~~they are requesting a~~ the employee requests the refund. Refunds are issued after any remaining debts are paid to the department.
2. No refunds will be given on temporary permits.

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## H. Replacement of permits.

1. If a hangtag malfunctions, the permit holder may obtain a replacement at no charge by returning the defective permit to the Parking Services Office. If a windshield decal stops adhering, the permit holder may obtain a replacement at no charge by returning the defective permit to the Parking Services Office.
2. If a permanent permit is lost, stolen, or nonreturnable, a charge of \$5.00 will be assessed for a replacement.

## I. ~~Short term parking.~~

~~1. Metered spaces are provided for the short term parking convenience of persons visiting the ticket office, museum restaurants or VMFA shop. When the ticket office, restaurants and the shop are normally open, the metered spaces will be limited to short term parking only.~~

### ~~2. Enforcement.~~

- ~~a. Meter parking is enforced: 7 a.m. until 9:30 p.m. everyday.~~
- ~~b. Persons with a valid DMV issued handicap license plate or hangtag may use the metered parking spaces at no charge for the first four hours. After four hours the standard rate for the parking space applies.~~
- ~~c. A VMFA parking permit is not valid as payment at meters.~~
- ~~d. Parking or standing at an expired meter is not allowed and will result in a fine.~~

## J. Missing or inoperable meters.

~~1. Inoperable meters are considered closed spaces; vehicles parked in these spaces are subject to a parking violation. Missing and inoperable meters should be reported to the Parking Services Office immediately for replacement or repair.~~

~~2. Cases of meter vandalism may be tried in a Virginia court of law as destruction of property or larceny, in addition to any violation issued.~~

### ~~3. Valid currency.~~

- ~~a. Only United States currency may be used in parking meters.~~
- ~~b. Federal law prohibits the use of other currency, altered U.S. currency, or other objects.~~

## K. L. Loading and unloading spaces.

1. Loading and unloading is permitted only in designated areas and in accordance with the signing of that space. Prohibited and restricted areas, handicapped spaces, fire lanes, and meters are not designated for loading and unloading.

2. Any vehicle loading or unloading in these areas is subject to a fine, or towing, at owner's risk and expense.

## ~~3. 2. Use of ~~loading/unloading~~ loading and unloading spaces.~~

- a. A valid VMFA permit must be displayed in order to park in a ~~loading/unloading~~ loading and unloading space.
- b. ~~Loading/unloading~~ Loading and unloading parking is limited to the posted time limit unless the Parking Services Office grants an exception for special circumstances. Vehicles exceeding the posted time limit are subject to a fine.

~~L. J. Parking space availability.~~ The purchase of a parking permit gives the permit holder the right to park in a designated area only when there is space available in that location. The purchase of a parking permit does not guarantee the purchaser access to a parking space at all times.

~~M. K. Liability disclaimer.~~ VMFA, the Commonwealth of Virginia, and agents of VMFA do not assume responsibility for any vehicle or its contents when parked on museum property. ~~The Neither the museum and nor the state do not~~ Commonwealth assume responsibility for damage to vehicles that are booted, immobilized, or towed due to violations incurred or as a result of other violations.

## 8VAC103-20-30. Enforcement of parking regulations.

### A. Enforcement in general.

1. The chief operating officer of the agency has the overall responsibility for monitoring the enforcement of parking regulations and ~~to direct~~ directing the creation of new or revision of existing regulations, enforcement procedures, and appeals processes.

2. The agency's Protective Services Department and specified licensed security officers employed by private security companies that are contracted by the agency have the authority and duty to enforce the museum's parking regulations through issuing parking permits, ~~issuing and~~ parking citations, coordinating lawful vehicle ~~removal/transfer~~ removal or transfer, immobilization of vehicles, and collection of fines; and to provide a fair method for appealing citations issued.

3. No vehicle operator, including museum employees, shall park a vehicle that violates any ~~of these rules and regulations~~ part of this chapter. Any vehicle found violating ~~these regulations~~ this chapter is subject to a fine.

B. Limitations on enforcement. Only ~~regulations~~ provisions pertaining to the parking of motor vehicles enacted by the Commonwealth of Virginia in this ~~regulation~~ chapter are to be enforced within the jurisdiction described in 8VAC103-20-10

B. Operators of vehicles in violation of ~~the rules and regulations~~ this chapter may only be subject to citation, fine, immobilization of the vehicle, or towing of the vehicle at the owner's risk and expense.

### C. Payment of fines for parking violations.

1. Unless otherwise specified, tickets, booting fines, and towing fines must be paid within 10 days of citation issue date.

2. Delinquencies are referred to a collection agency, the Virginia Department of Taxation Division of Set-Off Debt Collection, and credit bureaus. If the account remains unpaid, the individual becomes responsible for the payment of all additional agency costs. Collection costs may be as much as one-third of the balance due to the agency.

## D. Parking offenses and enforcement actions.

1. Multiple citations. A vehicle may be issued multiple citations and fines for multiple violations at one time. A vehicle may be issued additional citations for the continued noncompliance of parking regulations, not to exceed one citation per four-hour period for the same violation.

### 2. Towing.

a. A vehicle may be towed from one area to another for violations of certain restrictions. Vehicles may be moved to an appropriate location or to an impoundment location. All towing arising from enforcement actions is at the owner's risk and expense. Any vehicle impeding the flow of traffic, whether in a roadway or parking lot, is subject to towing at the owner's risk and expense. Towing without notification can occur under certain circumstances.

b. Towing tickets cannot be appealed. ~~All towing tickets must be paid within 10 days of citation issue date.~~

### 3. Booting.

a. A vehicle may be immobilized (i.e., booted) if ~~its~~ the registered driver or owner accrues \$300 or more of unpaid fines; or has outstanding late fines in excess of 10 days; or if the vehicle has been determined to be abandoned.

b. Tampering with a booted vehicle; without payment and release by an authorized museum staff member; may result in additional ~~action(s)~~ action being taken by the museum in accordance and compliance with all applicable laws.

c. All booting arising from enforcement actions is at the owner's risk and expense. Booting without notification can occur under certain circumstances.

d. Booting tickets cannot be appealed. ~~All booting tickets must be paid within 10 days of citation issue date.~~

4. Fire lane, handicap, or reserved space violation. A vehicle parked in a fire lane, handicap space, reserved space, or a roadway is subject to towing at the owner's risk and expense.

~~5. Handicapped space violation. A vehicle improperly parked in a handicapped area is subject to towing at the owner's risk and expense without notice.~~

6. Reserved space violation. A vehicle improperly parked in a reserved space is subject to towing at the owner's risk and expense without notice.

~~7. 5. Blocking of egress or ingress. Any vehicle that blocks, impedes, or restricts another vehicle's ability of egress or ingress as a result of violating a parking regulation is subject to towing; at the owner's risk and expense without notice.~~

### ~~8. 6. Overnight parking.~~

a. Parking facilities at the museum are intended solely for the use of persons with business at the museum during established hours.

b. Overnight parking is permitted for staff on official travel and members and guests on ~~council-sponsored~~ council-sponsored excursions only; no other overnight parking is permitted. Those requiring overnight parking for established purposes are to contact the Parking Services Office to make arrangements.

c. Vehicles parked overnight without authorization may be subject to a fine or towing at the owner's risk and expense without notice.

## 8VAC103-20-50. Schedule of fines.

The following table shows a schedule of fines:

Citation	Definition	Fine
No permit <u>or prohibited zone</u>	No permit on file or displayed <u>or not authorized for parking area</u>	\$25
Parking overtime	<del>Parking time limit exceeded</del>	\$10
Fire lane	Parking at yellow curbing or signing	\$85
<del>Restricted Loading zone or restricted area</del>	<del>Not adhering to Improper or unauthorized use of loading area or other signage or restrictions</del>	\$35
<del>Prohibited zone</del>	<del>Not authorized for parking area</del>	\$25
<del>Loading zone</del>	<del>Improper/unauthorized use of loading area</del>	\$35
Handicapped area	Violation of policy and procedure <u>or restricting access in or out of handicapped area</u>	\$100
<del>Blocking handicapped access</del>	<del>Restricting ability to access in or out</del>	\$100
Parking in a reserved space/area	No permit for restricted area	\$50

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Fraudulent display	Use of <del>lost/stolen/counterfeit permit</del> a lost, stolen, or counterfeit permit	\$75
Booting and Immobilization	Restricting ability of moving car by device	\$50
Improper display	Noncompliance with policy display requirements	\$15
Parking over or outside of the lines	Exceeding parameter of designated space control, or parking side by side in a vertical parking area	\$15
Double parking	Parking side by side in a vertical parking area	\$15

VA.R. Doc. No. R25-8126; Filed May 14, 2025, 11:38 a.m.

## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Forms

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

**Title of Regulation:** **9VAC25-31. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.**

**Agency Contact:** Azra Bilalagic, Guidance and Regulation Coordinator, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 584-6674, or email [azra.bilalagic@deq.virginia.gov](mailto:azra.bilalagic@deq.virginia.gov).

FORMS (9VAC25-31)

[VPDES Sewage Sludge Permit Application Form \(rev. 9/2012\)](#)

~~VPDES Sewage Sludge Permit Application for Permit Reissuance (eff. 8/2012)~~

[VPDES Sewage Sludge Permit Application for Permit Reissuance \(eff. 5/2025\)](#)

[Instructions for VPDES Sewage Sludge Permit Application Form \(rev. 9/2012\)](#)

[Application Form 1 - General Information, NPDES Permitting Program, EPA Form 3510-1 \(rev. 3/2019\)](#)

[Virginia State Water Control Board Fish Farm Questionnaire \(rev. 4/2011\)](#)

[Application Form 2A - New and Existing Publicly Owned Treatment Works, NPDES Permitting Program, EPA Form 3510-2A \(rev. 3/2019\)](#)

[Application Form 2B - Concentrated Animal Feeding Operations and Concentrated Aquatic Animal Production Facilities, NPDES Permitting Program, EPA Form 3510-2B \(rev. 3/2019\)](#)

[Application Form 2C - Existing Manufacturing, Commercial, Mining, and Silvicultural Operations, NPDES Permitting Program, EPA Form 3510-2C \(rev. 3/2019\)](#)

[Application Form 2D - New Manufacturing, Commercial, Mining, and Silvicultural Operations That Have Not Yet Commenced Discharge of Process Wastewater, NPDES Permitting Program, EPA Form 3510-2D \(rev. 3/2019\)](#)

[Application Form 2E - Manufacturing, Commercial, Mining, and Silvicultural Facilities Which Discharge Only Nonprocess Wastewater, NPDES Permitting Program, EPA Form 3510-2E \(rev. 3/2019\)](#)

[Application Form 2F - Stormwater Discharges Associated with Industrial Activity, NPDES Permitting Program, EPA Form 3510-2F \(rev. 3/2019\)](#)

[Local Government Ordinance Form \(eff. 2000\)](#)

[Local Government Certification Form for New Municipal Solid Waste Landfill Permits \(eff. 2006\)](#)

VA.R. Doc. No. R25-8330; Filed May 7, 2025, 10:05 a.m.

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### CEMETERY BOARD

#### Proposed Regulation

**Title of Regulation:** **18VAC47-20. Cemetery Board Rules and Regulations (amending 18VAC47-20-10, 18VAC47-20-30 through 18VAC47-20-60, 18VAC47-20-80, 18VAC47-20-100 through 18VAC47-20-140, 18VAC47-20-160, 18VAC47-20-180, 18VAC47-20-200 through 18VAC47-20-230, 18VAC47-20-250, 18VAC47-20-270, 18VAC47-20-280).**

**Statutory Authority:** §§ 54.1-201 and 54.1-2313 of the Code of Virginia.

**Public Hearing Information:**

June 10, 2025 - 10:30 a.m. - Department of Professional and Occupational Regulation, 9960 Mayland Drive, Board Room Two, Richmond, VA 23233.



Public Comment Deadline: August 1, 2025.

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

Basis: Section 54.1-201 of the Code of Virginia authorizes the Cemetery Board to promulgate regulations necessary to ensure continued competency, to prevent deceptive or misleading practices by practitioners, and to effectively administer the board's regulatory system. Specifically, § 54.1-2313 of the Code of Virginia authorizes the board to regulate preneed burial contracts and perpetual care trust fund accounts, regulate and register sales personnel employed by a cemetery company, and regulate and establish qualifications and standards of conduct for compliance agents employed by a cemetery company.

Purpose: The General Assembly has charged the board with the responsibility for regulating those who engage in the business of a cemetery company by (i) requiring that such companies obtain a license, (ii) regulating preneed burial contracts and perpetual care trust fund accounts, (iii) registering sales personnel employed by a cemetery company, and (iv) establishing qualifications and standards of conduct for compliance agents employed by a cemetery company.

The board protects the public welfare by establishing through regulation (i) the minimum qualifications of applicants for licensure and registration, provided that all qualifications are necessary to ensure either competence or integrity to engage in the profession or occupation; (ii) minimum standards to ensure continued competency and to prevent deceptive or misleading practices by practitioners; and (iii) requirements to effectively administer the regulatory system administered by the board.

Substance: The proposed amendments:

1. Revise and add definitions;
2. Revise provisions related to the disclosure of prior criminal history for (i) cemetery company licenses; (ii) cemetery compliance agents; (iii) sales personnel registrations; and (iv) trustees to establish uniform disclosure requirements to state that applicants must disclose any felony conviction and any misdemeanor convictions involving moral turpitude within five years of the date of application;
3. Remove provisions stating that (i) a compliance agent must be a full-time employee or principal of the cemetery company; (ii) an applicant must meet the requirements of § 54.1-2314 of the Code of Virginia; (iii) an applicant must provide the board with the address of each cemetery for which the applicant will act as sales personnel; (iv) the board may deny renewal or reinstatement of a license or registration if the regulant has not fully paid monetary penalties, satisfied sanctions, and paid costs imposed by the board; (v) registered sales personnel must report a change in home address to the board; (vi) all other provisions of the regulation apply to a licensed cemetery company that allows for the interment of pets or interment of

human remains and the pets of such deceased humans; (vii) guidance on solicitation must be provided in written procedures and policies from standards for conduct of compliance agents and compliance agent designees; and (viii) a plea of nolo contendere is considered a conviction and a record of conviction is prima facie evidence of conviction or guilt;

4. Allow the transfer of a sales personnel registration from one company to another and provide that a registration is void if the registrant is no longer affiliated with a cemetery company;

5. Revise qualifications of trustees for perpetual care trust funds or preneed trust funds to (i) reduce to two years the minimum experience required for an individual to qualify as a trustee; (ii) reduce to seven years prior to application the period for reporting any outstanding judgments, outstanding tax obligations, or defaults on any bonds directly related to the management of the trust; and (iii) reduce to seven years prior to application the period for reporting bankruptcies or any proceedings for the relief of debtors by the trustee firm or its parent or predecessor organization;

6. Revise procedures for renewal of licenses and registrations to (i) streamline the adoption of a paperless licensing system; (ii) increase to five years the reinstatement period for licenses and registrations; (iii) provide that a license or registration that is reinstated will next expire two years from the last day of the month in which it was reinstated; and (iv) extend to 30 days the period of time that cemetery company compliance agent must return the registration of a salesperson who has been discharged or terminated from employment by the cemetery company;

7. Require cemetery companies to maintain a written general price list and a written itemized statement of goods and services and update citations related to the general price list and itemized statement of goods and services;

8. Replace the provision regarding execution of the preneed burial contract in duplicate with a requirement that signed copy of the contract be given to the buyer; and

9. Revise the standards for approval of cemetery training programs for compliance agents to (i) reduce the minimum training program length two hours and (ii) remove solicitation and funeral rule from the subjects for which training must be provided.

Issues: The primary advantages to the public, the Commonwealth, and the regulated community are that the proposed amendments (i) provide necessary updates and clarification; (ii) reduce regulatory burdens while still protecting the public health, safety, and welfare, to include allowing for more individuals to potentially qualify as cemetery company compliance agents and trustees; (iii) remove requirements in the regulation that are not necessary to protect the public welfare; and (iv) enhance standards of conduct and practice that will better serve to protect members of the public. There are no identifiable disadvantages to the public. It is not anticipated that the proposed amendments will

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create any substantial disadvantages to the regulated community.

## Department of Planning and Budget Economic Impact Analysis:

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

**Summary of the Proposed Amendments to Regulation.** The Cemetery Board (board) proposes several amendments to the regulation concerning compliance agents and their designees, sales personnel registration, trustees, and cemetery company licensure.

**Background: Compliance Agents and Designees.** Section 54.1-2313 of the Code of Virginia states that the board shall have the power and duty to regulate and establish qualifications and standards of conduct for compliance agents employed by a cemetery company to assure compliance of the cemetery with the provisions of the Code of Virginia. The Cemetery Board Rules and Regulations define compliance agent designee as an individual who shall be designated by the cemetery company to ensure the compliance of the cemetery company with the provisions of the Code of Virginia and regulation when the compliance agent is not available to supervise the activities of any of its affiliated cemeteries. One of the current requirements in the regulation for compliance agents and their designees is that they be a full-time employee of the cemetery company or is a principal. The board proposes to eliminate this requirement. The current regulation also requires that applicants for compliance agent or designee disclose any conviction or finding of guilt, regardless of adjudication, in any jurisdiction of the United States of any misdemeanor involving moral turpitude. The board proposes to limit this disclosure requirement to such convictions or findings of guilt in the preceding five years. Another requirement for compliance agents and their designees in both the current and proposed regulations is that they have successfully completed a board approved training course. The current regulation states that the training course must be at least four hours and include appropriate testing procedures to demonstrate an understanding of specified topics. The board proposes to reduce the minimum number of hours to two and eliminate solicitation and funeral rule<sup>2</sup> from the list of specified topics. When any registrant is discharged or in any way terminates his employment or affiliation with a licensed cemetery company, or when the cemetery company's license is suspended or revoked, it will be the duty of the compliance agent to return the registration to the board within 10 calendar days of the date of such discharge or termination. The board proposes to allow the compliance agent up to 30 days to return the registration.

**Sales Personnel.** Section 54.1-2313 of the Code of Virginia also states that the board shall have the power and duty to

regulate and register sales personnel employed by a cemetery company. Among other requirements, the current regulation requires that sales personnel registration applicants provide the address of each cemetery for which they will act as sales personnel. The board proposes to eliminate this requirement. The current regulation prohibits sales personnel from transferring their registration from one licensed cemetery company to another. The board proposes to eliminate this prohibition.

**Trustees.** The current and proposed regulations both require that the trustee of a perpetual care trust fund or a preneed trust fund, other than a Virginia trust company or trust subsidiary or a federally insured bank or savings institution doing business in the Commonwealth, must meet various specified requirements. The board proposes to partially reduce the burdens of three of these requirements as follows: (i) reduce from five years to two years the minimum experience required for an individual to qualify as a trustee of a perpetual care trust fund or preneed trust fund; (ii) require that a trustee or trust firm disclose any outstanding judgments, outstanding tax obligations, or defaults on bonds related to the management of the trust during the previous seven years prior to application, rather the previous 10 years in the current regulation; and (iii) require that the applicant disclose whether the trustee firm, or its parent or predecessor organization, has been adjudicated as bankrupt or has had any proceeding for relief of debtors during the previous seven years prior to application, rather the previous ten years in the current regulation.

**Reinstatement.** Under the current regulation, a cemetery company license or salesperson registration may be reinstated for up to one year following the expiration date with payment of the renewal and reinstatement fee. After one year, the license or registration may not be reinstated under any circumstances and the applicant must meet all current requirements and apply as a new applicant; moreover, any activity requiring a license or registration conducted subsequent to the expiration may constitute unlicensed or unregistered activity and be subject to prosecution. The board proposes to amend the regulation so that reinstatement can occur up to five years following the expiration date with payment of the renewal and reinstatement fee.

**Estimated Benefits and Costs: Compliance Agents and Designees.** The proposal to eliminate the requirement that compliance agents and their designees be a full-time employee of the cemetery company or a principal would increase a company's flexibility in who to hire for the position. The responsibilities that apply to the position and the company would not change. Restricting the required disclosure of convictions or findings of guilt of any misdemeanor involving moral turpitude to just occurrences within five years of application may encourage some additional individuals to apply to be a compliance agent or designee. According to the Department of Professional and Occupational Regulation (DPOR), the one current board-approved training program is only two hours. Thus, the proposal to reduce the minimum

number of hours to two (from four) merely conforms the regulation to current practice. DPOR states that solicitation is proposed for removal from the list of specified topics for training because it is duplicative of advertising, which would remain on the list. The agency states that funeral rule is proposed for removal from the list since it is relevant to funeral homes rather than cemeteries.

**Sales Personnel.** Eliminating the requirement that sales personnel registration applicants provide the address of each cemetery for which they will act as sales personnel removes a small burden for such applicants. Applicants would still need to provide the license number of their employing cemetery company. DPOR believes that the license number of the cemetery company the applicant would be employed by or affiliated with would be sufficient for identifying sales personnel for whom the public have complaints. Eliminating the prohibition on sales personnel from transferring their registration from one licensed cemetery company to another would save administrative time for both salespersons interested in such transfers as well as DPOR staff. Net fees paid and collected would not change.

**Trustees.** Reducing the required years of experience to qualify as a trustee may benefit cemetery companies by increasing the supply of people whom they hire for such positions. Reducing the number of previous years for which disclosures must be made may encourage some additional individuals to apply to be trustees.

**Reinstatement.** For a cemetery company or a salesperson who operates or works more than a year (but not more than five years) after the expiration of their license or registration, the proposal to allow reinstatement up to five years following the expiration date of a license or registration rather than just one year could be very beneficial. Upon reinstatement, activities conducted during the period in which the license was expired would be retroactively considered licensed activity regulated by the board. According to DPOR, without reinstatement, any operational activities conducted during the lapse in licensure would constitute unlicensed activity, necessitating referral to the Commonwealth Attorney in the relevant locality for potential legal action. DPOR finds this change to be positive in that reinstatement allows DPOR to maintain regulatory oversight and adjudicate any disciplinary matters arising during that period. The cost of cemetery company licensure reinstatement consists of both the renewal and reinstatement fees for each of company cemeteries (i.e., \$1,160 for each of the company's cemeteries).<sup>3</sup> In contrast, the application fee for a cemetery company license is \$580 per cemetery. Thus, the fees for reinstatement are double the fees for new licensure.<sup>4</sup> According to DPOR, those that are eligible for reinstatement cannot apply as a new applicant. Thus, for those whose license has been expired for more than a year but not more than five years, and wish to again be licensed, the fees would double under the proposed regulation.<sup>5</sup> For those companies that operated with an expired license, the higher fees may be worthwhile to eliminate legal exposure. For those firms that

did not operate when their license was expired, the higher fees may not be worthwhile. The cost of salesperson registration reinstatement is both the renewal and reinstatement fees for each of salesperson cemeteries (i.e., \$120 for each of their cemeteries).<sup>6</sup> In contrast, the application fee for a salesperson registration is \$60 per cemetery.<sup>7</sup> Thus, the fees for reinstatement are double the fees for new licensure.<sup>8</sup> Analogous to the cemetery company licensees, the salesperson registrants who worked with an expired registration for more than a year may find that the higher fees may be worthwhile to eliminate legal exposure, while those that did not work while their registration was expired for more than a year may not.

**Businesses and Other Entities Affected.** The proposed amendments potentially affect the 60 licensed cemetery companies, 130 cemeteries, 858 registered cemetery sales personnel, 181 compliance agents or compliance agent designees, 100 board-approved trustees in the Commonwealth, and one board-approved training provider, as well as future applicants, DPOR, and the public. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>9</sup> 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.<sup>10</sup> While most affected entities would be better off, licensees and registrants whose licenses and registrations were expired for more than one year but not more than five years, and who did not operate or work while their license or registration was expired but wish to resume operation or work, would face higher costs without compensating benefits. Consequently, these companies and salespersons would be adversely affected.

**Small Businesses<sup>11</sup> Affected.** Types and Estimated Number of Small Businesses Affected. DPOR reports that many of the 60 cemetery companies are likely business entities that meet the definition of small business.<sup>13</sup> Costs and Other Effects All of the costs and benefits described above to affect cemetery companies, affect small cemetery companies. Alternative Method that Minimizes Adverse Impact. There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

**Localities<sup>14</sup> Affected.**<sup>15</sup> The proposed amendments neither disproportionately affect particular localities nor affect costs for local governments.

**Projected Impact on Employment.** The proposed amendments are unlikely to substantively affect total employment.

**Effects on the Use and Value of Private Property.** Proposed amendments make it easier for cemetery companies to find qualified compliance agents and trustees. This may moderately reduce their costs, thereby moderately increasing their value. The proposed amendments do not affect real estate development costs.

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<sup>1</sup> Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed

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amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

<sup>2</sup> According to the Department of Professional and Occupational Regulation, funeral rule refers to a U.S. Federal Trade Commission regulation that aims to protect consumers by ensuring transparency and fairness in the funeral industry.

<sup>3</sup> Until July 31, 2026, it is \$655 for each of the company's cemeteries.

<sup>4</sup> Until July 31, 2026, the comparison would be \$655 for each of the company's cemeteries for reinstatement, and \$580 for each of the company's cemeteries for new licensure.

<sup>5</sup> Until July 31, 2026, the fees are higher in the proposed regulation, but less than double.

<sup>6</sup> Until July 31, 2026, it is \$75 for each of their cemeteries.

<sup>7</sup> Until July 31, 2026, it is \$40 for each of their cemeteries.

<sup>8</sup> Until July 31, 2026, the fees are higher in the proposed regulation, but less than double.

<sup>9</sup> Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<sup>10</sup> 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.

<sup>11</sup> Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>12</sup> If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

<sup>13</sup> Data source: Virginia Employment Commission.

<sup>14</sup> "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>15</sup> Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

**Response to Economic Impact Analysis:** The Cemetery Board concurs with the economic impact analysis prepared by the Department of Planning and Budget.

## Summary:

*The proposed amendments revise (i) definitions; (ii) entry qualifications for cemetery company licenses, compliance agents and compliance agent designees, sales personnel registrations, and trustees; (iii) renewal and reinstatement procedures; (iv) standards of practice and conduct for regulants; and (v) standards for approval for training courses.*

## **18VAC47-20-10. Definitions.**

The following words and terms when used in this chapter shall have the definitions ascribed to them in § 54.1-2310 of the Code of Virginia or shall have the following meanings, unless the context clearly indicates otherwise:

"Administration" means the cost to administer and maintain records required by Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia or any regulation of the board, including a percentage of compensation of employees, payment of insurance premiums, reasonable payments for employees' pension and other benefit plans, and costs of maintaining cemetery company and sales personnel compliance with the board's licensure and registration requirements.

"Approved training program" means a training program that has been approved by the board to provide training for individuals to act as a compliance agent or compliance agent designee.

"Change in ownership" means a change in 50% or more of the stockholders or partnership interest, or both, of a cemetery company.

"Compliance agent designee" means an individual who shall be designated by the cemetery company to ~~assure~~ ensure the compliance of the cemetery company with the provisions of Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia and this chapter when the compliance agent is not available to supervise the activities of any of its affiliated cemeteries.

"Experience" means supervisory experience with a cemetery company as defined in § 54.1-2310 of the Code of Virginia.

"Licensee" means any person licensed by the board as a cemetery company.

~~"Moral turpitude" means, but is not limited to, lying, cheating or stealing.~~

"Outer burial container" means any container ~~which~~ that is designed for placement in the grave around the casket including, ~~but not limited to,~~ containers commonly known as burial vaults or grave boxes and grave liners.

"Perpetual care" means continuing care, maintenance, administration, and embellishment of the cemetery.

"Preneed trust fund" means those moneys held in accordance with § 54.1-2325 of the Code of Virginia.

"Principal" means the following individuals:

1. The sole proprietor of a sole proprietorship.
2. The partners of a general partnership.
3. The managing partners of a limited partnership.
4. The officers of a corporation as registered with the State Corporation Commission.
5. The managers of a limited liability company.
6. The officers or directors of an association.

"Reasonably maintain" means the building, grounds, and facilities are safe for use by the public, in good repair, and in compliance with local ordinances.

"Registrant" means any natural person registered with the board as sales personnel.

"Sales personnel" means any natural person employed by or affiliated as an independent contractor with a licensed cemetery company who deals with the public in the sale or offering for sale of any property or services enumerated in the definition of "cemetery company" contained in § 54.1-2310 of the Code of Virginia.

"Services" means any act or activity by the cemetery company in relation to arranging, supervising, interring, or disposing of the remains or commemorating the memory of deceased human beings.

## **18VAC47-20-30. Qualifications for cemetery company license.**

A. Every person applying for a cemetery company license ~~shall~~ must meet all of the requirements outlined in §§ 54.1-2311 and 54.1-2314 of the Code of Virginia as well as the additional qualifications of this section.

B. Each person applying for a cemetery company license and the principals of that firm ~~shall~~ must disclose, at the time the application is submitted, any current or previous cemeteries managed in Virginia or in any other jurisdictions and any disciplinary actions taken against those cemeteries or the individuals managing them. This includes any monetary penalties, fines, or disciplinary actions taken by any federal, state, or local regulatory agencies.

C. In accordance with § 54.1-2314 of the Code of Virginia, each applicant ~~shall~~ must disclose the following information about the cemetery company and any of the principals of the company:

1. A conviction in any jurisdiction of any felony ~~or any crime of moral turpitude, there being no appeal pending therefrom or the time for appeal having elapsed.~~

2. All misdemeanor convictions involving moral turpitude within five years of the date the application is submitted.

~~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 approval of a cemetery application in accordance with § 54.1-204 of the Code of Virginia.

## **18VAC47-20-35. Qualifications for compliance agents and designees.**

A. Every applicant for compliance agent or designee ~~shall~~ must have the following qualifications:

1. Be at least 18 years ~~old~~ of age; and
2. Have two years of experience in the cemetery business and have successfully completed a board approved training course; ~~and~~
3. ~~Be a full-time employee of the cemetery company or is a principal.~~

B. The applicant ~~shall~~ must disclose any current or previous ~~licenses/registrations~~ licenses or registrations from Virginia or in any other jurisdictions; and any disciplinary actions taken against those ~~licenses/registrations~~ licenses or registrations. This includes, ~~but is not limited to,~~ any monetary penalties, fines, or disciplinary actions taken by any federal, state, or local regulatory agencies. The board, at its discretion, may deny approval of the compliance agent or designee based upon disciplinary actions by any jurisdiction.

C. The applicant ~~shall~~ must disclose any conviction or finding of guilt, regardless of adjudication, in any jurisdiction of the United States of any misdemeanor involving moral turpitude in the preceding five years or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. ~~Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of conviction, finding or case decision shall be considered prima facie evidence of a conviction or finding of guilt.~~ The board, at its discretion, may deny approval of the compliance agent or designee in accordance with § 54.1-204 of the Code of Virginia.

D. The applicant ~~shall~~ must certify that ~~he~~ the applicant understands and will comply with all the laws of Virginia related to cemetery company licensure under the provisions of Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

## **18VAC47-20-40. Qualifications for registration of sales personnel.**

A. Cemetery company sales personnel ~~shall~~ must submit an application on a form prescribed by the board and ~~shall~~ must meet the requirements ~~set forth in § 54.1-2314 of the Code of Virginia, as well as the additional qualifications of this section.~~

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B. Every applicant to the board for registration as sales personnel ~~shall~~ must provide ~~his the applicant's~~ name, address, and the license number of the cemetery company ~~he the applicant~~ will be employed by or affiliated with, ~~and the address of each cemetery for which he will act as sales personnel.~~

C. Each applicant for registration as sales personnel ~~shall~~ must disclose, at the time the application is submitted, any current or previous cemetery sales licenses or registrations from Virginia or in any other jurisdictions, and any disciplinary actions taken against those licenses or registrations. This includes any monetary penalties, fines, or disciplinary actions taken by any federal, state, or local regulatory agencies.

D. Each applicant for registration as sales personnel ~~shall~~ must disclose, at the time the application is submitted, the following information:

1. A conviction in any jurisdiction of any felony ~~or any crime of moral turpitude, there being no appeal pending therefrom or the time for appeal having elapsed.~~
2. All misdemeanor convictions involving moral turpitude within five years of the date the application is submitted.

~~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 refuse registration of a sales personnel application in accordance with § 54.1-2314 of the Code of Virginia.~~

## **18VAC47-20-50. Concurrent registration permitted; transfer of sales personnel registration prohibited.**

A. Sales personnel may be employed by or affiliated with more than one cemetery company, provided that a separate registration is obtained for each such employment or affiliation.

B. A sales personnel registration may ~~not~~ be transferred from one licensed cemetery company to another. The registration is void if the registrant is no longer affiliated with ~~the a~~ cemetery company ~~indicated on the original application for registration.~~

## **18VAC47-20-60. Qualifications of trustees.**

A. The trustee of a perpetual care trust fund or a preneed trust fund, other than a Virginia trust company or trust subsidiary or a federally insured bank or savings institution doing business in the Commonwealth, must meet the requirements of this section and ~~shall will~~ be governed by § 54.1-2318 of the Code of Virginia.

B. The trustee applicant ~~shall must~~ be at least 18 years ~~old of~~ age and have a minimum of ~~five two~~ years of experience either as an individual trustee or as an agent for a firm responsible for the management of a trust.

C. Each trustee or trust firm, ~~or both, shall must~~ provide information for the ~~40 seven~~ years prior to the submission of the application on any outstanding judgments, outstanding tax obligations, or defaults on any bonds directly related to the management of the trust. If the trustee firm or its parent or predecessor organization has, during the previous ~~40 seven~~ years, been adjudicated a bankrupt or has any proceeding for the relief of debtors, such fact ~~or facts shall must~~ be stated.

D. Each trust firm and principals of the firm ~~shall must~~ disclose, at the time the application is submitted, any current or previous trusts managed in Virginia or in other jurisdictions, and any disciplinary actions taken against these trusts, the trust company, or the individuals managing the trusts. This includes any monetary penalties, fines, or disciplinary actions taken by any federal, state, or local regulatory agencies.

E. The trustee must meet the bonding requirements set forth in §§ 54.1-2317 and 54.1-2326 of the Code of Virginia as applicable.

F. In accordance with §§ 54.1-2317 and 54.1-2326 of the Code of Virginia, each trustee ~~shall must~~ disclose the following information about the trust firm or principals of the firm:

1. A conviction in any jurisdiction of any felony;
2. All misdemeanor convictions involving moral turpitude within five years of the date the application is submitted.

~~Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter. 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 approval of a trustee application in accordance with § 54.1-2317 or § 54.1-2326 of the Code of Virginia.~~

## **18VAC47-20-80. Renewal required.**

Licenses and registrations issued under this chapter ~~shall will~~ expire two years from the last day of the month in which they were issued, as indicated on the license or registration.

## **18VAC47-20-100. Procedures for renewal.**

Renewal of licenses and registrations ~~shall must~~ be on forms prescribed by the board. The Department of Professional and Occupational Regulation will ~~mail a renewal application to notify the licensee or registrant of impending license expiration. The renewal application will be sent to the last known address of record.~~

Failure to receive this ~~application shall~~ notification does not relieve the licensee or regulant of the obligation to renew. ~~The renewal application shall be completed in full prior to renewal of the license or registration.~~

## **18VAC47-20-110. Reinstatement required.**

A. If the requirements for renewal of a license or registration, including receipt of the fee by the board, are not complete within 30 days of the license or registration expiration date, the licensee or registrant ~~shall will~~ be required to reinstate the



license or registration by meeting all renewal requirements and paying the reinstatement fee specified in 18VAC47-20-140.

B. A license or registration may be reinstated for up to ~~one year~~ five years following the expiration date with payment of the renewal and reinstatement fee. After ~~one year~~ five years, the license or registration may not be reinstated under any circumstances and the applicant must meet all current requirements and apply as a new applicant.

C. Any activity requiring a license or registration conducted subsequent to the expiration may constitute unlicensed or unregistered activity and be subject to prosecution under Chapter 1 (§ 54.1-100 et seq.) of Title 54.1 of the Code of Virginia.

**18VAC47-20-120. Status of licensee or registrant during the period prior to reinstatement.**

A. When a license or registration is reinstated, the license or registration ~~shall~~ will continue to have the same number and ~~shall~~ will be assigned an expiration date two years from the ~~previous expiration date of last day of the month in which the license or registration was reinstated.~~

B. A licensee or registrant who reinstates ~~his~~ the applicable license or registration ~~shall~~ will be regarded as having been continuously licensed or registered without interruption. Therefore, the licensee or registrant ~~shall~~ will remain under the disciplinary authority of the board during this entire period and may be held accountable for ~~his~~ the person's activities during this period.

C. A licensee or registrant who fails to reinstate ~~his~~ the applicable license or registration ~~shall~~ will be regarded as unlicensed from the expiration date of the license or registration forward.

**18VAC47-20-130. Board discretion to deny renewal or reinstatement.**

~~A.~~ The board may deny renewal or reinstatement of a license or registration for the same reasons as ~~it~~ the board may refuse initial licensure or registration or discipline a licensee or registrant.

~~B. The board may deny renewal or reinstatement of a license or registration if the applicant has not fully paid monetary penalties, satisfied sanctions and paid costs imposed by the board, plus any accrued interest.~~

**18VAC47-20-140. Renewal and reinstatement fees.**

A. All fees required by the board are nonrefundable. The date on which the fee is received by the department or its agent ~~shall~~ will determine whether the licensee or registrant is eligible for renewal or reinstatement or must reapply as a new applicant.

Renewal of cemetery company license	\$580 per cemetery
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Renewal of sales personnel registration	\$60 per cemetery
Reinstatement of cemetery company license	\$580 per cemetery
Reinstatement of sales personnel registration	\$60 per cemetery

B. For renewal and reinstatement fees received between August 1, 2024, and July 31, 2026, the fees are as follows:

Renewal of cemetery company license	\$285 per cemetery
Renewal of sales personnel registration	\$30 per cemetery
Reinstatement of cemetery company license	\$370 per cemetery
Reinstatement of sales personnel registration	\$45 per cemetery

**18VAC47-20-160. Maintenance of license and registration.**

A. Any change in the name and address of each cemetery in Virginia in which the cemetery company has a business interest, the name and address of ~~all~~ any officers ~~and or~~ directors of the cemetery company, the registered agent for the cemetery company, or the compliance agent must be reported to the board in writing within 30 days after the change as required by § 54.1-2311 of the Code of Virginia. A new license ~~shall~~ will be required if there is a change in ownership of the cemetery company or whenever the legal business entity holding a cemetery company license is dissolved or altered to form a new business entity.

B. A cemetery company wishing to add a cemetery to its license ~~shall~~ must complete a form provided by the board and submit the fee as prescribed in 18VAC47-20-70. Both the cemetery company and the cemetery being added to the registration must meet the requirements found in Chapter 23.1 (§ 54.1-2301 et seq.) of Title 54.1 of the Code of Virginia and 18VAC47-20-30. Sales personnel of the new cemetery will be required to register in accordance with 18VAC47-20-40.

C. Any change in the name ~~and home address~~ of any registrant must be reported to the board in writing within 30 days after the change.

D. The board ~~shall~~ will not be responsible for the licensee's or registrant's failure to receive notices, communications ~~and or~~ correspondence caused by the licensee's or registrant's failure to promptly notify the board of any change of address.

E. Sales personnel ~~shall~~ will be issued a registration to the compliance agent at the place of business of the licensed cemetery company with which the registrant is affiliated or at which the registrant is employed. When any registrant is discharged or in any way terminates ~~his~~ the registrant's employment or affiliation with a licensed cemetery company, or when the cemetery company's

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license is suspended or revoked, it ~~shall will~~ be the duty of the compliance agent to return the registration to the board within ~~40~~ 30 calendar days of the date of such discharge or termination.

## **18VAC47-20-180. Records of interments.**

A permanent record ~~shall must~~ be kept of every interment in the cemetery, showing the date of the interment; and the name of the person interred, together with information identifying the specific location in which the interment was made. For interments made pursuant to § 54.1-2312.01 of the Code of Virginia, the permanent records ~~shall must~~ also include the type and name of the pet interred and the name of the owner with information identifying the specific location in which the pet interment was made.

## **18VAC47-20-200. Perpetual care trust fund and bonding requirement.**

A. Each licensed cemetery company ~~shall must~~ establish a perpetual care trust fund in accordance with § 54.1-2316 of the Code of Virginia.

B. If the trustee for the perpetual care trust fund is ~~other than~~ not a Virginia trust company or trust subsidiary or a federally insured bank or savings institution doing business in the Commonwealth, the trustee ~~shall must~~ be approved by the board and ~~shall must~~ deposit a fidelity bond in accordance with § 54.1-2317 of the Code of Virginia.

C. Deposits into the fund ~~shall must~~ be made in accordance with §§ 54.1-2319 through 54.1-2321 of the Code of Virginia.

D. The income from the perpetual care trust fund ~~shall must~~ be used in accordance with § 54.1-2322 of the Code of Virginia.

E. Each licensed cemetery company ~~shall must~~ submit written financial reports regarding perpetual care trust funds to the board as prescribed by §§ 54.1-2323 and 54.1-2324 of the Code of Virginia.

F. Transfer of funds to another trustee ~~shall must~~ be done in accordance with § 54.1-2337 of the Code of Virginia.

## **18VAC47-20-210. Preneed trust fund and bonding requirements.**

A. Each licensed cemetery company ~~shall must~~ establish a preneed trust fund and make deposits in accordance with ~~§ 54.1-2315~~ § 54.1-2325 of the Code of Virginia.

B. If the trustee for the preneed trust fund is ~~other than~~ not a Virginia trust company or trust subsidiary or a federally insured bank or savings institution doing business in the Commonwealth, the trustee ~~shall must~~ be approved by the board and ~~shall must~~ deposit a fidelity bond with the board in accordance with § 54.1-2326 of the Code of Virginia.

C. Deposits into the fund ~~shall must~~ be made in accordance with § 54.1-2325 of the Code of Virginia.

D. All funds ~~shall must~~ be handled in accordance with §§ 54.1-2329 through 54.1-2331 of the Code of Virginia.

E. Each licensed cemetery company ~~shall must~~ submit a written financial report regarding preneed trust accounts to the board as prescribed by § 54.1-2333 of the Code of Virginia.

F. Transfer of funds to another trustee ~~shall must~~ be done in accordance with § 54.1-2337 of the Code of Virginia.

## **18VAC47-20-220. Itemized statement and general price list of burial fees to be furnished.**

~~Cemetery companies shall furnish~~ A. Each cemetery company must maintain a written general price list and a written itemized statement of goods and services ~~they provide that the cemetery company provides~~. This itemized statement ~~shall must~~ include, ~~but is not limited to~~, burial vaults and other burial receptacles, other merchandise, facilities used, and other professional services. Prices for merchandise may be stated as a range of values. Prices for services must be specific for each type of service, including any difference in prices based on the day or time the service is provided. This list ~~shall must~~ be set forth in a clear and conspicuous manner.

~~The B. In accordance with § 54.1-2327 A of the Code of Virginia, the general price list shall must be available in writing to individuals inquiring in person about burial arrangements or the prices of property or services. In addition, upon beginning a discussion of burial arrangements or the selection of any property or services, the general price list shall be offered by the cemetery property.~~

C. Prior to execution of any contract, cemetery companies shall must provide the general price list and itemized statement of goods and services to the individual ~~or individuals~~ entering the contract. The contract ~~shall must~~ include an acknowledgment signed by the individual ~~or individuals~~ and the cemetery sales personnel stating the cemetery company provided the general price list and itemized statement of goods and services to the individual ~~or individuals~~ prior to the execution of the contract.

## **18VAC47-20-230. Preneed burial contracts.**

A. All preneed burial contracts must be made on forms prescribed by the board in accordance with § 54.1-2328 of the Code of Virginia and must contain the following disclosures:

1. Identifies the seller, seller's license number, contract buyer, and person for whom the contract is purchased if other than the contract buyer;
2. Contains a complete description of the property or services purchased;
3. Clearly discloses whether the price of the property and services purchased are guaranteed;
4. States, for funds required to be trusted pursuant to § 54.1-2325 of the Code of Virginia, the amount to be trusted and

the name of the trustee;

5. Contains the name, address, and telephone number of the board and lists the board as the regulatory agency ~~which that~~ handles consumer complaints;

6. Provides that any purchaser who makes payment under the contract may terminate the agreement within three days of execution and that such purchaser shall be refunded all consideration paid or delivered, less amounts paid for any property or supplies that have been delivered;

7. Provides that if the particular property or services specified in the contract are unavailable at the time of delivery, the seller shall be required to furnish property or services similar in size and style and at least equal in quality of material and workmanship and that the representative of the deceased shall have the right to choose the property or services to be substituted, which ~~shall~~ must be at least equal or reasonably equivalent in quality of material, workmanship, and cost;

8. Discloses any additional costs that the purchaser may be required to pay at-need, including the disclosure of the cost of opening and closing the grave;

9. Complies with all disclosure requirements imposed by the board;

10. ~~Is executed in duplicate and~~ Provides a signed copy given to the buyer; and

11. Provides that the contract buyer ~~shall have~~ has the right to change the contract provider at any time prior to the furnishing of the property or services, excluding any mausoleum crypt or garden crypt, contracted for under the preneed burial contract. If the contract seller will not be furnishing the property and services to the purchaser, the contract seller ~~shall~~ must attach to the preneed burial contract a copy of the seller's agreement with the provider.

B. Any preneed burial contract sold or offered by any cemetery company or agent with a trust fund deposit of less than 100% ~~shall be required to~~ must include the following printed statement in capitalized letters, in 10-point, bold-faced type:

THIS PRENEED BURIAL CONTRACT REQUIRES THE PLACEMENT IN TRUST OF A MINIMUM OF 40% OF THE FUNDS INCLUDED IN THIS CONTRACT. THE BALANCE OF FUNDS MAY BE USED FOR CARE AND MAINTENANCE OF THE CEMETERY AND ARE NOT REQUIRED TO BE PLACED IN TRUST.

C. Each seller of a preneed burial contract ~~shall~~ must file with the board, upon request, a detailed account of all contracts and transactions regarding preneed burial contracts in accordance with § 54.1-2332 of the Code of Virginia.

## 18VAC47-20-250. Compliance agent or designee conduct.

Each cemetery company and cemetery affiliated with a cemetery company ~~shall~~ must be supervised by a compliance

agent or designee. The compliance agent or designee ~~shall~~ must exercise reasonable and adequate supervision of the provision of services by employees of the cemetery company. Factors to be considered in determining whether the supervision is reasonable and adequate include, ~~but are not limited to, the following:~~

1. The availability of the compliance agent or designee to all cemetery company employees and to the public to answer questions within a reasonable time pertaining to the operation of the cemetery company.
2. The availability of training and written procedures and policies that provide, without limitation, clear guidance in the following areas:
  - a. Required deposits for the perpetual care trust fund;
  - b. Required deposits for the preneed trust fund;
  - c. Proper handling of preneed burial contracts;
  - d. Proper handling of deposits to the perpetual care trust fund;
  - e. Proper handling of deposits to the preneed trust fund;
  - f. Interment records;
  - g. Itemized statement of goods and services provided;
  - h. General price list;
  - i. Advertising;
  - ~~j. Solicitation;~~
  - ~~k. j.~~ j. Proper care, maintenance, administration, and embellishment of the cemetery; and
  - ~~l. k.~~ k. Such other matters as necessary to ~~assure~~ ensure the competence of licensees and registrants to comply with this chapter and Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia.

## 18VAC47-20-270. Standards of approval of training course.

All training courses ~~shall~~ must be approved by the board. The training course ~~shall~~ must be at least ~~four~~ two hours and include appropriate testing procedures to demonstrate an understanding of the topics. The training program ~~shall~~ must include, ~~but is not limited to,~~ the following topics:

1. Cemetery Board statute and regulations;
2. Perpetual care trust fund requirements;
3. Preneed trust fund requirements;
4. Preneed burial contracts;
5. Interment records;
6. General price list;
7. Itemized statement of goods and services provided;
8. Advertising;
- ~~9. Solicitation;~~

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~~10. Funeral rule; and~~

~~11. 9. Proper care, maintenance, administration, and embellishment of the cemetery.~~

## 18VAC47-20-280. Special interment requirement.

A licensed cemetery company may establish a section in its cemetery devoted to the interment of pets or the interment of human remains and the pets of such deceased humans in accordance with § 54.1-2312.01 of the Code of Virginia. ~~All other provisions of this chapter shall apply.~~

VA.R. Doc. No. R24-7843; Filed May 9, 2025, 12:10 p.m.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

### Forms

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

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

Agency Contact: Matt Novak, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 597-4217, or email [matthew.novak@dhp.virginia.gov](mailto:matthew.novak@dhp.virginia.gov).

FORMS (18VAC65-20)

[Checklist, Instructions, and Application for a Funeral License by Examination or Endorsement \(rev. 5/2024\)](#)

[Funeral Service Reinstatement Application \(rev. 6/2024\)](#)

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

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

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

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

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

[Crematory Reinstatement Application \(rev. 8/2024\)](#)

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

[Checklist and Instructions for Continuing Education Providers \(rev. 5/2025\)](#)

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

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

[Instructions for Continuing Education Providers Adding Additional Courses \(rev. 5/2025\)](#)

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

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

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

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

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

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

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

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

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

[Funeral Service Establishment Reinstatement Application \(rev. 8/2024\)](#)

[Courtesy Card Reinstatement Application \(rev. 8/2024\)](#)

[Surface Transportation and Removal Services Reinstatement Application \(rev. 8/2024\)](#)

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

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

[Funeral Establishment or Branch Temporary Change of Manager Notice \(rev. 12/2024\)](#)

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

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

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

VA.R. Doc. No. R25-8326; Filed May 5, 2025, 9:02 a.m.

**BOARD OF MEDICINE**
**Fast-Track Regulation**

**Title of Regulation:** 18VAC85-50. Regulations Governing the Practice of Physician Assistants (amending 18VAC85-50-10, 18VAC85-50-35, 18VAC85-50-56, 18VAC85-50-59, 18VAC85-50-61, 18VAC85-50-101, 18VAC85-50-115, 18VAC85-50-178; repealing 18VAC85-50-30, 18VAC85-50-116, 18VAC85-50-180, 18VAC85-50-181, 18VAC85-50-182).

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

**Public Hearing Information:** No public hearing is currently scheduled.

**Public Comment Deadline:** July 2, 2025.

**Effective Date:** July 17, 2025.

**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) 750-3912, FAX (804) 915-0382, or email [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov).

**Basis:** Section 54.1-2400 of the Code of Virginia authorizes the Board of Medicine to promulgate regulations to administer the regulatory system. Section 54.1-2951.1 of the Code of Virginia requires the Board of Medicine to license and regulate physician assistants.

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

**Rationale for Using Fast-Track Rulemaking Process:** The impetus for these amendments were the board's 2022 periodic review of this chapter. This action is noncontroversial and appropriate for the fast-track rulemaking process because the changes remove or modify provisions that are redundant of statutory requirements, are not related to physician assistants, are outdated, or are otherwise ineffectual.

**Substance:** The amendments (i) remove duplicate provisions and redundant or unnecessary language, including outdated definitions, public participation provisions, reduced fees from prior years, language related to vitamins, anabolic steroids, and weight loss pharmacotherapy, and continuing education requirements for restricted volunteer licenses; (ii) remove fees for voluntary out-of-state practice; and (iii) consolidate information related to informed consent for office-based procedures.

**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 Economic Impact Analysis:**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance

with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.<sup>1</sup>

**Summary of the Proposed Amendments to Regulation.** As a result of a 2022 periodic review<sup>2</sup> and in response to Executive Order 19 (2022)<sup>3</sup> (EO 19), the Board of Medicine (board) is proposing to eliminate a \$10 registration fee for out-of-state volunteers along with numerous editorial updates to this regulation governing physician assistants.

**Background.** As a result of the 2022 periodic review and in order to reduce regulatory requirements as directed by EO 19, the board proposes to eliminate a \$10 registration fee for out-of-state volunteers, revise or delete language that duplicates statutory requirements, and eliminate provisions that are no longer needed. The affected regulatory language pertains to deletion of a \$10 fee for voluntary out-of-state practice; unused definitions; public participation guidelines; reduced fees for previous years; minor edits; removal of continuing education language for restricted volunteer licenses; deletion of duplicative provisions regarding volunteer restricted licenses; consolidation of information related to informed consent for office-based procedures and subsequently elimination of redundant or extraneous language; and elimination of language related to vitamins, minerals, food supplements, amphetamine, controlled substances, and anabolic steroids.

**Estimated Benefits and Costs:** The only proposed change that would depart from current practice is the elimination of a \$10 registration fee collected from out-of-state physician assistants volunteering in Virginia. The board states that the fee is so minimal and used so infrequently that its elimination will have virtually no effect on board funds. In recent history spanning over several years, this fee was collected only once from a single applicant. Therefore, the elimination of this fee is not expected to have a significant impact on the board. Moreover, the elimination of this fee may encourage volunteering activities by out-of-state physician assistants in Virginia should the need arise. One change that appears to depart from current practice, but in fact does not, is the elimination of a requirement that individuals who renew a restricted volunteer license obtain 50 hours of continuing education per biennium. However, the board states that it is unreasonable to impose a continuing education requirement on restricted volunteer licenses when there is no such requirement for full licensees. Consequently, the board has not been enforcing this requirement. Therefore, the removal of this regulatory text is not expected to create any effect other than accurately reflecting board continuing education expectations for individuals with restricted volunteer licenses. The board states, and it so appears, that all of the remaining proposed changes to this regulation are editorial in nature and would not affect the practice of physician assistants. For example, removing duplicative or redundant references, such as to the public participation regulation; elimination of language regarding vitamins, minerals, or food supplements; removal of language

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regarding the prescription of amphetamine, controlled substances and anabolic steroids would not make this regulation any less enforceable or applicable because these requirements are still enforceable under more general provisions. However, to the extent that physician assistants and other members of the public relied upon these regulatory provisions to better understand the requirements that pertain to physician assistants, some lack of clarity about these requirements may result.

**Businesses and Other Entities Affected.** As of June 30, 2022, there were 5,524 individuals licensed as physician assistants that are subject to this regulation. However, the board has no data regarding any potential applicants for voluntary physician assistant licenses. Historically, the applications for volunteer licenses have been infrequent. Looking over the data over the past several years, the board has identified a single license issued to a practitioner from out of state who was volunteering in Virginia. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>4</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. The proposed changes are not expected to create any significant economic impact. No adverse impact on any entity is indicated nor a disproportionate impact is expected.

**Small Businesses<sup>5</sup> Affected.<sup>6</sup>** The proposed amendments do not appear to adversely affect small businesses.

**Localities<sup>7</sup> Affected.<sup>8</sup>** The proposed amendments do not disproportionately affect any localities, nor introduce costs for local governments.

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

**Effects on the Use and Value of Private Property.** No impact on the use and value of private property nor real estate development costs is expected.

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

<sup>2</sup> <https://townhall.virginia.gov/I/ViewPReview.cfm?PRid=2149>.

<sup>3</sup> <https://townhall.virginia.gov/EO-19-Development-and-Review-of-State-Agency-Regulations.pdf>.

<sup>4</sup> Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<sup>5</sup> Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>6</sup> If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

<sup>7</sup> "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>8</sup> Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

## Summary:

*As a result of a 2022 periodic review, the amendments (i) remove duplicate provisions and redundant or unnecessary language, including outdated definitions; public participation provisions; reduced fees from prior years; language related to vitamins, anabolic steroids, and weight loss pharmacotherapy; and continuing education requirements for restricted volunteer licenses; (ii) remove fees for voluntary out-of-state practice; and (iii) consolidate information related to informed consent for office-based procedures.*

## **18VAC85-50-10. Definitions.**

A. The following words and terms shall have the meanings ascribed to them in § 54.1-2900 of the Code of Virginia:

"Board:-"

"Collaboration:-"

"Consultation:-"

"Patient care team physician:-"

"Patient care team podiatrist:-"

"Physician assistant:-"

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

~~"Group practice" means the practice of a group of two or more doctors of medicine, osteopathy, or podiatry licensed by the board who practice as a partnership or professional corporation.~~



"Institution" means a hospital, nursing home or other health care facility, community health center, public health center, industrial medicine or corporation clinic, a medical service facility, student health center, or other setting approved by the board.

"NCCPA" means the National Commission on Certification of Physician Assistants.

"Practice agreement" means a written or electronic agreement developed by one or more patient care team physicians or podiatrists and the physician assistant that defines the relationship between the physician assistant and the physicians or podiatrists, the prescriptive authority of the physician assistant, and the circumstances under which a physician or podiatrist will see and evaluate the patient.

**18VAC85-50-30. ~~Public participation guidelines. (Repealed.)~~**

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

**18VAC85-50-35. Fees.**

Unless otherwise provided, the following fees shall not be refundable:

1. The initial application fee for a license, payable at the time application is filed, shall be \$130.
2. The biennial fee for renewal of an active license shall be \$135 and for renewal of an inactive license shall be \$70, payable in each odd-numbered year in the birth month of the licensee. ~~For 2021, the fee for renewal of an active license shall be \$108, and the fee for renewal of an inactive license shall be \$54.~~
3. The additional fee for late renewal of licensure within one renewal cycle shall be \$50.
4. A restricted volunteer license issued pursuant to § 54.1-2951.3 of the Code of Virginia shall expire 12 months from the date of issuance and may be renewed without charge by receipt of a renewal application that verifies that the physician assistant continues to comply with provisions of § 54.1-2951.3 of the Code of Virginia.
5. The fee for reinstatement of a license pursuant to § 54.1-2408.2 of the Code of Virginia shall be \$2,000.
6. The fee for a duplicate license shall be \$5.00, and the fee for a duplicate wall certificate shall be \$15.
7. The handling fee for a returned check or a dishonored credit card or debit card shall be \$50.
8. The fee for a letter of good standing or verification to another jurisdiction shall be \$10.
9. The fee for an application or for the biennial renewal of a restricted volunteer license pursuant to 18VAC85-50-61

shall be \$35, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$15 for each renewal cycle.

**Part II**

**Requirements for Practice as a ~~Physician's~~ Physician Assistant**

**18VAC85-50-56. Renewal of license.**

A. Every licensed physician assistant intending to continue to practice shall biennially renew the license in each odd numbered year in the licensee's birth month by:

1. Returning the renewal form and fee as prescribed by the board; and
2. Verifying compliance with continuing medical education standards established by the NCCPA.

B. ~~Any~~ No physician assistant who allows ~~his~~ a NCCPA certification to lapse shall be considered ~~not~~ licensed by the board. Any such physician assistant who proposes to resume ~~his~~ practice shall make a new application for licensure.

**18VAC85-50-59. Registration for voluntary practice by out-of-state licensees.**

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

1. File a complete application for registration on a form provided by the board at least five business days prior to engaging in such practice. ~~Any~~ No incomplete application will ~~not~~ be considered;
2. Provide a complete record of professional licensure in each state in which ~~he~~ the physician assistant has held a license and a copy of any current license;
3. Provide the name of the nonprofit organization; and the dates and location of the voluntary provision of services; and
4. ~~Pay a registration fee of \$10; and~~
5. 4. Provide a notarized statement from a representative of the nonprofit organization attesting to ~~its~~ the organization's compliance with provisions of subdivision 27 of § 54.1-2901 of the Code of Virginia.

**18VAC85-50-61. Restricted volunteer license.**

A. A physician assistant who held an unrestricted license issued by the Virginia Board of Medicine or by a board in another state as a licensee in good standing at the time the license expired or became inactive may be issued a restricted volunteer license to practice without compensation in a clinic that is organized in whole or in part for the delivery of health

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care services without charge in accordance with § 54.1-106 of the Code of Virginia.

B. To be issued a restricted volunteer license, a physician assistant shall submit an application to the board that documents compliance with requirements of § 54.1-2928.1 of the Code of Virginia and the application fee prescribed in 18VAC85-50-35.

C. The licensee who intends to continue practicing with a restricted volunteer license shall renew biennially during ~~his~~ the licensee's birth month, ~~meet the continued competency requirements prescribed in subsection D of this section,~~ and pay to the board the renewal fee prescribed in 18VAC85-50-35.

~~D. The holder of a restricted volunteer license shall not be required to attest to hours of continuing education for the first renewal of such a license. For each renewal thereafter, the licensee shall attest to obtaining 50 hours of continuing education during the biennial renewal period with at least 25 hours in Type 1 and no more than 25 hours in Type 2 as acceptable to the NCCPA.~~

## **18VAC85-50-101. Requirements for a practice agreement.**

A. Prior to initiation of practice, a physician assistant and one or more patient care team physicians or podiatrists shall enter into a written or electronic practice agreement that spells out the roles and functions of the physician assistant and is consistent with provisions of § 54.1-2952 of the Code of Virginia.

1. Any such practice agreement shall take into account such factors as the physician assistant's level of competence, the number of patients, the types of illness treated by the physicians or podiatrists, the nature of the treatment, special procedures, and the nature of the physician's or podiatrist's availability in ensuring direct physician or podiatrist involvement at an early stage and regularly thereafter.

2. The practice agreement shall also provide an evaluation process for the physician assistant's performance, including a requirement specifying the time period, proportionate to the acuity of care and practice setting, within which the physicians or podiatrists shall review the record of services rendered by the physician assistant.

3. The practice agreement may include requirements for periodic site visits by licensees who supervise and direct the patient care team physicians or podiatrists to collaborate and consult with physician assistants who provide services at a location other than where the physicians or podiatrists regularly practice.

B. The board may require information regarding the degree of collaboration and consultation by the patient care team physicians or podiatrists. The board may also require a patient care team physician or podiatrist to document the physician assistant's competence in performing such tasks.

C. If the role of the physician assistant includes prescribing drugs and devices, the written practice agreement shall include those schedules and categories of drugs and devices that are within the scope of practice and proficiency of the patient care team physicians or podiatrists.

D. If the initial practice agreement did not include prescriptive authority, there shall be an addendum to the practice agreement for prescriptive authority.

E. If there are any changes in consultation and collaboration, authorization, or scope of practice, a revised practice agreement shall be entered into at the time of the change.

F. Physician assistants appointed as medical examiners pursuant to § 32.1-282 of the Code of Virginia may practice without a written or electronic practice agreement.

G. Physician assistants employed by (i) a hospital as defined by § 32.1-123 of the Code of Virginia, (ii) a state facility as defined by § 37.2-100 of the Code of Virginia, or (iii) a federally qualified health center designated by the Centers for Medicare and Medicaid Services may practice without a written or electronic practice agreement consistent with the requirements contained in § 54.1-2951.1 E of the Code of Virginia.

## **18VAC85-50-115. Responsibilities of the physician assistant.**

A. The physician assistant shall not render independent health care and shall:

1. Perform only those medical care services that are within the scope of the practice and proficiency of the patient care team physicians or podiatrists as prescribed in the physician assistant's practice agreement. When a physician assistant is working outside the scope of specialty of the patient care team physicians or podiatrists, ~~then~~ the physician assistant's functions shall be limited to those areas not requiring specialized clinical judgment, unless a separate practice agreement has been executed for an alternate patient care team physician or podiatrist.

2. Prescribe only those drugs and devices as allowed in Part V (18VAC85-50-130 et seq.) of this chapter.

3. Wear during the course of performing ~~his~~ his physician assistant duties identification showing clearly ~~that he is~~ status as a physician assistant.

B. If, due to illness, vacation, or unexpected absence, a patient care team physician or podiatrist or alternate physician or podiatrist is unable to ~~supervise the activities of his~~ collaborate or consult with the physician assistant, such patient care team physician or podiatrist may temporarily delegate the responsibility to another doctor of medicine, osteopathic medicine, or podiatry.

Temporary coverage may not exceed four weeks unless special permission is granted by the board.

C. With respect to physician assistants employed by institutions, the following additional ~~regulations~~ provisions shall apply:

1. No physician assistant may render care to a patient unless the physician or podiatrist responsible for that patient is available for collaboration and consultation with that physician assistant.

2. Any such practice agreement as described in subdivision A 1 of this ~~subsection~~ section shall delineate the duties ~~which said that the~~ patient care team physician or podiatrist authorizes the physician assistant to perform.

D. Practice by a physician assistant in a hospital, including an emergency department, shall be in accordance with § 54.1-2952 of the Code of Virginia.

## **18VAC85-50-116. Volunteer restricted license for certain physician assistants. (Repealed.)**

~~The issuance of a volunteer restricted license and the practice of a physician assistant under such a license shall be in accordance with the provisions of § 54.1-2951.3 of the Code of Virginia.~~

## **18VAC85-50-178. Practitioner-patient communication.**

A. Except as provided in § 32.1-127.1:03 F of the Code of Virginia, a practitioner shall accurately inform a patient or ~~his~~ the patient's legally authorized representative of ~~his~~ the patient's medical diagnoses, prognosis, and prescribed treatments or plans of care in understandable terms. A No practitioner shall ~~not~~ deliberately make a false or misleading statement regarding the practitioner's skill or the efficacy or value of a medication, treatment, or procedure prescribed or directed by the practitioner in the treatment of any disease or condition.

~~B. A practitioner shall present information relating to the patient's care to a patient or his legally authorized representative in understandable terms and encourage participation in the decisions regarding the patient's care and shall refer to or consult with other health care professionals if so indicated.~~

~~C. B.~~ Before surgery or any invasive procedure is performed, informed consent shall be obtained from the patient in accordance with the policies of the health care entity. Practitioners shall inform patients of the risks, benefits, and alternatives of the recommended surgery or invasive procedure that a reasonably prudent practitioner in similar practice in Virginia would tell a patient.

1. In the instance of a minor or a patient who is incapable of making an informed decision on ~~his~~ the minor's or patient's own behalf or is incapable of communicating such a decision due to a physical or mental disorder, the legally authorized person available to give consent shall be informed and the consent documented.

2. An exception to the requirement for consent prior to performance of surgery or an invasive procedure may be made in an emergency situation when a delay in obtaining consent would likely result in imminent harm to the patient.

3. For the purposes of this provision, "invasive procedure" means any diagnostic or therapeutic procedure performed on a patient that is not part of routine, general care and for which the usual practice within the health care entity is to document specific informed consent from the patient or surrogate decision maker prior to proceeding.

## **18VAC85-50-180. Vitamins, minerals and food supplements. (Repealed.)**

~~A. The recommendation or direction for the use of vitamins, minerals or food supplements and the rationale for that recommendation shall be documented by the practitioner. The recommendation or direction shall be based upon a reasonable expectation that such use will result in a favorable patient outcome, including preventive practices, and that a greater benefit will be achieved than that which can be expected without such use.~~

~~B. Vitamins, minerals, or food supplements, or a combination of the three, shall not be sold, dispensed, recommended, prescribed, or suggested in doses that would be contraindicated based on the individual patient's overall medical condition and medications.~~

~~C. The practitioner shall conform to the standards of his particular branch of the healing arts in the therapeutic application of vitamins, minerals or food supplement therapy.~~

## **18VAC85-50-181. Pharmacotherapy for weight loss. (Repealed.)**

~~A. A practitioner shall not prescribe amphetamine, Schedule II, for the purpose of weight reduction or control.~~

~~B. A practitioner shall not prescribe controlled substances, Schedules III through VI, for the purpose of weight reduction or control in the treatment of obesity, unless the following conditions are met:~~

1. An appropriate history and physical examination are performed and recorded at the time of initiation of pharmacotherapy for obesity by the prescribing physician, and the physician reviews the results of laboratory work, as indicated, including testing for thyroid function;

2. If the drug to be prescribed could adversely affect cardiac function, the physician shall review the results of an electrocardiogram performed and interpreted within 90 days of initial prescribing for treatment of obesity;

3. A diet and exercise program for weight loss is prescribed and recorded;

4. The patient is seen within the first 30 days following initiation of pharmacotherapy for weight loss, by the

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~~prescribing physician or a licensed practitioner with prescriptive authority working under the supervision of the prescribing physician, at which time a recording shall be made of blood pressure, pulse, and any other tests as may be necessary for monitoring potential adverse effects of drug therapy; and~~

~~5. The treating physician shall direct the follow up care, including the intervals for patient visits and the continuation of or any subsequent changes in pharmacotherapy. Continuation of prescribing for treatment of obesity shall occur only if the patient has continued progress toward achieving or maintaining a target weight and has no significant adverse effects from the prescribed program.~~

~~C. If specifically authorized in his practice agreement with a patient care team physician, a physician assistant may perform the physical examination, review tests, and prescribe Schedules III through VI controlled substances for treatment of obesity as specified in subsection B of this section.~~

## **18VAC85-50-182. Anabolic steroids. (Repealed.)**

~~A physician assistant shall not prescribe or administer anabolic steroids to any patient for other than accepted therapeutic purposes.~~

VA.R. Doc. No. R25-7379; Filed May 1, 2025, 11:02 a.m.

## **BOARD OF PHARMACY**

### **Fast-Track Regulation**

**Title of Regulation:** 18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-323).

**Statutory Authority:** §§ 54.1-2400 and 54.1-3443 of the Code of Virginia.

**Public Hearing Information:** No public hearing is currently scheduled.

**Public Comment Deadline:** July 2, 2025.

**Effective Date:** July 17, 2025.

**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](mailto:caroline.juran@dhp.virginia.gov).

**Basis:** Regulations of the Board of Pharmacy 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. Section 54.1-3443 of the Code of Virginia requires the board to administer regulatory scheduling of drugs and chemicals.

**Purpose:** This regulatory change is essential to protect the health, safety, and welfare of citizens because it corrects duplicative scheduling that may be confusing to the public and practitioners.

**Rationale for Using Fast-Track Rulemaking Process:** This regulatory change is expected to be noncontroversial and is appropriate for the fast-track rulemaking process because it eliminates redundant scheduling of drugs and chemicals that are already scheduled in statute.

**Substance:** Currently, 18VAC110-20-323 lists 29 drugs and chemicals that were scheduled or de-scheduled by the Board of Pharmacy for consistency with federal scheduling actions. The amendments remove drugs and chemicals listed in subdivisions 1 through 4, 6 through 23, and 25 through 28 because those drugs and chemicals now appear in § 54.1-3446, 54.1-3448, 54.1-3450, 54.1-3452, or 54.1-3454 of the Code of Virginia.

**Issues:** The primary advantage to the public is that drug schedules will now be provided in only one location. There are no disadvantages to the public. There are no primary advantages or disadvantages to the agency or the Commonwealth.

### **Department of Planning and Budget Economic Impact Analysis:**

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

**Summary of the Proposed Amendments to Regulation.** The Board of Pharmacy (board) proposes to remove from this regulation references to the scheduling of drugs and chemicals that are already in the Code of Virginia.

**Background.** Currently, this regulation lists 29 drugs and chemicals that were scheduled or de-scheduled by the board for consistency with federal scheduling actions. The proposed amendments strike 26 references to drugs and chemicals from this regulation because they are already set out in § 54.1-3446, 54.1-3448, 54.1-3450, 54.1-3452, or 54.1-3454.3 of the Code of Virginia. This is a housekeeping action, as the board notes that this section was previously overlooked when making changes pursuant to the 2020-2024 legislative sessions.

**Estimated Benefits and Costs:** The proposal would remove references to the chemicals and drugs that are already in the Code of Virginia from the regulatory text. No significant economic impact is expected.

**Businesses and Other Entities Affected.** This regulation applies to pharmacies, but the proposed changes should not affect any entity as they remove information duplicative of the Code of Virginia. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>2</sup> 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.<sup>3</sup> The proposal is a housekeeping measure to remove duplicative

information from the regulatory text. Thus, no adverse impact is indicated.

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

Localities<sup>6</sup> Affected.<sup>7</sup> The proposed changes do not introduce costs for localities, nor do they particularly affect any locality.

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

Effects on the Use and Value of Private Property. No effect on the use and value of private property nor on real estate development costs is expected.

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

<sup>2</sup> Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<sup>3</sup> 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.

<sup>4</sup> Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

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

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

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

**Agency Response to Economic Impact Analysis:** The Board of Pharmacy and the Department of Health Professions concur with the Department of Planning and Budget's economic impact analysis.

## Summary:

*The amendments remove references to 26 compounds whose scheduling changes have been added to Schedules I through IV of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) pursuant to § 54.1-3443 of Code of Virginia to conform Virginia scheduled drugs with federal scheduling actions.*

## 18VAC110-20-323. Scheduling for conformity with federal law or rule.

Pursuant to subsection E of § 54.1-3443 of the Code of Virginia and in order to conform the Drug Control Act to recent scheduling changes enacted in federal law or rule, the board:

1. ~~Adds~~ MT 45 (1 cyclohexyl 4 (1,2-diphenylethyl)piperazine) to Schedule I;
2. ~~Adds~~ Dronabinol ((-) delta 9 trans tetrahydrocannabinol) in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration to Schedule II;
3. ~~Deletes~~ naldemedine from Schedule II;
4. ~~Deletes~~ naloxegol and 6β naltrexol from Schedule II;
5. 1. Replaces 4-anilino-N-phenethyl-4-piperidine (CASRN 21409-26-7) in Schedule II with 4-anilino-N-phenethylpiperidine (ANPP);
6. ~~Adds~~ 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine (4,4'-Dimethylaminorex, 4,4' DMAR) to Schedule I;
7. ~~Adds~~ 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)pyrrol[2,3-b]pyridine-3-carboxamide (5F-CUMYL-P7AICA) to Schedule I;
8. ~~Adds~~ ethyl-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]carbamate (fentanyl carbamate) to Schedule I;
9. ~~Adds~~ N-(2-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]prop-2-enamide (ortho-fluoroacryl-fentanyl) to Schedule I;
10. ~~Adds~~ N-(2-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)piperidin-4-yl]propanamide (ortho-fluoroisobutyl-fentanyl) to Schedule I;
11. ~~Adds~~ N-(4-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide (para-fluoro-furanyl-fentanyl) to Schedule I;
12. ~~Adds~~ N-(2-fluorophenyl)-N-[1-[2-(2-fluorophenyl)ethyl]piperidin-4-yl]propanamide (2'-fluoro-ortho-fluorofentanyl; 2'-fluoro-2-fluorofentanyl) to Schedule I;
13. ~~Adds~~ N-[1-[2-(4-methylphenyl)ethyl]piperidin-4-yl]-N-phenylacetamide (4'-methyl-acetyl-fentanyl) to Schedule I;

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14. ~~Adds N,3 diphenyl N-[1-(2-phenylethyl)piperidin-4-yl]propanamide (β'-phenyl-fentanyl; beta'-phenyl-fentanyl; 3-phenylpropanoyl-fentanyl) to Schedule I;~~
15. ~~Adds N-phenyl N-[1-(2-phenylpropyl)piperidin-4-yl]propanamide (β-methyl-fentanyl) to Schedule I;~~
16. ~~Adds N-(2-fluorophenyl) N-[1-(2-phenylethyl)piperidin-4-yl]butanamide (ortho-fluorobutyryl-fentanyl; 2-fluorobutyryl-fentanyl) to Schedule I;~~
17. ~~Adds N-(2-methylphenyl) N-[1-(2-phenylethyl)piperidin-4-yl]acetamide (ortho-methyl-acetyl-fentanyl; 2-methyl-acetyl-fentanyl) to Schedule I;~~
18. ~~Adds 2-methoxy N-(2-methylphenyl) N-[1-(2-phenylethyl)piperidin-4-yl]acetamide (ortho-methyl-methoxyacetyl-fentanyl; 2-methyl-methoxyacetyl-fentanyl) to Schedule I;~~
19. ~~Adds N-(4-methylphenyl) N-[1-(2-phenylethyl)piperidin-4-yl]propanamide (para-methyl-fentanyl; 4-methyl-fentanyl) to Schedule I;~~
20. ~~Adds N-phenyl N-[1-(2-phenylethyl)piperidin-4-yl]thiophene-2-carboxamide (thiophene-fentanyl) to Schedule I;~~
21. ~~Adds N-(4-chlorophenyl)-2-methyl N-[1-(2-phenylethyl)piperidin-4-yl]propanamide (para-chloroisobutyryl-fentanyl) to Schedule I;~~
22. ~~Adds 24. 2-[2-[(4-butoxyphenyl)methyl]-5-nitrobenzimidazol-1-yl]-N,N-diethylethanamine (Butonitazene) to Schedule I;~~
23. ~~Adds N,N-diethyl 2-[2-[(4-fluorophenyl)methyl]-5-nitrobenzimidazol-1-yl]-ethanamine (Flunitazene) to Schedule I;~~
24. 2. ~~Deletes Samidorphan from Schedule II; and~~
25. ~~Adds N-methyl-1-(thiophen-2-yl)propan-2-amine (other name: methiopropamine) to Schedule I;~~
26. ~~Adds N-phenyl N'-(3-(1-phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl)carbamimidate (other name: mesocarb) to Schedule I;~~
27. ~~Adds 1-methoxy-3-[4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol (other name: zipeprol) to Schedule I;~~
28. ~~Adds 7-[(10,11-dihydro-5H-dibenzo[a,d]cyclohepten-5-yl)amino]heptanoic acid (other name: amineptine) to Schedule I; and~~
29. 3. ~~Adds zuranolone to Schedule IV.~~

VA.R. Doc. No. R25-8169; Filed May 1, 2025, 8:33 a.m.

## REAL ESTATE APPRAISER BOARD

### Fast-Track Regulation

Titles of Regulations: **18VAC130-20. Real Estate Appraiser Board Rules and Regulations (amending 18VAC130-20-120).**

**18VAC130-30. Appraisal Management Company Regulations (amending 18VAC130-30-10, 18VAC130-30-80).**

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

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: July 2, 2025.

Effective Date: July 17, 2025.

Agency Contact: Breanne Lindsey, Regulatory Operations Administrator, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Perimeter Center, Suite 400, Richmond, VA 23233, telephone (804) 367-4872, FAX (866) 826-8863, or email [reappraisers@dpor.virginia.gov](mailto:reappraisers@dpor.virginia.gov).

Basis: Section 54.1-201 of the Code of Virginia authorizes the Real Estate Appraiser Board to promulgate regulations necessary to ensure continued competency and prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system. Section 54.1-2013 of the Code of Virginia requires the board to promulgate regulations that are necessary for the federal financial institution's regulatory agencies to recognize and accept licenses for licensed residential real estate appraisers, certified residential real estate appraisers, certified general real estate appraisers, and appraisal management companies issued by the board.

Purpose: The board protects the public health, safety, and welfare, in part, by establishing through regulation (i) the minimum qualifications of applicants for licensure, provided that all qualifications are necessary to ensure either competence or integrity to engage in the profession or occupation; (ii) minimum standards to ensure continued competency and to prevent deceptive or misleading practices by practitioners; and (iii) requirements to effectively administer the regulatory system administered by the board. The goal of this action is to streamline the establishment of a paperless application and renewal process by removing the requirement that regulants mail documents and payments.

Rationale for Using Fast-Track Rulemaking Process: This action is expected to be noncontroversial and is appropriate for the fast-track rulemaking process because it will benefit the regulated community and the public by creating more efficient license application and renewal processes, which will save members of the regulated community time when renewing licenses.

Substance: The amendments (i) provide that the board will send, rather than mail, a renewal notice to the licensee,



certificate holder, or registered firm; (ii) remove references to the address of record being a mailing address; and (iii) provide that the board will send, rather than mail, a renewal notice to the licensee.

**Issues:** The primary advantage of this action to the regulated community, the Commonwealth, and the public is that the amendments will allow the department and the board to adopt a paperless process for renewal of licenses as part of implementation of the new licensing system, which will benefit the regulated community and the public by creating a more efficient license renewal process, saving members of the regulated community time when renewing licenses. The Commonwealth will benefit with the cost savings associated with a paperless license renewal process. No disadvantages to the public, the Commonwealth, or the regulated community have been identified.

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

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

**Summary of the Proposed Amendments to Regulation.** The Real Estate Appraiser Board (board) proposes to remove rules that mandate the physical mailing of documents and payments in connection to licensure renewal as it plans to transition to online paperless licensing system.

**Background.** These regulations set out license renewal requirements for real estate appraisers (certified residential appraisers, certified general appraisers, and residential appraisers), appraiser trainees, certified appraiser instructors, registered appraiser businesses, and appraisal management companies. According to the Department of Professional Occupational Regulation (DPOR), a new licensing system is being developed to provide a paperless process for regulants to renew licenses, certifications, and registrations, as well as perform other maintenance functions electronically. The development of the new system is expected to virtually eliminate the need for licensing transactions to involve the physical mailing of documents and payments.

**Estimated Benefits and Costs.** The proposal would no longer require regulants to physically mail documents and payments for license renewals. The proposed regulatory text would allow paperless renewal transactions but does not rule out mailing of documents for renewals. Thus, the main impact of this regulatory action would be to facilitate the transition from the current paper-based renewal process to a paperless system for renewal transactions that DPOR plans to implement.

**Businesses and Other Entities Affected.** The proposed amendments apply to license renewal transactions for real estate appraisers (certified residential appraisers, certified general appraisers, and residential appraisers), appraiser

trainees, certified appraiser instructors, registered appraiser businesses, and appraisal management companies. DPOR expects a total of 1,425 license renewal applications in 2025. No regulant appears to be disproportionately affected. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>2</sup> 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.<sup>3</sup> As noted above, the proposal does not increase costs or reduce benefits for any entity. Thus, an adverse impact is not indicated.

**Small Businesses<sup>4</sup> Affected.**<sup>5</sup> The board issues licenses to appraisal management companies and registrations to business entities that provide appraisal services. DPOR reports that many of these entities may fall within the meaning of small business as that term is defined in as defined in § 2.2-4007.1 of the Code of Virginia. Other licenses and certifications issued by the board are issued to individuals. Many of these individuals may be owners or employees of business entities that fall within the meaning of small business. However, the proposed amendments do not appear to adversely affect small businesses.

**Localities<sup>6</sup> Affected.**<sup>7</sup> The proposed amendments do not introduce costs for localities, nor do they disproportionately affect any locality more than others.

**Projected Impact on Employment.** No impact on employment is expected.

**Effects on the Use and Value of Private Property.** No impact on the use and value of private property nor on real estate development costs is expected.

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

<sup>2</sup> Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<sup>3</sup> 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.

<sup>4</sup> Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

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

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

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

Agency Response to Economic Impact Analysis: The Real Estate Appraiser Board concurs with the Department of Planning and Budget's economic impact analysis.

## Summary:

*In order to streamline the establishment of a paperless application and renewal process, the amendments (i) provide that the board will send, rather than mail, a renewal notice to the licensee, certificate holder, or registered firm; (ii) remove references to the address of record being a mailing address; and (iii) provide that the board will send, rather than mail, a renewal notice to the licensee.*

## **18VAC130-20-120. Procedures for renewal.**

A. The board will ~~mail send~~ a renewal ~~application form notice~~ to the licensee and certificate holder ~~at the last known home address and to the registered firm or at the last known business address. This form shall outline the procedures for~~ The board will send a renewal notice to the registered firm. Failure to receive the renewal ~~application form shall notice does~~ not relieve the licensee, certificate holder, or the registrant of the obligation to renew.

B. Prior to the expiration date shown on the license or registration, each licensee, certificate holder, or registrant desiring to renew the license or registration ~~shall must~~ return to the board the ~~completed renewal application form and the~~ appropriate renewal and registry fees as outlined in 18VAC130-20-130.

C. The date on which the renewal ~~application form and the~~ appropriate registry fees are received by the Department of Professional and Occupational Regulation or its agent will determine whether the licensee, certificate holder, or registrant is eligible for renewal. If either the renewal application form or renewal fee, including the registry fee, is not received by the Department of Professional and Occupational Regulation or its agent within 30 days of the expiration date, the licensee, certificate holder, or registrant must reinstate ~~his license the~~ license, certificate, or registration by meeting all requirements listed in 18VAC130-20-110 and pay a reinstatement fee as

specified in 18VAC130-20-130. One year after the expiration date on the license, certificate, or registration, reinstatement is no longer possible. To resume practice, the former licensee, certificate holder, or registrant ~~shall must~~ reapply for licensure as a new applicant, meeting current education, examination, and experience requirements.

## **18VAC130-30-10. Definitions.**

A. Section 54.1-2020 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Appraisal management company"

"Appraisal services"

"Appraiser"

"Board"

"Employee"

"Uniform Standards of Professional Appraisal Practice"

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

"Address of record" means the ~~mailing~~ address designated by the regulant to receive notices and correspondence from the board. ~~Notice mailed to the address of record by certified mail, return receipt requested, shall be deemed valid notice.~~

"Applicant" means an appraisal management company that has submitted an application for licensure.

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

"Controlling person" means (i) an owner, officer, or director of a corporation or a partnership or a managing member of a limited liability company or other business entity seeking to offer appraisal management services; (ii) an individual employed, appointed, or authorized by an appraisal management company who has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals; or (iii) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

"Department" means the ~~Virginia~~ Department of Professional and Occupational Regulation.

"Direct supervision" means exercising oversight and direction of, and control over, the work of another.

"Firm" means a sole proprietorship, association, partnership, corporation, limited liability company, limited liability partnership, or any other form of business organization

recognized under the laws of the Commonwealth of Virginia and properly registered, as may be required, with the Virginia State Corporation Commission.

"Regulant" means an appraisal management company as defined in § 54.1-2020 of the Code of Virginia that holds a license issued by the board.

"Reinstatement" means the process and requirements through which an expired license can be made valid without the regulant having to apply as a new applicant.

"Renewal" means the process and requirements for periodically approving the continuance of a license.

"Responsible person" means a person licensed under Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia who ~~shall be~~ is designated by each regulant to ensure compliance with Chapter 20.2 (§ 54.1-2020 et seq.) of Title 54.1 of the Code of Virginia; and all regulations of the board; and to receive communications and notices from the board that may affect the regulant.

"Sole proprietor" means any individual, not a corporation or other registered business entity, who is trading under ~~his~~ the individual's own name or under an assumed or a fictitious name pursuant to the provisions of §§ Chapter 5 (§ 59.1-69 through 59.1-76 et seq.) of Title 59.1 of the Code of Virginia.

"Timely payment" means payment to an appraiser for the completion of an appraisal or a valuation assignment within 30 days after the appraiser delivers the completed appraisal or valuation assignment to the appraisal management company except in cases of breach of contract or noncompliance with the conditions of the engagement or performance of services that violates the Uniform Standards of Professional Appraisal Practice.

#### **18VAC130-30-80. Expiration and renewal.**

A. Prior to the expiration date shown on the license, licenses ~~shall will~~ be renewed upon (i) completion of the renewal application, (ii) submittal of proof of current bond or letter of credit as detailed in 18VAC130-30-30 H, and (iii) payment of the fees specified in 18VAC130-30-60.

B. The board will ~~mail send~~ a renewal notice to the regulant ~~at the last known mailing address of record~~. Failure to receive this notice ~~shall does~~ not relieve the regulant of the obligation to renew. ~~If the regulant fails to receive the renewal notice, a copy of the license may be submitted with the required fees as an application for renewal.~~ By submitting an application for renewal, the regulant is certifying continued compliance with the standards of conduct and practice in Part V (18VAC130-30-120 et seq.) of this chapter.

C. Applicants for renewal shall continue to meet all of the qualifications for licensure set forth in Part II (18VAC130-30-20 et seq.) of this chapter.

VA.R. Doc. No. R25-8206; Filed May 13, 2025; 7:36 a.m.

#### **Proposed Regulation**

**Title of Regulation:** 18VAC130-30. Appraisal Management Company Regulations (amending 18VAC130-30-10, 18VAC130-30-20, 18VAC130-30-30, 18VAC130-30-50 through 18VAC130-30-100, 18VAC130-30-120 through 18VAC130-30-150, 18VAC130-30-170).

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

#### **Public Hearing Information:**

June 10, 2025 - 10 a.m. - Department of Professional and Occupational Regulation, Perimeter Center, Second Floor Conference Center, Board Room Two, 9960 Mayland Drive, Richmond, VA 23233.

**Public Comment Deadline:** August 1, 2025.

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

**Basis:** Section 54.1-201 of the Code of Virginia authorizes the Real Estate Appraiser Board to promulgate regulations necessary to ensure continued competency and prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system. Section 54.1-2013 of the Code of Virginia requires the board to promulgate regulations that satisfy any minimum criteria that are necessary for the federal financial institution's regulatory agencies to recognize and accept licenses for licensed residential real estate appraisers, certified residential real estate appraisers, certified general real estate appraisers, and appraisal management companies issued by the board.

**Purpose:** The board is responsible for regulating appraisal management companies (AMCs) who (i) provide appraisal management services to creditors or to secondary mortgage market participants, including affiliates; (ii) provide such services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and (iii) within a 12-month calendar year, oversee an appraiser panel of more than 15 state-certified or state-licensed appraisers in a state or 25 or more state-certified or state-licensed appraisers in two or more states. The board protects the public welfare, in part, by establishing through regulation the minimum qualifications of applicants for certification or licensure in real estate appraisal and the minimum standards to ensure continued competency and to prevent deceptive or misleading practices by practitioners.

**Substance:** The proposed amendments (i) revise and add definitions; (ii) remove redundant and unnecessary language, including provisions regarding incomplete applications, the mailing of documents during license renewal, entry requirements for initial licensure, and a requirement that checks and money orders for fees be made payable to the Treasurer of Virginia; (iii) revise provisions regarding

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notification of incomplete applications and applicant disclosure of business names and addresses; (iv) reduce the stringency of requirements for disclosure of misdemeanor criminal convictions; (v) remove a requirement that an applicant be "in good standing" in all jurisdictions; (vi) require an applicant to disclose any action taken against a professional or occupational license issued to the applicant and any individuals associated with firm; and (vii) clarify that a licensee that reinstates its license will be regarding as continuously licensed without interruption and will be subject to the authority of the board for activities performed prior to reinstatement.

**Issues:** The primary advantages to the public and regulated community are providing clarification to provisions, ensuring the regulation complements Virginia law and reflects current agency procedures, and reducing regulatory burdens by removing requirements that are not necessary to protect the health, safety, or welfare of the public or to effectively administer the program. There are no identifiable disadvantages to the public or the Commonwealth. It is not anticipated that the proposed changes will create any substantial disadvantages to the regulated community.

## Department of Planning and Budget Economic Impact Analysis:

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

**Summary of the Proposed Amendments to Regulation.** The Real Estate Appraiser Board (board) proposes to make misdemeanor conviction disclosures less stringent and make numerous other changes to remove requirements in the regulation that are: not necessary to protect the public welfare or effectively administer the program; duplicative of other regulations; obsolete; or are needed to conform to existing agency practices and statutory changes.

**Background.** This regulation applies to real estate appraisal management companies. These companies contract with independent appraisers to serve the company's customers. Pursuant to Executive Directive Number One (2022),<sup>2</sup> the board proposes to reduce regulatory requirements.

**Estimated Benefits and Costs.** The only substantive proposed change in this action is to make misdemeanor conviction disclosures less stringent. Currently, any firm that applies for licensure as an appraisal management company must disclose misdemeanor information for (i) any person who own 10% or more of the firm and (ii) the controlling person of the firm. The proposal would limit the scope of misdemeanor convictions that must be disclosed about these individuals to those involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury in the past five years. Currently, a firm that applies for licensure must disclose all misdemeanor

convictions of these individuals (except marijuana convictions) in the past five years. The use of less stringent disclosure requirements may encourage individuals to be part of an appraisal management company who may have previously been discouraged from doing so because of a misdemeanor conviction. Once such convictions are disclosed, the board determines if the conviction would merit a disqualification for licensure. In that sense, the narrowed range of offenses requiring disclosure may lead to reduced administrative costs for the agency by limiting the convictions that need to be evaluated and may also result in fewer disqualifications. The remaining changes are housekeeping changes that would remove language that the board has determined are not necessary to protect the public welfare or effectively administer the program; duplicative of other regulations; obsolete; or as needed to conform to agency practices and statutory changes.

**Businesses and Other Entities Affected.** The proposed changes would affect all Virginia licensed appraisal management companies and those that might seek to obtain a license from the board. According to the Department of Professional and Occupational Regulation (DPOR), as of February 1, 2025, there were 108 licensed appraisal management companies. No company appears to be disproportionately affected. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>3</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.<sup>4</sup> As noted above, the proposal neither increases costs nor reduces benefits for regulated companies. Thus, an adverse impact is not indicated.

**Small Businesses<sup>5</sup> Affected.**<sup>6</sup> DPOR states that some licensed appraisal management companies are likely business entities that meet the definition of small business in § 2.2-4007.1 of the Code of Virginia. However, the proposed amendments do not adversely affect any entity including small businesses.

**Localities<sup>7</sup> Affected.**<sup>8</sup> No costs for localities are expected nor would any locality be particularly affected.

**Projected Impact on Employment.** The proposed amendments do not appear to directly impact total employment.

**Effects on the Use and Value of Private Property.** No effects on the use and value of private property nor on real estate development costs are expected.

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

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

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

<sup>4</sup> 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.

<sup>5</sup> Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>6</sup> If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

<sup>7</sup> "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>8</sup> Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

**Agency Response to Economic Impact Analysis:** The Real Estate Appraiser Board concurs with the Department of Planning and Budget's economic impact analysis.

## Summary:

*The proposed amendments revise (i) definitions; (ii) requirements for application procedures; (iii) requirements for license qualifications of appraisal management companies; (iv) provisions regarding fees; (v) provisions regarding expiration and renewal of licenses; and (vi) standards of conduct and practice.*

## 18VAC130-30-10. Definitions.

A. Section 54.1-2020 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Appraisal management company"

"Appraisal management services"

"Appraisal services"

"Appraiser"

"Appraiser panel"

"Board"

"Employee"

"Uniform Standards of Professional Appraisal Practice"

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

"Address of record" means the ~~mailing~~ address designated by the regulant to receive notices and correspondence from the board. ~~Notice mailed to the address of record by certified mail, return receipt requested, shall be deemed valid notice.~~

"Applicant" means an appraisal management company that has submitted an application for licensure.

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

"Controlling person" means (i) an owner, officer, or director of a corporation or a partnership or a managing member of a limited liability company or other business entity seeking to offer appraisal management services; (ii) an individual employed, appointed, or authorized by an appraisal management company who has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals; or (iii) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

"Department" means the ~~Virginia~~ Department of Professional and Occupational Regulation.

"Direct supervision" means exercising oversight and direction of, and control over, the work of another.

"Firm" means a sole proprietorship, association, partnership, corporation, limited liability company, limited liability partnership, or any other form of business organization recognized under the laws of the Commonwealth of ~~Virginia~~ and properly registered, as may be required, with the Virginia State Corporation Commission.

"Person" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, or any other individual or entity.

"Regulant" means an appraisal management company as defined in § 54.1-2020 of the Code of Virginia that holds a license issued by the board.

"Reinstatement" means the process and requirements through which an expired license can be made valid without the regulant having to apply as a new applicant.

"Renewal" means the process and requirements for periodically approving the continuance of a license.

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"Responsible person" means a person licensed under Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia who ~~shall be~~ is designated by each regulant to ensure compliance with Chapter 20.2 (§ 54.1-2020 et seq.) of Title 54.1 of the Code of Virginia; and all regulations of the board; and to receive communications and notices from the board that may affect the regulant.

"Sole proprietor" means any individual, not a corporation or other registered business entity, who is trading under ~~his~~ the individual's own name or under an assumed or a fictitious name pursuant to the provisions of §§ ~~Chapter 5 (§ 59.1-69 through 59.1-76 et seq.)~~ of Title 59.1 of the Code of Virginia.

"Timely payment" means payment to an appraiser for the completion of an appraisal or a valuation assignment within 30 days after the appraiser delivers the completed appraisal or valuation assignment to the appraisal management company except in cases of breach of contract or noncompliance with the conditions of the engagement or performance of services that violates the Uniform Standards of Professional Appraisal Practice.

## **18VAC130-30-20. Application procedures.**

An applicant seeking licensure ~~shall~~ must submit an application with the appropriate fee specified in 18VAC130-30-60. Application ~~shall~~ must be made on a form provided by the board or its agent.

By submitting the application to the department, the applicant certifies that the applicant has read and understands the applicable statutes and the board's regulations.

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

The board may make further inquiries and investigations with respect to the applicant's qualifications ~~to confirm or amplify information supplied. All applications shall be completed in accordance with the instructions contained in this chapter and on the application. Applications~~ No application will not be considered complete until all documents are received by the board.

A firm will be notified within 30 days ~~of the board's receipt of an initial application~~ if the application is incomplete. ~~A firm that fails to complete the process within 12 months of receipt of the application in the board's office must submit a new application and fee.~~

## **18VAC130-30-30. Qualifications for licensure as an appraisal management company.**

A. Firms that meet the definition of appraisal management company ~~as defined in § 54.1-2020 of the Code of Virginia~~ shall submit an application on a form prescribed by the board and shall must meet the requirements set forth in § 54.1-2021.1 of the Code of Virginia, as well as the additional qualifications of this section.

B. Any firm acting as an appraisal management company ~~as defined in § 54.1-2020 of the Code of Virginia~~ shall must hold a license as an appraisal management company. All names under which the appraisal management company conducts business ~~shall, including any trade or fictitious names, must be disclosed on the application. The name under which the firm conducts business and holds itself out to the public (i.e., the trade or fictitious name) shall also be disclosed on the application.~~ Firms shall must be organized as business entities under the laws of the Commonwealth of Virginia or otherwise authorized to transact business in Virginia. Firms shall must register any trade or fictitious names with the State Corporation Commission ~~or the clerk of the court in the county or jurisdiction where the business is to be conducted~~ in accordance with §§ ~~59.1-69 through 59.1-76~~ § 59.1-70 of the Code of Virginia before submitting an application to the board.

C. The applicant for an appraisal management company license ~~shall disclose the firm's mailing address~~ must provide an address of record and the firm's physical address. A post office box is only acceptable as ~~a mailing~~ an address of record when a physical address is also provided.

D. In accordance with § 54.1-204 of the Code of Virginia, each applicant for an appraisal management company license ~~shall~~ must have any person who owns 10% or more of the firm and the controlling person of the firm submit to fingerprinting and a background investigation and disclose the following information:

1. All felony convictions.
2. All misdemeanor convictions ~~except marijuana convictions~~ involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury in any jurisdiction that occurred within five years of the date of application.
3. Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication ~~shall~~ will be considered a conviction for the purposes of this section. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted ~~shall~~ will be admissible as prima facie evidence of such guilt.

E. The applicant for an appraisal management company license must disclose for the firm, the controlling person, the responsible person, and any person who owns 10% or more of the firm ~~shall be in good standing in Virginia and in every jurisdiction and with every~~ any action taken by any board or administrative body where licensed, certified, or registered, and the board, in its discretion, may deny licensure to any applicant who has been subject to, or whose in any jurisdiction against a professional or occupational license, certification, or registration issued to the firm, the controlling person or, the responsible person has been subject to, or and any person who owns 10% or more of the firm has been subject to, any form of



~~adverse disciplinary action, including (i) reprimand; revocation, including any suspension, or denial of license; revocation, or surrender of a license, certification, or registration; imposition of a monetary penalty; or requirement to complete take remedial education; or any other corrective action in any jurisdiction or by any board or administrative body or (ii) surrender of a license, a certificate, or registration in connection with any disciplinary action in any jurisdiction prior to obtaining licensure in Virginia.~~

F. The board ~~shall~~ may deny the application for licensure of an applicant for an appraisal management company if any person or entity that owns any part of the appraisal management company has had a license to act as an appraiser refused, denied, canceled, surrendered in lieu of revocation, or revoked in Virginia or any jurisdiction.

G. The applicant for an appraisal management company license ~~shall~~ must be in compliance with the standards of conduct and practice set forth in Part V (18VAC130-30-120 et seq.) of this chapter at the time of application, while the application is under review by the board, and at all times when the license is in effect.

H. The applicant for an appraisal management company license ~~shall~~ must submit evidence of a bond or letter of credit in accordance with § 54.1-2021.1 D of the Code of Virginia. Proof of current bond or letter of credit with the appraisal management company as the named bond holder or letter of credit holder must be submitted to obtain or renew the license. The bond or letter of credit must be in force no later than the effective date of the license and ~~shall~~ must remain in effect through the date of expiration of the license. The bond or letter of credit ~~shall~~ must include:

1. The principal of the bond or letter of credit;
2. The beneficiary of the bond or letter of credit;
3. The name of the surety or financial institution that issued the bond or letter of credit;
4. The bond or letter of credit number as assigned by the issuer;
5. The dollar amount; and
6. The expiration date, or, if self-renewing, the date by which the bond or letter of credit ~~shall~~ must be renewed.

I. The firm ~~shall~~ must provide the name, address, and contact information for any person or entity that owns 10% or more of the appraisal management company.

J. The firm ~~shall~~ must designate a responsible person.

#### **18VAC130-30-50. General fee requirements.**

All fees are nonrefundable and ~~shall~~ will not be prorated. The date on which the fee is received by the department or its agent will determine whether the fee is on time. ~~Checks or money orders shall be payable to the Treasurer of Virginia.~~

#### **18VAC130-30-60. Fee schedule.**

The following fees apply:

Fee Type	Fee Amount	When Due
Initial Application - Appraisal Management Company	\$340	With application
Renewal - Appraisal Management Company	\$150	<del>With</del> <u>At</u> renewal application
Reinstatement - Appraisal Management Company	\$490 (includes a \$340 reinstatement fee in addition to the regular \$150 renewal fee)	<del>With</del> <u>At</u> reinstatement application

Each appraisal management company ~~shall~~ will be assessed a National Registry fee in accordance with § 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 USC §§ 3331-3356) (the Act). The National Registry fee will be \$25 multiplied by the number of appraisers who have performed an appraisal for the appraisal management company in Virginia during the previous year. The minimum National Registry fee will be \$25. This fee may be adjusted and charged to the appraisal management company in accordance with the Act. If an applicant fails to qualify for licensure, then the National Registry fee will be refunded.

#### **18VAC130-30-70. Renewal required.**

A license issued under this chapter ~~shall~~ will expire one year from the last day of the month in which ~~it~~ the license was issued. ~~A fee shall be required for renewal.~~

#### **18VAC130-30-80. Expiration and renewal.**

A. Prior to the expiration date shown on the license, licenses ~~shall~~ will be renewed upon (i) completion of the renewal application, (ii) submittal of proof of current bond or letter of credit as detailed in 18VAC130-30-30 H, and (iii) payment of the fees specified in 18VAC130-30-60.

B. The board will ~~mail~~ send a renewal notice to the regulant ~~at the last known mailing address of record~~. Failure to receive this notice ~~shall~~ does not relieve the regulant of the obligation to renew. ~~If the regulant fails to receive the renewal notice, a copy of the license may be submitted with the required fees as an application for renewal.~~ By submitting an application for renewal, the regulant is certifying continued compliance with the standards of conduct and practice in Part V (18VAC130-30-120 et seq.) of this chapter.

~~C. Applicants for renewal shall continue to meet all of the qualifications for licensure set forth in Part II (18VAC130-30-~~

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20 et seq.) of this chapter.

## **18VAC130-30-90. Reinstatement of appraisal management company license required.**

A. If all of the requirements for renewal of a license as specified in 18VAC130-30-80 A are not completed within 30 days of the license expiration date, the regulant ~~shall will~~ be required to reinstate the license by meeting all renewal requirements and by paying the reinstatement fee specified in 18VAC130-30-60.

B. A license may be reinstated for up to one year following the expiration date. After one year, the license may not be reinstated under any circumstances and the firm must meet all current entry requirements and apply as a new applicant.

C. Any regulated activity conducted subsequent to the license 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.

## **18VAC130-30-100. Status of license during the period prior to reinstatement.**

~~A regulant licensee that applies for reinstatement of a reinstates a license shall be subject to all laws and regulations as if the regulant had~~ will be regarded as having been continuously licensed without interruption. The regulant shall remain under and Therefore, a licensee will be subject to the disciplinary authority of the board during this entire period for activities performed prior to reinstatement.

## **18VAC130-30-120. Grounds for disciplinary action.**

The board has the power to ~~fine~~ impose a monetary penalty against any regulant, to place any regulant on probation, and to suspend or revoke any license issued under the provisions of Chapter 20.2 (§ 54.1-2020 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board, in accordance with § 54.1-201 A 7 and § 54.1-202 of the Code of Virginia and the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) when any regulant has been found to have violated or cooperated with others in violating any provision of Chapter 20.2 of Title 54.1 of the Code of Virginia, any relevant provision of the Uniform Standards of Professional Appraisal Practice as developed by the Appraisal Standards Board of the Appraisal Foundation, or any regulation of the board.

## **18VAC130-30-130. Maintenance of license.**

~~A. No license issued by the board shall be assigned or otherwise transferred.~~

~~B. A.~~ A regulant ~~shall must~~ report, in writing, all changes of address to the board within 30 days of the change and ~~shall must~~ return the license to the board. In addition to the address of record, a physical address is required for each license. If the regulant holds more than one license, certificate, or registration, the regulant ~~shall must~~ inform the board of all

licenses, certificates, and registrations affected by the address change.

~~C. B.~~ Any change in any of the qualifications for licensure found in 18VAC130-30-30 ~~shall must~~ be reported to the board within 30 days of the change.

~~D. C.~~ Notwithstanding the provisions of subsection C of this section, a regulant ~~shall must~~ report the cancellation, amendment, expiration, or any other change of any bond or letter of credit submitted in accordance with 18VAC130-30-30 H within five days of the change.

~~E. D.~~ A regulant ~~shall must~~ report to the board the discharge or termination of the responsible person and provide to the board the new responsible person designated by the regulant within five business days of the discharge or termination ~~and name a new responsible person.~~

## **18VAC130-30-140. Change of business entity requires a new license.**

A. Licenses are issued to firms as defined in this chapter and are not transferable. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the license becomes void and ~~shall must~~ be returned to the board within 30 days of the change. Such changes include ~~but are not limited to:~~

1. Cessation of the business or the voluntary termination of a sole proprietorship or general partnership;
2. Death of a sole proprietor;
3. Formation, reformation, or dissolution of a general partnership, limited partnership, corporation, limited liability company, association, or any other business entity recognized under the laws of the Commonwealth of ~~Virginia~~;
4. The suspension or termination of the corporation's existence by the State Corporation Commission.

B. When a new firm is formed, the new firm ~~shall apply for must obtain~~ a new license ~~on a form provided by the board~~ before engaging in any activity regulated by Chapter 20.2 (§ 54.1-2020 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board.

## **18VAC130-30-150. Notice of adverse action.**

A. Licensed appraisal management companies ~~shall must~~ notify the board of the following actions against the firm, the responsible person, any controlling person, or any person who owns 10% or more of the firm:

1. Any disciplinary action taken by any jurisdiction, board, or administrative body of competent jurisdiction, including any reprimand; license or certificate revocation, suspension, or denial; monetary penalty; or requirement for remedial education or other corrective action.

2. Any voluntary surrender of a license, certificate, or registration done in connection with a disciplinary action in another jurisdiction.

3. Any conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any 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 lapsed. Review of convictions ~~shall will~~ be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere ~~shall will~~ be considered a conviction for the purpose of this section.

B. The notice must be made to the board in writing within 30 days of the action. A copy of the order or other supporting documentation must accompany the notice. The record of conviction, finding, or case decision ~~shall will~~ be considered prima facie evidence of a conviction or finding of guilt.

**18VAC130-30-170. Response to inquiry and provision of records.**

A. A regulant must respond within 10 days to a request by the board or any of its agents regarding any complaint filed with the department.

B. Unless otherwise specified by the board, a regulant of the board ~~shall must~~ produce to the board or any of its agents within 10 days of the request any document, book, or record concerning any transaction pertaining to a complaint filed in which the regulant was involved; or for which the regulant is required to maintain records for inspection and copying by the board or its agents. The board may extend such ~~time frame~~ timeframe upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.

C. ~~A~~ No regulant ~~shall not may~~ provide a false, misleading, or incomplete response to the board or any of its agents seeking information in the investigation of a complaint filed with the board.

D. With the exception of the requirements of subsections A and B of this section, a regulant must respond to an inquiry by the board or its agents within 21 days.

V.A.R. Doc. No. R24-7821; Filed May 9, 2025, 11:51 a.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:** **20VAC5-304. Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs (amending 20VAC5-304-20).**

**Statutory Authority:** §§ 12.1-13, 56-235.2, 56-247, and 56-249 of the Code of Virginia.

**Public Hearing Information:** An opportunity to request a public hearing will not be offered.

**Public Comment Deadline:** June 17, 2025.

**Agency Contact:** Allison Samuel, Deputy Director, Public Utility Regulation Division, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 225-3177, or email [allison.samuel@scc.virginia.gov](mailto:allison.samuel@scc.virginia.gov).

**Summary:**

*Pursuant to Chapters 794 and 818 of the 2024 Acts of Assembly, the proposed amendments establish a single, consistent cost-effectiveness test for use in evaluating proposed energy efficiency programs.*

AT RICHMOND, MAY 13, 2025

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2024-00120

Ex Parte: In the matter of promulgating regulations establishing a single, consistent cost-effectiveness test for use in evaluating proposed energy efficiency programs

**ORDER ESTABLISHING RULEMAKING**

Chapters 794 and 818 of the 2024 Virginia Acts of Assembly (Acts), inter alia, amended and reenacted §§ 56-576 and 56-596.2 of the Code of Virginia (Code). Pursuant to their second enactment clauses, Chapters 794 and 818 of the Acts direct the State Corporation Commission (Commission) to, no later than September 30, 2025, "promulgate regulations establishing a single, consistent cost-effectiveness test for use in evaluating proposed energy efficiency programs" (EEP Cost-Effectiveness Test Regulations).<sup>1</sup> In developing these regulations:

The Commission shall (i) refer to the cost-benefit analysis framework and process contained in the National Energy

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Screening Project's National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources, in addition to any other materials deemed relevant by the Commission; (ii) utilize a stakeholder process to develop such regulations, facilitated by an independent monitor with technical assistance provided by a group with experience in the process set forth in the National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources, compensated under the funding provided pursuant to subsection E of § 56-592.1 of the Code of Virginia; and (iii) design such regulations to further the Commonwealth's energy policy requirements and goals, including furthering compliance with the standards set forth under § 56-596.2 of the Code of Virginia, as amended by this act.<sup>2</sup>

On July 17, 2024, the Commission issued an Order Initiating Stakeholder Process that, among other things, docketed the matter; initiated a stakeholder process (Stakeholder Process) to commence the development of the EEP Cost-Effectiveness Test Regulations; directed the Commission's Staff (Staff) to conduct the Stakeholder Process, facilitated by an independent monitor (Independent Monitor); provided an opportunity for interested persons to participate in the Stakeholder Process through a schedule of stakeholder group meetings (Stakeholder Group Meetings); and directed the Independent Monitor to provide to Staff a summary of the Stakeholder Group Meetings to inform Staff's development of proposed regulations.

In July 2024, Keystone Policy Center (Keystone) was contracted as the Independent Monitor to facilitate the Stakeholder Process.<sup>3</sup> Organizations interested in participating in the Stakeholder Group Meetings submitted their interest to Keystone, and a roster for the Stakeholder Group Meetings was developed by September 2024.<sup>4</sup> The first Stakeholder Group Meeting occurred on September 18, 2024, and 7 additional meetings occurred approximately every two weeks through January 14, 2025.<sup>5</sup>

On March 25, 2025, the Independent Monitor provided Staff with a final report on the Stakeholder Group Meetings (Stakeholder Group Report) and draft EEP Cost-Effectiveness Test Regulations (Draft Regulations). On March 26, 2025, Staff filed the Stakeholder Group Report and Draft Regulations in this docket. The Draft Regulations are appended to this Order Establishing Rulemaking.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that interested persons should have an opportunity to file comments on the Draft Regulations, and that Staff should be directed to investigate the Draft Regulations and present its findings and recommendations concerning such regulations and any comments thereon in a report (Staff Report). The Commission further finds that a copy of the Draft Regulations should be sent to the Office of the Registrar for publication in the Virginia Register of Regulations.

To promote administrative efficiency and timely service of filings upon participants, the Commission will, among other things, direct the electronic filing of comments unless they

contain confidential information, and require electronic service on participants in this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) All comments or 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.<sup>6</sup> 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.

(2) Pursuant to 5VAC5-20-140, Filing and service, of the Rules of Practice, the Commission directs that service on participants and Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, participants and 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 participant or Staff is impeded from participating in this matter.

(3) On or before June 17, 2025, any interested person may file comments on the Draft Regulations by following the instructions found on the Commission's website: [scc.virginia.gov/case-comments/submit-public-comments](https://scc.virginia.gov/case-comments/submit-public-comments).

Those unable, as a practical manner, to file comments 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 comments shall refer to Case No. PUR-2024-00120. Individuals should be specific in their comments on the Draft Regulations and should address only those issues pertaining to the second enactment clauses of Chapters 794 and 818 of the 2024 Acts of Assembly addressed herein. Issues outside the scope of these enactment clauses will not be open for consideration.

(4) On or before August 5, 2025, Staff shall investigate the Draft Regulations and file with the Clerk of the Commission a Staff Report containing its findings and recommendations concerning such regulations, together with any responses Staff may wish to provide concerning comments submitted to the Commission regarding the Draft Regulations.

(5) An electronic copy of the Draft Regulations may be obtained by submitting a request to Allison Samuel, Deputy Director in the Commission's Division of Public Utility Regulation at the following email address: [allison.samuel@scc.virginia.gov](mailto:allison.samuel@scc.virginia.gov). An electronic copy of the Draft Regulations can also be found at the Division of Public Utility Regulation's website: <https://www.scc.virginia.gov/regulated-industries/utility-regulation/pur-responsibilities/rulemaking>. Interested persons may also download unofficial

copies of this Order Establishing Rulemaking and the Draft Regulations from the Commission's website: [scc.virginia.gov/pages/case-information](http://scc.virginia.gov/pages/case-information).

(6) Within 10 business days hereof, Staff shall provide copies of this Order Establishing Rulemaking by electronic transmission, or when electronic transmission is not possible, by mail, to individuals, organizations, and companies who have been identified by Staff as potentially being interested in this proceeding and the Draft Regulations.

(7) The Commission's Office of General Counsel shall forward a copy of this Order Establishing Rulemaking and the Draft Regulations to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(8) The Director of the Commission's Division of Information Resources promptly shall post a copy of this Order Establishing Rulemaking on the Commission's website.

(9) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of

the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5VAC5-20-150, Copies and format, of the Commission's Rules of Practice.

(10) 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.

<sup>1</sup> Senate Bill 565, 2024 Va. Acts Chapter 794, and identical House Bill 746, 2024 Va. Acts Chapter 818.

<sup>2</sup> Id.

<sup>3</sup> Stakeholder Group Report at 5.

<sup>4</sup> Id.

<sup>5</sup> See id.

<sup>6</sup> 5VAC5-20-10 et seq. (Rules of Practice).

## 20VAC5-304-20. Cost/benefit measures.

Utility Through 2028. utility applicants shall analyze a proposed program from a multi-perspective approach using, at a minimum, the Participants Test, the Utility Cost Test, the Ratepayer Impact Measure Test, and the Total Resource Cost Test. Utilities may file for approval of programs individually or as a package. However, any application ~~which~~ that includes a package of DSM programs shall also provide an analysis of the cost/benefit of each program individually.

Beginning with efficiency plans for 2029 and any subsequent years, utilities shall analyze cost-effectiveness primarily using a Virginia jurisdiction-specific test (JST). The JST includes all utility system impacts that are material to energy efficiency or demand response measures, as shown in Table 1 of this section, as well as other fuel impacts, greenhouse gas emission impacts, and other environmental impacts shown in Table 2 of this section. The only other cost-effectiveness test utilities are required to use for 2029 and subsequent years is the total resource cost (TRC) test. Beginning with efficiency plans for 2029, the TRC test must include (i) all applicable utility system impacts included in the JST; (ii) other fuel impacts; and (iii) host customer (program participant) costs and benefits, including non-energy costs and benefits as shown in Tables 3 and 4 of this section. Estimates of non-energy costs or benefits may be used on Virginia-specific studies when available, studies from other jurisdictions when applicable to Virginia or adapted to address differences between Virginia and other states, or proxy adders to avoided costs. The basis for any proxy adders must be provided. Beginning with efficiency plans for 2029 and any subsequent years, utilities shall use a real discount rate of 2.0% in analyses conducted under both the JST and the TRC.

Table 1: JST USI Applicability and Materiality ELECTRICITY UTILITY SYSTEM IMPACTS			
Impact Type	Impact	EE	DR
<u>Energy</u>	<u>Energy Generation</u>	<u>X</u>	<u>X</u>
	<u>Capacity</u>	<u>X</u>	<u>X</u>
	<u>Environmental Compliance</u>	<u>X</u>	<u>X</u>
	<u>RPS/CES Compliance</u>	<u>X</u>	<u>NM</u>
	<u>Market Price Events</u>	<u>X</u>	<u>X</u>
	<u>Ancillary Services</u>	<u>NM</u>	<u>NM</u>

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<u>Transmission</u>	<u>Transmission Capacity</u>	<u>X</u>	<u>X</u>
	<u>Transmission System Losses</u>	<u>X</u>	<u>X</u>
<u>Distribution</u>	<u>Distribution Capacity</u>	<u>X</u>	<u>X</u>
	<u>Distribution System Losses</u>	<u>X</u>	<u>X</u>
	<u>Distribution O&amp;M</u>	<u>X</u>	<u>X</u>
	<u>Distribution Voltage</u>	<u>NM</u>	<u>NM</u>
<u>General</u>	<u>Financial Incentives</u>	<u>X</u>	<u>X</u>
	<u>Program Administration</u>	<u>X</u>	<u>X</u>
	<u>Utility Performance Incentives</u>	<u>X</u>	<u>X</u>
	<u>Credit and Collection</u>	<u>NM</u>	<u>NM</u>
	<u>Risk</u>	<u>X</u>	<u>X</u>
	<u>Reliability</u>	<u>NM</u>	<u>NM</u>
	<u>Resilience</u>	<u>NM</u>	<u>NM</u>

X - Impacts that are both applicable and material

NM - Not material, or not large enough to merit routine inclusion

Table 2: JST Recommendation for Non-USI Applicability  
NON-UTILITY SYSTEM IMPACTS

<u>Impact Type</u>	<u>EE</u>	<u>DR</u>
<u>Other Fuels</u>		
<u>Fuel and O&amp;M</u>	<u>X</u>	<u>X</u>
<u>Delivery Costs (including other Fuel T&amp;D)</u>	<u>X</u>	<u>Embedded</u>
<u>Environmental Compliance</u>	<u>Embedded</u>	<u>Embedded</u>
<u>Market Price Effects</u>	<u>X</u>	<u>X</u>
<u>Societal</u>		
<u>Greenhouse Gas Emissions</u>	<u>X</u>	<u>X</u>
<u>Other Environmental Impacts</u>	<u>X</u>	<u>X</u>
<u>Public Health</u>	<u>Embedded</u>	<u>Embedded</u>
<u>Resilience</u>	<u>NM</u>	<u>NM</u>



<u>Economic Development and Jobs</u>	Not applicable to BCA but consider analyzing alongside BCA given policy goals
<u>Equity</u>	
<u>Energy Security</u>	

Table 3: TRC Recommendation for USIs  
ELECTRIC UTILITY SYSTEM IMPACTS

<u>Impact Type</u>	<u>Impact</u>	<u>EE</u>	<u>DR</u>
<u>Energy</u>	<u>Energy Generation</u>	<u>X</u>	<u>X</u>
	<u>Capacity</u>	<u>X</u>	<u>X</u>
	<u>Environmental Compliance</u>	<u>X</u>	<u>X</u>
	<u>RPS/CES Compliance</u>	<u>X</u>	<u>NM</u>
	<u>Market Price Effects</u>	<u>X</u>	<u>X</u>
	<u>Ancillary Services</u>	<u>NM</u>	<u>NM</u>
<u>Transmission</u>	<u>Transmission Capacity</u>	<u>X</u>	<u>X</u>
	<u>Transmission System Losses</u>	<u>X</u>	<u>X</u>
<u>Distribution</u>	<u>Distribution Capacity</u>	<u>X</u>	<u>X</u>
	<u>Distribution System Losses</u>	<u>X</u>	<u>X</u>
	<u>Distribution O&amp;M</u>	<u>X</u>	<u>X</u>
	<u>Distribution Voltage</u>	<u>NM</u>	<u>NM</u>
<u>General</u>	<u>Financial Incentives</u>	<u>X</u>	<u>X</u>
	<u>Program Administration</u>	<u>X</u>	<u>X</u>
	<u>Utility Performance Incentives</u>	<u>X</u>	<u>X</u>
	<u>Credit and Collection</u>	<u>NM</u>	<u>NM</u>
	<u>Risk</u>	<u>X</u>	<u>X</u>
	<u>Reliability</u>	<u>NM</u>	<u>NM</u>
	<u>Resilience</u>	<u>NM</u>	<u>NM</u>

X – Impacts that are both applicable and material

NM – Not material, or not large enough to merit routine inclusion

Table 4: TRC Recommendation for Non-USIs

<u>Impact Type</u>	<u>EE</u>	<u>DR</u>
<u>Other Fuels</u>		
<u>Fuel and O&amp;M</u>	<u>X</u>	<u>X</u>
<u>Delivery Costs (including other fuel T&amp;D)</u>	<u>X</u>	<u>Embedded</u>
<u>Environmental Compliance</u>	<u>Embedded</u>	<u>Embedded</u>
<u>Market Price Effects</u>	<u>X</u>	<u>X</u>
<u>Host Customer</u>		

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<u>Measure Costs</u>	<u>X</u>	<u>X</u>
<u>Transaction Costs</u>	<u>X</u>	<u>X</u>
<u>Risk</u>	<u>X</u>	<u>X</u>
<u>Reliability</u>	<u>X</u>	<u>X</u>
<u>Resilience</u>	<u>X</u>	<u>X</u>
<u>Tax Incentive</u>	<u>X</u>	<u>X</u>
<u>Non-Energy Impacts (Non-Low-Income)</u>	<u>X</u>	<u>X</u>
<u>Non-Energy Impacts (Low-Income)</u>	<u>X</u>	<u>X</u>

VA.R. Doc. No. R25-8321; Filed May 13, 2025, 12:45 p.m.

## Final 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:** 20VAC5-330. **Limitations on Disconnection of Electric and Water Service (amending 20VAC5-330-10, 20VAC5-330-20, 20VAC5-330-30, 20VAC5-330-40, 20VAC5-330-50).**

**Statutory Authority:** § 12.1-12 of the Code of Virginia.

**Effective Date:** July 1, 2025.

**Agency Contact:** Mike Cizenski, Deputy Director, Division of Public Utility Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9441, or email [mike.cizenski@scc.virginia.gov](mailto:mike.cizenski@scc.virginia.gov).

### Summary:

*Pursuant to Chapter 637 of the 2024 Acts of Assembly, the amendments (i) make the regulation applicable to natural gas and wastewater utilities, (ii) authorize nurse practitioners to certify serious medical conditions, and (iii) update the Serious Medical Condition Certification Form. Changes to the proposed regulation (i) extend to 15 days the delay of termination of service for a residential customer who has not filed the medical condition certification form but who has notified a utility of a serious medical condition, (ii) update a website address, and (iii) add a Spanish-language version of the updated Serious Medical Condition Certification form.*

AT RICHMOND, May 9, 2025

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2024-00138

Ex Parte: In the matter concerning  
limiting service terminations for utility customers  
with serious medical conditions

## ORDER ESTABLISHING PROCEEDING

Chapter 637 (House Bill 275) of the 2024 Virginia Acts of Assembly (2024 Act) directed the State Corporation Commission (Commission) in an uncoded enactment to conduct a proceeding for the purpose of establishing limitations on the authority of public utilities to terminate service for residential electric, gas, water, and wastewater utility customers with serious medical conditions, stating as follows:

1. § 1. That the State Corporation Commission (the Commission), in order to promote public health and safety, shall conduct a proceeding for the purpose of establishing limitations on the authority of public utilities and cooperatives that provide electric, gas, water, or wastewater services to terminate service to the residence of any customer who provides the certification of a licensed physician or a nurse practitioner that the customer has a serious medical condition or the customer resides with a family member with a serious medical condition. The limitations shall be consistent with the public interest. In the proceeding establishing such limitations, the Commission shall consult with the Commissioner of Health, the Commissioner of Social Services, the Virginia Poverty Law Center, the Virginia League of Social Services Executives, public utilities and cooperatives that provide electric, gas, water, or wastewater services, and any other persons that the Commission deems appropriate. As a part of the proceeding, the Commission shall adopt regulations to implement such limitations. The regulations shall include a form by which a residential utility customer with a serious medical condition may apply for a delay in termination of service as provided by this act. The Commission shall make all reasonable efforts to ensure that this form is as accessible as possible for residential electric, gas, water, and wastewater utility customers. The regulations shall (i) be adopted in accordance with the Commission's Rules of Practice and

Procedure; (ii) be effective not later than July 1, 2025; (iii) establish a cost recovery mechanism under which utilities and cooperatives that provide electric, gas, water, or wastewater services shall be authorized to recover, from approved rates collected from other customers or other sources of revenue, any losses on customer accounts the balance of which is written off or otherwise determined to be uncollectible as the result of the implementation of the regulations; and (iv) define "serious medical condition." No later than November 1, 2026, and every three years thereafter, the Commission shall submit a report to the General Assembly on the effectiveness of the serious medical condition policy after implementation and shall include any suggested changes to improve accessibility to such policy for residential utility customers.

As set forth, the 2024 Act requires the Commission to adopt regulations placing limitations on utility service terminations related to customers with serious medical conditions or when a customer resides with a family member with a serious medical condition. In that regard, the 2024 Act's provisions are virtually identical to Chapters 500, 662 and 673 of the 2011 Virginia Acts of Assembly (2011 Acts) which cumulatively required the Commission to adopt regulations (i) placing limits on the authority of investor owned electric utilities, electric cooperatives, and public utilities providing water service to terminate utility services to customers with serious medical conditions, or to customers with family members residing with them with such medical conditions, and (ii) establishing a mechanism by which such limitations could be implemented.<sup>1</sup> The Commission adopted regulations implementing the 2011 Acts and the regulations were made effective October 31, 2011.<sup>2</sup>

The 2024 Act broadens the scope of the 2011 Acts to include natural gas<sup>3</sup> and wastewater services as utility services to which such limitations on utility disconnections apply. Additionally, the 2024 Act newly authorizes nurse practitioners to certify that utility customers, or family members residing with utility customers, have serious medical conditions.<sup>4</sup> The 2024 Act requires regulations implementing its provisions to be adopted by July 1, 2025.

The 2024 Act also requires that in this proceeding, the Commission shall consult with the Commissioner of Health, the Commissioner of Social Services, the Virginia Poverty Law Center, the Virginia League of Social Services Executives, public utilities and cooperatives that provide electric, natural gas, water, or wastewater services, and any other persons that the Commission deems appropriate (collectively, "Designated Entities").

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that a proceeding should be established to implement the 2024 Act's provisions. In light of the procedural history described, the Commission further finds that implementing the 2024 Act may be accomplished in substantial part by conforming the current Chapter 330 Rules to the 2024 Act's provisions, i.e., by incorporating appropriate

references to natural gas and wastewater utilities, and nurse practitioners as described above.

At the Commission's direction, Staff has prepared proposed amendments to the Chapter 330 Rules (Proposed Amendments) making these rules applicable to natural gas and wastewater utilities, and newly authorizing nurse practitioners to certify serious medical conditions. The Proposed Amendments are appended to this Order. The Commission finds that notice of this proceeding should be given to the public, and that interested persons should be provided an opportunity to file written comments concerning the provisions of the 2024 Act and the Proposed Amendments. Additionally, the Staff of the Commission (Staff) shall transmit this Order, together with the Proposed Amendments, to the Designated Entities and solicit their input.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUR-2024-00138.
- (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.<sup>5</sup> 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) Within 10 business days hereof, Staff shall transmit electronically or by first-class mail copies of this Order and Proposed Amendments to the Designated Entities and solicit their input. Staff shall file with the Clerk of the Commission a certificate of transmission and include a list of names and addresses of the persons and entities to whom the Order was transmitted.
- (6) An electronic copy of the Proposed Amendments may be obtained by submitting a request to Mike Cizenski, Deputy

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# Regulations

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Director in the Commission's Division of Public Utility Regulation at the following email address: [mike.cizenski@scc.virginia.gov](mailto:mike.cizenski@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](http://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](http://scc.virginia.gov/pages/Case-Information).

(7) On or before December 2, 2024, any interested person may comment on, or request a hearing concerning, the 2024 Act or the Proposed Amendments, following the instructions on the Commission's website: [scc.virginia.gov/casecomments/Submitt-Public-Comments](http://scc.virginia.gov/casecomments/Submitt-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-2024-00138. Individuals should be specific in their comments, proposals, or supplements to the Proposed Amendments and should address only those issues pertaining to the 2024 Act. Issues outside the scope of the 2024 Act or the Proposed 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 January 17, 2025, the Staff shall file with the Clerk of the Commission a report on or a response to any comments or requests for hearing submitted to the Commission pursuant to this Order.

(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.

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<sup>1</sup> Chapters 662 and 673 applied to investor-owned electric utilities and electric cooperatives and Chapter 500 applied to public utilities providing water service.

<sup>2</sup> See 20VAC5-330-10 et seq., Limitations on Disconnection of Electric and Water Service (Chapter 330 Rules). These regulations were adopted by the Commission in Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In re: Establishing rules providing limitations on disconnection of electric and water service for persons with serious medical conditions, Case No. PUE-2011-00060, 2011 SCC Ann. Rept. 511, Order Adopting Regulations (Oct. 18, 2011).

<sup>3</sup> For purposes of this proceeding, the Commission construes the 2024 Act's reference to "gas" to encompass and mean "natural gas" utility service.

<sup>4</sup> The 2011 legislation required that serious medical conditions be certified by licensed physicians; the Chapter 330 Rules adopted in 2011 define licensed physicians as persons "licensed to practice medicine or osteopathic medicine (M.D. or D.O.)." See 20VAC5-330-20.

<sup>5</sup> 5VAC5-20-10 et seq. (Rules of Practice).

## Chapter 330

### Limitations on Disconnection of Electric and Water, Wastewater, and Natural Gas Service

#### 20VAC5-330-10. Applicability and scope.

This chapter is promulgated pursuant to Chapters 500, 662, and 673 of the 2011 Acts of Assembly and Chapter 637 of the 2024 Acts of Assembly. The provisions in this chapter apply to investor-owned electric utilities, electric cooperatives, natural gas utilities, and public utilities providing water or wastewater service. In order to promote public health and safety, this chapter is designed to establish reasonable limitations, consistent with the public interest, on the ability of investor-owned electric utilities, electric cooperatives, natural gas utilities, and public utilities providing water or wastewater service to terminate service consistent with §§ 44-146.29:4, 56-245.1:3, and 56-245.1:4 of the Code of Virginia, as applicable, to residential customers who have a serious medical condition or to residential customers who reside with a family member with a serious medical condition and to provide such residential customers adequate time prior to the termination of electric or water service to either enter into a payment plan with the utility or make other arrangements for housing or medical care. Nothing in this chapter shall be interpreted to require an investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service to terminate service after the expiration of the timelines established ~~herein~~ in this chapter.

Furthermore, nothing in this chapter shall be interpreted to prohibit an investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service from terminating service in the event of an emergency or in the event an investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service reasonably believes that theft of service or meter tampering has occurred in connection with the service.

#### 20VAC5-330-20. Definitions.

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

"Licensed nurse practitioner" means a person licensed as a nurse practitioner in any of the 50 states or the District of Columbia.

"Licensed physician" means a person licensed to practice medicine or osteopathic medicine (M.D. or D.O.) in any of the 50 states or the District of Columbia.

"Serious medical condition" means a physical or psychiatric condition that requires medical intervention to prevent further disability, loss of function, or death. Such conditions are characterized by a need for ongoing medical supervision or the consultation of a physician or licensed nurse practitioner. A

serious medical condition carries with it a risk to health beyond that experienced by the majority of children and adults in their day-to-day minor illnesses and injuries. Individuals with a serious medical condition may require administration of specialized treatments and may be dependent on medical technology such as ventilators, dialysis machines, enteral or parenteral nutrition support, or continuous oxygen. Medical interventions may include medications with special storage requirements, use of powered equipment, or access to water.

"Serious Medical Condition Certification Form" means a written document, approved by the State Corporation Commission, signed by (i) a licensed physician or licensed nurse practitioner, (ii) the customer, and (iii) the patient or the patient's legal guardian or power of attorney. The Serious Medical Condition Certification Form shall ~~(i)~~ (a) identify the medical condition of the customer or family member who resides with the customer, ~~(ii)~~ (b) include a certification by a licensed physician or licensed nurse practitioner that the medical condition meets the definition of a serious medical condition, ~~(iii)~~ (c) identify the anticipated length of time that the serious medical condition will persist, and ~~(iv)~~ (d) identify any equipment prescribed or treatment required for the medical condition.

## 20VAC5-330-30. General provisions.

A. A request for a waiver of any of the provisions of 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.

B. An investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall use the Serious Medical Condition Certification Form (Form SMCC) provided in English and Spanish on the State Corporation Commission's website at <http://www.scc.virginia.gov/puc/rules.aspx> [ <http://www.scc.virginia.gov/pages/rules> <https://www.scc.virginia.gov/regulated-industries/utility-regulation/pur-responsibilities/rules> ], unless the State Corporation Commission approves the use of an alternative form.

C. An investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service may require a customer to provide ~~it~~ a new Serious Medical Condition Certification Form either annually or upon the expiration of the anticipated length of time that the serious medical condition will persist if such time is less than 12 months.

D. An investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service may take reasonable actions to verify the validity of the Serious Medical Condition Certification Form. Such actions include, ~~but are not limited to~~, contacting (i) the licensed physician or licensed nurse practitioner to confirm the

medical condition of the patient and the treatment ~~or treatments~~ associated ~~therewith~~ with the medical condition; (ii) the Virginia Department of Health Professions, or the applicable state's licensing board, to verify that the physician or nurse practitioner is a licensed physician or licensed nurse practitioner; or (iii) the customer to verify that the patient currently resides at the residence.

E. In the event that the investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service is of the opinion that the information provided on the Serious Medical Condition Certification Form is invalid; or otherwise is of the opinion that there has been fraud or abuse of the process provided in this chapter, it may petition the State Corporation Commission for redress pursuant to 5VAC5-20-100 B, State Corporation Commission's Rules of Practice and Procedure.

## 20VAC5-330-40. Limitations on service termination to residential customers.

A. Following the issuance of a notice of intent to terminate service pursuant to § 56-245.1:4 or 56-247.1 A 4 or A 6 of the Code of Virginia, and subject to the provisions of §§ 44-146.29:4 and 56-245.1:3 of the Code of Virginia, an investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall, upon request from a residential customer who has a Serious Medical Condition Certification Form filed with the utility, delay termination of service for a minimum of an additional 30 calendar days beyond the expiration of the notice.

B. Following the issuance of a notice of intent to terminate service pursuant to § 56-245.1:4 or 56-247.1 A 4 or A 6 of the Code of Virginia, and subject to the provisions of §§ 44-146.29:4 and 56-245.1:3 of the Code of Virginia, an investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall, upon request from a residential customer who does not have a Serious Medical Condition Certification Form filed with the utility, delay termination of service for [ ~~40~~ 15 ] calendar days upon oral or written notification from a residential customer that such customer or a family member residing with the customer has a serious medical condition. The [ ~~40 calendar~~ 15-calendar ] day delay in service termination shall commence on the date the investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service receives notification. At the time of such notification, the investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall:

1. Advise the residential customer that service termination will be delayed for [ ~~40~~ 15 ] calendar days pending receipt of the Serious Medical Condition Certification Form;
2. Provide the customer access to the Serious Medical Condition Certification Form via its website or advise the

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# Regulations

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consumer that access can be obtained via the State Corporation Commission's website;

3. Not later than two business days after receiving notification, mail, email, or deliver via facsimile transmission a copy of the Serious Medical Condition Certification Form upon a request from the customer; and

4. Not later than two business days after receiving notification, mail the customer a letter advising the customer:

- a. The date notification was received;
- b. The date that the [ ~~40-calendar~~ 15-calendar ] day delay expires; and
- c. That upon receipt of a Serious Medical Condition Certification Form within the [ ~~40-calendar~~ 15-calendar ] day time period provided for in this subsection, it will delay the termination of service 30 calendar days from the date of termination initially noticed.

Upon receipt of a Serious Medical Condition Certification Form within the [ ~~40-calendar~~ 15-calendar ] day time period provided for in this subsection, an investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall provide the 30-calendar day delay in termination of service required in subsection A of this section. An investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall not be required to provide a [ ~~40-calendar~~ 15-calendar ] day delay in service termination pursuant to this subsection more than once in a 12-month period.

C. In the event an investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service has terminated service to a residential customer within the preceding 14 calendar days, the investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall promptly restore service upon (i) receipt of a Serious Medical Condition Certification Form; or confirmation of such a form on file; and (ii) a request from the customer to reconnect service. The investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall not be permitted to require any payment as a condition to reconnect; however, it may charge the customer, on the next monthly bill, any applicable reconnection fees that are on file in its State Corporation Commission approved tariffs and terms and conditions of service. Following the reconnection of service, the investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall delay termination of service for a minimum of 30 calendar days from the date it reconnects the customer.

D. An investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or

wastewater service shall permit a residential customer to delay termination of service under this chapter two times within a 12-month period. The 30-calendar day delays may be consecutive. Nothing in this chapter shall prohibit an investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service from providing to a customer additional delay from the termination of service beyond the delay required.

E. During the delay in service termination pursuant to subsections A and C of this section, the investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall:

1. In the event the investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service is able to establish payment arrangements with the customer, mail to the customer a letter detailing the agreement not later than three business days after the agreement on payment arrangements is made; or
2. In the event the investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service is unable to establish payment arrangements with the customer, mail the customer a letter, not later than 10 calendar days prior to the expiration of the 30-calendar day delay required by this chapter, advising the customer of (i) the date that service may be terminated and (ii) any payment arrangements available to the customer. The letter shall also advise the customer of his right to delay service termination pursuant to this chapter twice within a 12-month period.

F. The investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall (i) maintain a copy of any letters required under this section for a minimum of 12 months and (ii) provide such copies to the State Corporation Commission's Division of Energy Regulation upon request.

## **20VAC5-330-50. Cost recovery mechanism.**

A. An investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall be permitted to recover losses on customer accounts resulting from the implementation of this chapter in the same manner as other uncollectable costs are recovered through rates.

B. An investor-owned electric utility, electric cooperative, natural gas utility, or public utility providing water or wastewater service shall maintain write-offs and recoveries of uncollectable accounts in such a manner that would allow those amounts written off as a result of the implementation of this chapter to be separately identified.



**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 (20VAC5-330)

~~Serious Medical Condition Certification Form, Form SMCC  
(rev. 1/2017)~~

[Serious Medical Condition Certification Form, Form SMCC  
\(rev. 8/2024\)](#)

[ [Serious Medical Condition Certification Form, Form SMCC  
- Spanish \(rev. 8/2024\)](#) ]

VA.R. Doc. No. R25-8028; Filed May 9, 2025, 5:10 p.m.

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# GUIDANCE DOCUMENTS

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## PUBLIC COMMENT OPPORTUNITY

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

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

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Documents: [Addiction and Recovery Treatment Services \(ARTS\) Provider Manual, Chapter IV.](#)

[ARTS Provider Manual, Chapter 12 \(Appendix D\).](#)

[Mental Health Services Manual, Appendix D.](#)

[Mental Health Services Manual, Chapter 4.](#)

[Mental Health Services Manual, Chapter 7.](#)

[Mental Health Services Manual, Chapter 14.](#)

[Plan First Manual, Chapter 2.](#)

[Temporary Detention Orders Supplement.](#)

Public Comment Deadline: [July 2, 2025.](#)

Effective Date: [July 3, 2025.](#)

Agency Contact: Syreeta Stewart, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, or email [syreeta.stewart@dmass.virginia.gov](mailto:syreeta.stewart@dmass.virginia.gov).

The following guidance documents have been submitted for deletion and the listed agency has opened up a 30-day public comment period. The listed agency 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 WATER CONTROL BOARD

Titles of Documents: [Guidance Document on Utilization of Nonpoint Nutrient Offsets.](#)

[Guidance Document on Virginia Stormwater Management Program Site Inspection Strategies.](#)

[Implementation Guidance for the 2009 General Permit for Discharges of Stormwater from Construction Activities.](#)

[Implementation Guidance for 9VAC25-87047, Time Limits on Applicability of Approved Design Criteria, and 9VAC25-870-48, Grandfathering of the Virginia Stormwater Management Program Regulation.](#)

[Postdevelopment Stormwater Management Implementation Guidance for Linear Utility Projects under the Virginia Stormwater Management Program Regulation.](#)

[Stormwater Management and Erosion and Sediment Control Design Guide.](#)

[Streamlined Plan Review for Construction Stormwater Plans and Erosion and Sediment Control Plans submitted by a Licensed Design Professional and reviewed by a Dual Combined Administrator for Erosion and Sediment Control and Stormwater Management.](#)

[Virginia Erosion and Sediment Control Handbook, Third Edition.](#)

[Virginia Stormwater Management Handbook.](#)

Public Comment Deadline: [July 2, 2025.](#)

Effective Date: [July 3, 2025.](#)

Agency Contact: April Rhodes, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (541) 866-6091 ext. 23219, or email [april.rhodes@deq.virginia.gov](mailto:april.rhodes@deq.virginia.gov).

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# GENERAL NOTICES

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## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Proposed Enforcement Action for Coastal Precast Systems III LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Coastal Precast Systems III LLC for violations of the State Water Control Law and regulations in Cape Charles, Virginia. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-actions>. The DEQ contact will accept written comments from June 2, 2025, through July 2, 2025.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, or email [russell.deppe@deq.virginia.gov](mailto:russell.deppe@deq.virginia.gov).

### Proposed Enforcement Action for Plasser American Corporation

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Plasser American Corporation for violations of State Water Control Law, regulations, and the applicable permit at the Plasser American facility located in Chesapeake, Virginia. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-actions>. The DEQ contact will accept written comments from June 2, 2025, to July 2, 2025.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, or email [russell.deppe@deq.virginia.gov](mailto:russell.deppe@deq.virginia.gov).

### Proposed Enforcement Action for Southall Development Corporation

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Southall Development Corporation for violations of State Water Control Law, regulations, and applicable permit at the South Village Subdivision in Ladysmith, Virginia. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-actions>. The DEQ contact will accept written comments from June 2, 2025, to July 2, 2025.

Contact Information: Katherine Mann, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (571) 866-6095, or email [katherine.mann@deq.virginia.gov](mailto:katherine.mann@deq.virginia.gov).

## VIRGINIA CODE COMMISSION

### Notice to State Agencies

**Contact Information:** *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* [varegs@dls.virginia.gov](mailto:varegs@dls.virginia.gov).

**Meeting Notices:** Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

**Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed:** A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

**Filing Material for Publication in the *Virginia Register of Regulations*:** Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

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# ERRATA

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## BOARD OF COUNSELING

Title of Regulation: **18VAC115-80 Regulations Governing the Registration of Qualified Mental Health Professionals.**

Publication: 41:17 VA.R. 1833-1838 April 7, 2025.

Correction to Final Regulation:

Page 1837, 18VAC115-80-80 A, line 5, unstrike "A minimum of one of these hours shall be in a course that emphasizes ethics."

VA.R. Doc. No. R25-8015; Filed May 12, 2025, 8:00 a.m.