VIRGINIA
REGISTER OF REGULATIONS

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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

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

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PUBLICATION SCHEDULE AND DEADLINES

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

December 2025 through January 2027

Volume: Issue	Material Submitted By Noon*	Will Be Published On
42:10	December 9, 2025 **(Tuesday)**	December 29, 2025
42:11	December 22, 2025 **(Monday)**	January 12, 2026
42:12	January 6, 2026 **(Tuesday)**	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
42:24	June 24, 2026	July 13, 2026
42:25	July 8, 2026	July 27, 2026
42:26	July 22, 2026	August 10, 2026
43:1	August 5, 2026	August 24, 2026
43:2	August 19, 2026	September 7, 2026
43:3	September 2, 2026	September 21, 2026
43:4	September 16, 2026	October 5, 2026
43:5	September 30, 2026	October 19, 2026
43:6	October 14, 2026	November 2, 2026
43:7	October 28, 2026	November 16, 2026
43:8	November 11, 2026	November 30, 2026
43:9	November 25, 2026	December 14, 2026
43:10	December 9, 2026	December 28, 2026
43:11	December 23, 2026	January 11, 2027

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Commonwealth Transportation Board conducted a periodic review and a small business impact review of **24VAC30-630, Rules Governing Person with Disability Traffic Signs**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated November 6, 2025, to support this decision.

The regulation is necessary for the protection of public health, safety, and welfare because it provides a framework through which persons with disabilities or the agents of those persons can request that the Virginia Department of Transportation (VDOT) install signs informing drivers that a person with a disability may be present in or around the roadway. The regulation is clearly written and easily understandable.

VDOT has determined that the regulation should be retained as is. The regulation continues to promote the health, safety, and welfare of the citizens of the Commonwealth without creating an undue hardship on any of the users of the transportation system.

The regulation continues to be needed as it is required by § 46.2-830.2 of the Code of Virginia. No complaints or comments have been received since the regulation was promulgated in 2018. The regulation is neither overly complex nor overlaps, duplicates, or conflicts with federal or state law or regulation. The regulation last underwent a periodic review in 2021 and was last amended in 2025 to update references to 24VAC30-315. This regulation does not impact small businesses.

Contact Information: Steven Jack, Regulatory Manager, Governance and Legislative Affairs Division, Virginia Department of Transportation, 1221 East Broad Street, Richmond, VA 23219, telephone (804) 786-3885, or email steven.jack@vdot.virginia.gov.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 4. CONSERVATION AND NATURAL RESOURCES

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to consider amending **4VAC50-85, Nutrient Management Training and Certification Regulations**. The purpose of the proposed action is to respond to comments received during the recent periodic review of the regulation and further support Department of Conservation and Recreation initiatives. Specifically, the board authorized this regulatory action to consider concerns related to (i) the need to more quickly and proactively update the Virginia Nutrient Management Standards and Criteria and other documents incorporated by reference into the regulation; (ii) the use of outdated or unnecessary definitions; (iii) incorporating the use of precision agriculture practices and plans; (iv) updating the fees required for training and certification; (v) increasing the flexibility in reporting mechanisms for certified nutrient management planners; and (vi) clarifying recommendations versus requirements in the regulation. The Nutrient Management Training and Certification Regulations (4VAC50-85) establish the minimum qualifications for individuals who prepare nutrient management plans and the minimum components and content of a nutrient management plan. Nutrient management plans address nutrient applications to both urban landscape and agricultural operations; these plans improve and protect water quality using best management practices such as timing, rate, and placement of fertilizer, manure, and biosolids for agricultural and urban purposes.

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

Statutory Authority: § 10.1-104.2 of the Code of Virginia.

Public Comment Deadline: January 14, 2026.

Agency Contact: Lisa McGee, Policy and Planning Director, Virginia Soil and Water Conservation Board, 600 East Main Street, 24th Floor, Richmond, VA 23219, telephone (804) 786-4378, fax (804) 786-6141, or email lisa.mcgee@dcr.virginia.gov.

VA.R. Doc. No. R26-8535; Filed November 19, 2025, 3:33 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider repealing **12VAC5-408, Regulation for the Certificate of Quality Assurance of Managed Care Health Insurance Plan Licensees**, and promulgating **12VAC5-409, Managed Care Health Insurance Plan Quality Assurance Regulation**. The purpose of the proposed action is to repeal the chapter governing certificates of quality assurance for licensed managed care health insurance plan (MCHIP) carriers and replace it with a new chapter because the current chapter is outdated and in need of significant style and structure updates. The new chapter will conform to statute, Virginia Administrative Code style, and changes in the regulated industry. Further, the new chapter will be easier to administer by the Virginia Department of Health, will be more easily understood by regulated entities, and will address standards for network adequacy. The state board is considering the development of more specific standards for continuity of care and network accessibility and adequacy. All regulatory language will be reviewed and assessed to ensure that it meets department responsibilities under Article 1.1 (§ 32.1-137.1 et seq.) of Chapter 5 of Title 32.1 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: §§ 32.1-12 and 32.1-137.3 of the Code of Virginia.

Public Comment Deadline: January 14, 2026.

Agency Contact: Peter North, Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 814-4079, or email regulatorycomment@vdh.virginia.gov.

VA.R. Doc. No. R26-8526; Filed November 10, 2025, 2:27 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 State Board of Health intends to consider repealing **12VAC5-481, Virginia Radiation Protection Regulations**, and promulgating **12VAC5-482, Virginia Radiation Protection Regulations**. The purpose of the proposed action is to repeal the current regulation and replace it with a new regulation. Section 32.1-229 of the Code of Virginia authorizes the State Board of Health to establish a program of effective regulation of sources of radiation for the protection of public health and safety. After a periodic review in 2022, Virginia Department of Health Office of Radiological Health (ORH) determined that significant changes are required to update the regulation. ORH determined that repealing and replacing this chapter is necessary for several reasons, including the extent of reorganization required to incorporate

the Radiation Safety Requirements for Non-healing Arts Radiation Generating Devices (RGD) suggested state regulations developed by the Conference of Radiation Control Program Directors containing new requirements on RGDs used for security screenings.

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

Statutory Authority: § 32.1-229 of the Code of Virginia.

Public Comment Deadline: January 14, 2026.

Agency Contact: Cameron Rose, Policy Analyst, Office of Radiological Health, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7090, or email cameron.rose@vdh.virginia.gov.

VA.R. Doc. No. R23-7345; Filed November 10, 2025, 2:26 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF SOCIAL WORK

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 Social Work intends to consider amending **18VAC140-20, Regulations Governing the Practice of Social Work**. The purpose of the proposed action is to implement Chapters 690 and 704 of the 2024 Acts of Assembly, which entered Virginia into the Social Work Compact. The amendments being considered would make changes consistent with the language and rules of the compact once they are determined, which could include (i) setting a fee to practice in Virginia, (ii) setting forth the requirements to obtain a privilege to practice under the compact, (iii) specifying that renewal of the privilege is based upon adherence to compact rules for continued competency, and (iv) making changes to incorporate individuals practicing in Virginia under a compact privilege into disciplinary and practice provisions.

The agency does not intend 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: January 14, 2026.

Agency Contact: Jaime Hoyle, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4406, fax (804) 527-4435, or email jaime.hoyle@dhp.virginia.gov.

VA.R. Doc. No. R26-8103; Filed November 13, 2025, 9:45 a.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 Social Work intends to consider amending **18VAC140-20, Regulations Governing the Practice of Social Work**. The purpose of the proposed action is to implement the provisions of Chapter 146 of the 2025 Acts of Assembly by (i) combining requirements for a licensed masters social worker and a licensed clinical social worker (LCSW) supervisee and creating a clear pathway to obtain licensure as a LCSW and (ii) allowing masters social workers to engage in clinical services under supervision.

The agency does not intend 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: January 14, 2026.

Agency Contact: Jaime Hoyle, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4406, fax (804) 527-4435, or email jaime.hoyle@dhp.virginia.gov.

VA.R. Doc. No. R26-8484; Filed November 13, 2025, 10:52 a.m.

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Fast-Track Regulation

Title of Regulation: **2VAC5-550. Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Sausage (repealing 2VAC5-550-10).**

Statutory Authority: §§ 3.2-109 and 3.2-5101 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 14, 2026.

Effective Date: January 29, 2026.

Agency Contact: Pamela Miles, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8910, fax (804) 371-7792, TDD (800) 828-1120, or email pamela.miles@vdacs.virginia.gov.

Basis: Section 3.2-109 of the Code of Virginia establishes the Board of Agriculture and Consumer Services as a policy board with the authority to adopt regulations in accordance with the provisions of Title 3.2 of the Code of Virginia. Section 3.2-5101 of the Code of Virginia authorizes the board to adopt regulations that will promote honesty and fair dealing in the interest of consumers that purchase food products, including regulations that establish standards of identity and tolerances or limits of variability.

Purpose: The repeal of this regulation will help to remove an unnecessary and additional regulatory burden on businesses subject to this regulation. The U.S. Department of Agriculture Food Safety and Inspection Service regulation and the Virginia Food and Drink Law currently provide sufficient protection to consumers in the Commonwealth by ensuring that sausage products are not adulterated or misbranded. Therefore, the repeal of this regulation will not adversely affect the health, safety, or welfare of citizens in the Commonwealth.

Rationale for Using Fast-Track Rulemaking Process: The repeal of this regulation is anticipated to be noncontroversial because the regulation essential elements of ensuring that a consumer receives a quality sausage product are covered by federal and other Virginia regulations and by the Virginia Food and Drink Law (§ 3.2-5100 et seq. of the Code of Virginia).

Substance: This regulatory action will repeal Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Sausage (2VAC5-550).

Issues: The public will not experience any advantage or disadvantage from the repeal of this regulation because the department does not currently rely on the regulation and has not needed to enforce the provisions of the regulation. Therefore, the public will experience no change in circumstances due to the repeal of this regulation. There is an advantage to the agency to repeal this regulation, as the agency will no longer need to maintain or review this unused regulatory text. The repeal of this regulation does not disadvantage the agency.

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.[1]

Summary of the Proposed Amendments to Regulation. The Board of Agriculture and Consumer Services (board) proposes to repeal the Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Sausage (2VAC5-550).

Background. According to the Virginia Department of Agriculture and Consumer Services (VDACS), the requirements pertaining to the content of sausage prescribed in 2VAC5-550 are adequately covered by the Code of Federal Regulations (CFR) and by the Virginia Food and Drink Law. The agency adds that the requirements in 2VAC5-550 are effectively duplicated by another VDACS regulation, the Retail Food Establishment Regulations (2VAC5-585), which also references the CFR (21 CFR Parts 131-169, and 9 CFR Parts 319 and 424.21(b)). The agency also notes that VDACS inspectors will continue to inspect sausage made in retail food establishments after 2VAC5-550 is repealed.

Estimated Benefits and Costs. Since the Board is proposing to repeal requirements that are effectively duplicated in another regulation that will continue to be in effect, and the agency notes that inspections will continue to occur, then repealing 2VAC5-550 would have no impact in practice.

Businesses and Other Entities Affected. The Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Sausage (2VAC5-550) apply to retail establishments that make sausages such as a grocery stores and meat markets. Since the requirements proposed for repeal are, as described above, duplicated in another regulation that will continue to be in effect, no entity is affected in practice by the proposed action. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[2] 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.[3] Since the proposal neither increases costs nor reduces benefits, no adverse impact is indicated.

Small Businesses[4] Affected.[5] The proposed repeal of the regulation does not adversely affect small businesses.

Localities[6] Affected.[7] The proposed repeal of the regulation neither disproportionally affects particular localities nor affects costs for local governments.

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

Effects on the Use and Value of Private Property. The proposed repeal of the regulation does not affect the use and value of private property or real estate development costs.

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

[2] 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.

[3] 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.

[4] 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."

[5] 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.

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

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

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

Summary:

This action repeals Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Sausage (2VAC5-550), which provides basic requirements for quality and standards of identification for sausage being offered for sale in Virginia. The repeal of this regulation is appropriate because the essential elements to ensure that a consumer receives a quality sausage product are adequately covered by U.S. Department of Agriculture, Food Safety and Inspection Service regulations (9 CFR Chapter III) and by the prohibitions on adulterated and misbranded food included in the Virginia Food and Drink Law (§ 3.2-5100 et seq. of the Code of Virginia).

VA.R. Doc. No. R26-7963; Filed November 10, 2025, 10:30 a.m.

Fast-Track Regulation

Title of Regulation: **2VAC5-590. Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Ground Beef (repealing 2VAC5-590-10, 2VAC5-590-20).**

Statutory Authority: §§ 3.2-5101 and 3.2-5121 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 14, 2026.

Effective Date: January 29, 2026.

Agency Contact: Pamela Miles, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8910, fax (804) 371-7792, TDD (800) 828-1120, or email pamela.miles@vdacs.virginia.gov.

Basis: Section 3.2-109 of the Code of Virginia establishes the Board of Agriculture and Consumer Services as a policy board with the authority to adopt regulations in accordance with the provisions of Title 3.2 of the Code of Virginia. Section 3.2-5101 of the Code of Virginia authorizes the board to adopt regulations that will promote honesty and fair dealing in the interest of consumers that purchase food products, including regulations that establish standards of identity and tolerances or limits of variability. Section 3.2-5121 of the Code of Virginia grants the board authority to adopt regulations for the efficient enforcement of Article 3 (§ 32.-5120 et seq.) of Chapter 51 of the Code of Virginia pertaining to adulteration, misbranding, and false advertising of food.

Purpose: The repeal of this regulation will help to remove an unnecessary and additional regulatory burden on businesses subject to this regulation. The U.S. Department of Agriculture Food Safety and Inspection Service regulation and the Virginia Food and Drink Law currently provide sufficient protection to consumers in the Commonwealth by ensuring that sausage

products are not adulterated or misbranded. Therefore, the repeal of this regulation will not adversely affect the health, safety, or welfare of citizens in the Commonwealth.

Rationale for Using Fast-Track Rulemaking Process: The repeal of this regulation is anticipated to be noncontroversial because the regulation's essential elements to ensure that ground beef products contain no more than the maximum allowable fat content and that ground beef products marketed in Virginia are accurately represented to the consumer are covered by federal and other Virginia regulations and by the Virginia Food and Drink Law (§ 3.2-5100 et seq. of the Code of Virginia).

Substance: This regulatory action will repeal Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Ground Beef (2VAC5-590).

Issues: The public will not experience any advantage or disadvantage from the repeal of this regulation because the department does not currently rely on the regulation and has not needed to enforce the provisions of the regulation. Therefore, the public will experience no change in circumstances due to the repeal of this regulation. There is an advantage to the agency to repeal this regulation, as the agency will no longer need to maintain or review this unused regulatory text. The repeal of this regulation does not disadvantage the agency.

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.[1]

Summary of the Proposed Amendments to Regulation. The Board of Agriculture and Consumer Services (board) proposes to repeal the Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Ground Beef (2VAC5-590).

Background. According to the Virginia Department of Agriculture and Consumer Services (VDACS), the requirements pertaining to the content of ground beef prescribed in 2VAC5-590 are adequately covered by the Code of Federal Regulations (CFR) and by the Virginia Food and Drink Law. The agency adds that the requirements in 2VAC5-590 are effectively duplicated by another VDACS regulation, the Retail Food Establishment Regulations (2VAC5-585), which also references the CFR (21 CFR Parts 131-169, and 9 CFR Parts 319. The agency also notes that VDACS inspectors will continue to inspect ground beef made in retail food establishments after 2VAC5-590 is repealed.

Estimated Benefits and Costs. Since the board is proposing to repeal requirements that are effectively duplicated in another regulation that will continue to be in effect, and the agency notes that inspections will continue to occur, then repealing 2VAC5-590 would have no impact in practice.

Businesses and Other Entities Affected. The Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Ground Beef (2VAC5-590) apply to retail establishments that make ground beef such as a grocery stores and meat markets. Since the requirements proposed for repeal are, as described above, duplicated in another regulation that will continue to be in effect, no entity is affected in practice by the proposed action. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[2] 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.[3] Since the proposal neither increases costs nor reduces benefits, no adverse impact is indicated.

Small Businesses[4] Affected.[5] The proposed repeal of the regulation does not adversely affect small businesses.

Localities[6] Affected.[7] The proposed repeal of the regulation neither disproportionally affects particular localities nor affects costs for local governments.

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

Effects on the Use and Value of Private Property. The proposed repeal of the regulation does not affect the use and value of private property or real estate development costs.

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

[2] 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.

[3] 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.

[4] 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."

[5] 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.

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

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

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

Summary:

This action repeals Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Ground Beef (2VAC5-590), which provides basic requirements for labeling and fat declarations for ground beef being offered for sale in Virginia. The repeal of this regulation is appropriate because the essential elements to ensure that ground beef products contain no more than the maximum allowable fat content and that ground beef products marketed in Virginia are accurately represented to the consumer are adequately covered by U.S. Department of Agriculture, Food Safety and Inspection Service regulations (9 CFR Chapter III) and by the prohibitions on adulterated and misbranded food included in the Virginia Food and Drink Law (§ 3.2-5100 et seq. of the Code of Virginia).

VA.R. Doc. No. R26-7964; Filed November 10, 2025, 10:35 a.m.

TITLE 3. ALCOHOLIC BEVERAGE AND CANNABIS CONTROL

VIRGINIA CANNABIS CONTROL AUTHORITY

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 b of the Code of Virginia, which excludes regulations that are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved. The Virginia Cannabis Control Authority will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: **3VAC10-30. Applications, Licenses, Permits, and Registrations (amending 3VAC10-30-30).**

3VAC10-40. Regulated Operations (amending 3VAC10-40-160; repealing 3VAC10-40-230 through 3VAC10-40-280).

3VAC10-50. Cannabis Products (amending 3VAC10-50-80).

3VAC10-70. Labeling and Packaging (amending 3VAC10-70-20; repealing 3VAC10-70-40, 3VAC10-70-50).

Statutory Authority:

Sections of 3VAC10-30 and 3VAC10-70: §§ 4.1-601, 4.1-604, and 4.1-606 of the Code of Virginia.

Sections of 3VAC10-40 and 3VAC10-50: §§ 4.1-601, 4.1-604, 4.1-606, and 4.1-1602 of the Code of Virginia.

Effective Date: January 14, 2026.

Agency Contact: Jake Shuford, Legislative and Regulatory Manager, Virginia Cannabis Control Authority, 9954 Mayland Drive, Richmond, VA 23233, telephone (804) 873-9038, or email jake.shuford@cca.virginia.gov.

Background: On October 10, 2025, a circuit court order was issued requiring the Virginia Cannabis Control Authority (CCA) to void certain amendments to the medical cannabis program that became effective on February 10, 2025. These amendments impact certifications, advertising, transportation, and labeling and include (i) restrictions on the use of imagery appealing to minors; (ii) labeling requirements to promote public safety, such as a universal symbol; and (iii) delivery standards, such as vehicle registration and security. The court issued an additional order addressing the CCA motion for reconsideration on November 7, 2025. At the CCA Board of Directors meeting on November 18, 2025, staff announced that the CCA is taking all necessary steps to comply with the court order.

Summary:

The amendments of this action comply with the court order by (i) repealing amendments to certifications, advertising, and labeling effective February 10, 2025, which reverts regulatory language to that effective prior to February 10, 2025, and (ii) repealing the new provisions addressing transportation that became effective February 10, 2025.

3VAC10-30-30. Requirements for practitioner issuing a certification.

A. Prior to issuing a certification for cannabis products for any diagnosed condition or disease, the practitioner shall meet the requirements of § 4.1-1601 of the Code of Virginia.

B. A practitioner issuing a certification shall:

1. Conduct an assessment and evaluation of the patient in order to ~~diagnose~~ develop a treatment plan for the patient ~~or confirm another medical provider's diagnosis. This~~, which shall include an examination of the patient and the patient's medical history, prescription history, and current medical condition;

2. ~~Develop a treatment plan for~~ Diagnose the patient;

3. Be of the opinion that the potential benefits of cannabis products would likely outweigh the health risks of such use to the qualifying patient;

4. Authorize on the written certification the use of botanical cannabis for a minor patient if the practitioner determines such use is consistent with the standard of care to dispense

botanical cannabis to a minor. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing;

5. Explain proper administration and the potential risks and benefits of the cannabis product to the qualifying patient, and if the qualifying patient lacks legal capacity, to a parent or legal guardian prior to issuing the written certification;

6. Be available or ensure that another practitioner, as defined in § 4.1-1600 of the Code of Virginia, is available to provide follow-up care and treatment to the qualifying patient, including physical examinations, to determine the efficacy of cannabis products for treating the diagnosed condition or disease;

7. Comply with generally accepted standards of medical practice, except to the extent such standards would counsel against certifying a qualifying patient for cannabis products;

8. Maintain medical records in accordance with 18VAC85-20-26 for all patients for whom the practitioner has issued a certification; and

9. Access or direct the practitioner's delegate to access the Virginia Prescription Monitoring Program of the Department of Health Professions for the purpose of determining which, if any, covered substances have been dispensed to the patient.

C. The practitioner shall use the practitioner's professional judgment to determine the manner and frequency of patient care and evaluation, which may include the use of telemedicine, provided that the use of telemedicine:

1. Includes the delivery of patient care through real-time interactive audio-visual technology;

2. Conforms to the standard of care expected for in-person care; and

3. Transmits information in a manner that protects patient confidentiality.

D. A practitioner shall not delegate the responsibility of diagnosing a patient or determining whether a patient should be issued a certification. Employees under the direct supervision of the practitioner may assist with preparing a certification, so long as the final certification is approved and signed by the practitioner before it is issued to the patient.

E. The practitioner shall provide instructions for the use of cannabis products to the patient, parent, or guardian, as applicable, and shall also securely transmit such instructions to the permitted pharmaceutical processor.

F. Upon request, a practitioner shall make a copy of medical records available to an agent of the Board of Medicine or Board of Pharmacy for the purpose of enabling the board to ensure compliance with the law and regulations or to investigate a possible violation.

~~G. If the authority determines that a practitioner has violated, attempted to violate, solicited any person to violate, or consented to any violation of this chapter, the authority may restrict that practitioner's ability to issue written certifications for patients in the future or report information to the applicable licensing board.~~

3VAC10-40-160. General provisions.

A medical cannabis facility may engage in marketing activities related to products, the medical cannabis program, the pharmaceutical processor company, and related communications, except those marketing activities that:

1. Include false or misleading statements;

2. Promote excessive consumption;

3. Depict a person younger than 21 years of age consuming cannabis;

4. Include any image designed or likely to appeal to minors, specifically including cartoons, toys, animals, ~~fruit,~~ children, or any other likeness to images, character, or phrases that are popularly used to advertise to children;

5. Depict products or product packaging or labeling that bears reasonable resemblance to any product legally available for consumption as a candy or that promotes cannabis consumption; or

6. Contain any seal, flag, crest, coat of arms, or other insignia that is likely to mislead patients or the general public to believe that the cannabis product has been endorsed, made, or used by the Commonwealth of Virginia or any of its representatives except where specifically authorized.

3VAC10-40-230. ~~Cannabis delivery and transportation general requirements.~~ (Repealed.)

~~A. Prior to transporting medical cannabis to another medical cannabis facility or offering cannabis delivery to patients, a medical cannabis facility shall submit the following items to the authority:~~

~~1. A list of the employees authorized to transport or deliver cannabis, along with a copy of each authorized employee's valid driver license; and~~

~~2. For each transport or delivery vehicle:~~

~~a. License plate number, vehicle identification number, make, and model;~~

~~b. An attestation that the vehicle is properly registered and insured;~~

~~c. A description of the locked, safe, and secure storage compartments in the vehicle; and~~

~~d. A description of the security system, form of secure communication, global positioning system (GPS)~~

monitoring device, and any other equipment or system required pursuant to 3VAC10-40-240.

B. A medical cannabis facility shall provide written notice to the authority, along with the documentation required in subsection A of this section, in the event the facility adds or removes a transport or delivery vehicle or an authorized employee.

C. No medical cannabis facility shall advertise, offer, or commence delivery or transport operations prior to receiving written approval from the authority.

3VAC10-40-240. ~~Vehicle security.~~ (Repealed.)

A. All transport or delivery vehicles shall be properly registered with the Commonwealth and be insured in the Commonwealth. Medical cannabis facilities shall maintain registration and insurance documents and provide the documents to the authority and law enforcement officials upon request.

B. A transport or delivery vehicle shall bear no marking or outward appearance, including brand or company names, that would indicate to a reasonable person that the vehicle is used to transport cannabis.

C. At all times during the transportation of cannabis, a transport or delivery vehicle shall be equipped with the following functioning features:

1. Heating and air conditioning systems sufficient for maintaining appropriate temperatures for the storage of cannabis during transport in accordance with recommendations provided by the originating medical cannabis facility to protect the quality and integrity of the cannabis;

2. A locked, safe, and secure storage compartment where cannabis will be stored during transport that (i) is a secured part of the vehicle, (ii) is not easily removed, and (iii) ensures cannabis is not visible from the outside of the vehicle;

3. A global positioning system (GPS) monitoring device that is secured to the vehicle in a manner not easily removed and able to remain powered on when the transport vehicle is not running, the information from which shall be maintained in accordance with 3VAC10-40-260;

4. A secure form of communication between the transporting agent and the transporting facility, and any originating facility if required by 3VAC10-40-260 G, at all times during the transportation of cannabis. Secure forms of communication shall include a two-way digital or analog radio, cellular telephone, and satellite telephone, taking into consideration the functionality of the communication device within the geographic area of the transport; and

5. An adequate vehicle security system to prevent adulteration, diversion, theft, and loss of cannabis, including an audible alarm system.

D. Access to transport vehicle security equipment and records shall be limited to (i) persons who are essential to security operations, (ii) law enforcement agencies, (iii) security system service employees, (iv) the authority, and (v) other persons approved by the authority. A transporting facility shall maintain a current list of all individuals who have access to any transport vehicle security equipment and records.

E. The authority may inspect a transport or delivery vehicle as well as its equipment, including security systems, forms of secure communication, and GPS monitoring devices at any time without prior notice. If the authority determines that the transport or delivery vehicle does not satisfy the requirements of this section, or that such transport or delivery vehicle requires additional security measures to address public health and safety concerns, the medical cannabis facility shall not use the transport vehicle until such time as it receives a satisfactory inspection from the authority.

3VAC10-40-250. ~~Manifests.~~ (Repealed.)

A. Prior to transporting cannabis between medical cannabis facilities or from a medical cannabis facility to a testing laboratory:

1. The originating facility shall prepare a transport manifest on a form and in a manner prescribed by the authority, itemizing all cannabis to be transported. A separate copy of the transport manifest shall be provided to the transporting employee to accompany the itemized cannabis at all times during transport.

2. The originating facility shall securely transmit a copy of the transport manifest to the receiving facility at least 24 hours prior to transport.

3. An authorized transportation employee shall review the transport manifest prepared by the originating facility and confirm that it accurately describes the type and quantity of cannabis in the transport vehicle to be transported by the transporting employee, in the aggregate and for each delivery.

B. Prior to delivering cannabis to a qualifying patient, parent, legal guardian, or registered agent:

1. The pharmaceutical processor or cannabis dispensing facility shall prepare a delivery manifest on a form and in a manner prescribed by the authority, itemizing all cannabis to be delivered. A separate copy of the delivery manifest shall be provided to the delivery employee to accompany the itemized cannabis at all times during transport.

2. The delivery employee shall review the delivery manifest prepared by the medical cannabis facility and confirm that it

~~includes sufficient identifying information for each patient, parent, legal guardian, or registered agent, including name and day and month of birth.~~

~~C. No transport vehicle shall carry any cannabis for which a manifest has not been provided, and all cannabis shall be packaged in sealed, labeled, and tamper-resistant packaging at all times.~~

3VAC10-40-260. ~~Transportation of cannabis.~~ (Repealed.)

~~A. A transporting employee shall remain with the transport vehicle at all times that the vehicle contains cannabis, provided that if there is only one transporting employee, the transporting employee may leave the vehicle, which shall be securely locked, only for:~~

~~1. Delivering or transferring cannabis to a qualifying patient, parent, legal guardian, registered agent, or medical cannabis facility;~~

~~2. Meals, when the transport lasts more than three hours round trip;~~

~~3. Rest periods required by law;~~

~~4. Refueling; or~~

~~5. Exigent circumstances, including collisions, traffic stops, mechanical breakdowns, weather emergencies, or medical emergencies.~~

~~B. A transporting employee shall carry transportation credentials at all times during the transportation of cannabis and display such credentials to the appropriate persons at the originating facility prior to each instance of transportation of cannabis, and to any law enforcement official or authorized authority representative upon request. For purposes of this section, "transportation credentials" shall mean the transporting employee's valid driver's license, a copy of the medical cannabis facility's permit, and all transport or delivery manifests for cannabis contained in the transport vehicle.~~

~~C. A transporting facility shall inspect and test all security systems, secure communications, and global positioning system (GPS) monitoring devices of each transport vehicle at least once per day of use, prior to the transport vehicle's first departure. The individual conducting the inspection on behalf of the transporting facility shall create a signed record of the inspection that includes (i) the name of the individual, (ii) the vehicle identification number of the transport vehicle, (iii) the date of inspection, and (iv) the status of all inspected systems, equipment, and devices. The transporting facility shall maintain all inspection records.~~

~~D. No transport vehicle shall transport cannabis unless every security system, form of secure communication, and GPS monitoring device is in good working order and functioning properly.~~

~~E. If any security system, form of secure communication, or GPS monitoring device fails during the transportation of cannabis, the transporting employee shall immediately notify the transporting facility and all impacted originating facilities of the specific failure and return directly to the transporting facility or originating facility. Such transport vehicle shall not resume transportation of cannabis until all systems resume full functioning capacity.~~

~~F. The transporting facility shall create a confidential delivery schedule within 24 hours of the transport and only provide the transporting employee with a copy of such confidential delivery schedule immediately prior to departure.~~

~~G. A transporting employee shall communicate with the transporting facility upon arriving at and departing from each scheduled delivery location.~~

~~H. A transporting employee shall strictly adhere to the delivery schedule provided by the transporting facility and not make any unscheduled stops. In the case of an emergency unscheduled stop, the transport vehicle shall remain securely locked, and the transporting employee shall verbally communicate with the transporting facility, describing the reason for the emergency unscheduled stop, the location and the duration of the emergency unscheduled stop, any activities of the transporting employee, and the identities and activities of any persons interacting with the transport vehicle or the transporting employee. The transporting facility shall maintain a record of any communications related to an unscheduled stop.~~

~~I. For a period of not less than 90 days, a transporting facility shall maintain a record of the GPS information of each of its transport vehicles for the entire duration of any transportation of cannabis and make such information available to the authority upon request. A transporting facility may contract with the GPS provider or similar service provider to conduct GPS monitoring, provided that any such third-party GPS monitor shall comply with all applicable state and federal laws regarding patient confidentiality.~~

~~J. A transporting employee shall return any undeliverable cannabis to the respective originating facility directly after the last scheduled delivery.~~

~~K. No cannabis shall be stored in a transport vehicle after the facility's hours of operation, and in no event longer than 24 hours, unless the vehicle is contained within an enclosed, secure part of the facility.~~

~~L. A transporting facility shall report to the authority and local law enforcement any transport vehicle accidents, transport vehicle theft, cannabis diversion, loss, or adulteration, and any other event deemed by the authority to be a reportable event in connection with the transportation of cannabis within 24 hours of such event being discovered.~~

3VAC10-40-270. ~~Delivery to qualifying patients, parents, legal guardians, and registered agents.~~ (Repealed.)

~~A. Medical cannabis facilities offering delivery shall require each qualifying patient, parent, legal guardian, or registered agent who purchases cannabis for delivery to provide the medical cannabis facility with the full legal name, date of birth, address, email address, and telephone number of the qualifying patient and, if applicable, the legal name, date of birth, and address of the parent, legal guardian, or registered agent.~~

~~B. For each delivery of cannabis to a qualifying patient, parent, legal guardian, or registered agent, a transporting employee shall confirm from a valid driver's license or other valid, government issued photographic identification that the identity of the individual accepting the cannabis delivery is the same as the individual who ordered the cannabis and confirm the qualifying patient's registration number.~~

~~C. If the identity, age, or registration of the individual accepting the cannabis delivery remains in question after presentation of the required documentation, the transporting employee shall (i) immediately alert the originating facility and (ii) return the cannabis to the originating facility directly after the last scheduled delivery.~~

~~D. Medical cannabis may only be delivered to a residence in Virginia. "Residence" means a dwelling such as a house, apartment, nursing home, or retirement center. It does not include a dormitory, hotel, motel, bed and breakfast, or other commercial business.~~

~~E. Medical cannabis may only be delivered between the hours of 6 a.m. and midnight.~~

3VAC10-40-280. ~~Delivery and transportation incident notification.~~ (Repealed.)

~~A. A pharmaceutical processor transporting or delivering medical cannabis must report any traffic stop, breakdown, collision, or unscheduled stop lasting more than two hours to the authority with 24 hours.~~

~~B. An originating facility's authorized employees shall make a good faith effort to contact the authority if exigent circumstances require removal of cannabis or cannabis products from the vehicle prior to arrival at the destination listed on the transport manifest. Authorized employees shall make a good faith effort to protect the shipment from diversion.~~

3VAC10-50-80. Dispensing of cannabis products.

A. A pharmacist in good faith may dispense cannabis products to any patient, parent, legal guardian, or registered agent as indicated on the written certification.

1. Prior to the initial dispensing of cannabis products pursuant to each written certification, the pharmacist or pharmacy technician at the location of the pharmaceutical processor or cannabis dispensing facility shall:

a. Offer patients, parents, legal guardians, and registered agents the opportunity to consult with a pharmacist regarding the use of cannabis products, including information related to safe techniques for proper use and storage of cannabis products and for disposal of the products in a manner that renders them nonrecoverable;

b. View in person or by audiovisual means a current photo identification of the patient, parent, legal guardian, or registered agent; and

c. Verify in the Virginia Prescription Monitoring Program of the Department of Health Professions or other program recognized by the board that the written certification is valid and the date and quantity of the last dispensing of cannabis products to the patient.

2. A pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make a paper or electronic copy of the current written certification that provides an exact image of the document that is clearly legible and shall maintain it on site or by electronic means for two years. The pharmaceutical processor and cannabis dispensing facility shall also provide an electronic copy of the written certification to the board.

3. Prior to any subsequent dispensing, the pharmacist or pharmacy technician shall verify that the written certification on file has not expired. An employee or delivery agent shall view a current photo identification and current registration of the patient, parent, legal guardian, or registered agent and shall maintain record of such viewing in accordance with policies and procedures of the pharmaceutical processor or cannabis dispensing facility.

B. A pharmacist may dispense a portion of a patient's 90-day supply of cannabis product. The pharmacist may dispense the remaining portion of the 90-day supply of cannabis products at any time except that no patient, parent, legal guardian, or registered agent shall receive more than a 90-day supply of cannabis products for a patient in a 90-day period from any pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. However, no more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. In determining the appropriate amount of cannabis product to be dispensed to a patient, a pharmacist shall consider all cannabis products dispensed and adjust the amount dispensed accordingly.

C. A dispensing record shall be maintained for three years from the date of dispensing, and the pharmacist or pharmacy technician under the direct supervision of the pharmacist shall affix a label to the container of cannabis product ~~according to 3VAC10-70-40.~~ that contains:

~~D.~~ 1. A serial number assigned to the dispensing of the product;

2. The cannabis product name that was registered with the board pursuant to 3VAC10-50-70 and its strength;

3. The serial number assigned to the product during production;

4. The date of dispensing the cannabis product;

5. The quantity of cannabis products dispensed;

6. A terpenes profile and a list of all active ingredients, including:

a. Tetrahydrocannabinol (THC);

b. Tetrahydrocannabinol acid (THC-A);

c. Cannabidiol (CBD); and

d. Cannabidiolic acid (CBDA);

For botanical cannabis products, only the total cannabidiol (CBD) and total tetrahydrocannabinol (THC) are required;

7. A pass rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, pesticide chemical residue analysis, and for botanical cannabis, the water activity and moisture content analysis;

8. The name of the patient;

9. The name of the certifying practitioner;

10. Directions for use as may be included in the practitioner's written certification or otherwise provided by the practitioner;

11. For botanical cannabis, the amount recommended by the practitioner or dispensing pharmacist;

12. The name or initials of the dispensing pharmacist;

13. Name, address, and telephone number of the pharmaceutical processor or cannabis dispensing facility;

14. Any necessary cautionary statement;

15. A prominently printed expiration date based on stability testing; and

16. The pharmaceutical processor's or cannabis dispensing facility's recommended conditions of use and storage that can be read and understood by the ordinary individual.

D. The label shall be exempt from containing the items listed in subdivisions C 6, C 7, and C 15 of this section if the items are included on the batch label as required in 3VAC10-70-20 and are clearly visible to the patient.

E. A pharmaceutical processor shall not label cannabis products as "organic" unless the cannabis plants have been organically grown and the cannabis oil products have been produced, processed, manufactured, and certified to be consistent with organic standards in compliance with 7 CFR Part 205.

F. The cannabis products shall be dispensed in child-resistant packaging, except as provided in 3VAC10-40-20 A. A package shall be deemed child-resistant if it satisfies the standard for "special packaging" as set forth in the Poison Prevention Packaging Act of 1970 Regulations, 16 CFR 1700.1(b)(4).

G. No person except a pharmacist or a pharmacy technician operating under the direct supervision of a pharmacist shall alter, deface, or remove any label so affixed.

H. A pharmacist shall be responsible for verifying the accuracy of the dispensed product in all respects prior to dispensing and shall document that each verification has been performed.

~~E.~~ I. A pharmacist shall document a patient's self-assessment of the effects of cannabis products in treating the patient's diagnosed condition or disease or the symptoms thereof.

~~F.~~ J. If the authorization for botanical cannabis for a minor is communicated verbally or in writing to the pharmacist at the time of dispensing, the pharmacist shall also document such authorization. A pharmaceutical processor or cannabis dispensing facility shall maintain such documentation in writing or electronically for three years from the date of dispensing and such documentation shall be made available in accordance with regulation.

~~G.~~ K. A pharmacist shall exercise professional judgment to determine whether to dispense cannabis products to a patient, parent, legal guardian, or registered agent if the pharmacist suspects that dispensing cannabis products to the patient, parent, legal guardian, or registered agent may have negative health or safety consequences for the patient or the public.

3VAC10-70-20. Labeling of batch of cannabis products.

A. ~~Each container and layer of packaging containing cannabis shall prominently display the universal symbol.~~ Cannabis products produced as a batch shall not be adulterated.

B. Cannabis products produced as a batch shall be:

~~1. Unadulterated;~~

~~2.~~ 1. Processed, packaged, and labeled according to the U.S. Food and Drug Administration's Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements (21 CFR Part 111); and

~~3.~~ 2. Labeled with:

a. The name and address of the pharmaceutical processor;

b. The cannabis product name that was registered with the board pursuant to § 4.1-1603.2 of the Code of Virginia;

~~c. A description of the product's purpose and instructions for use;~~

~~d. Child and safety warnings, as approved by the authority, in a conspicuous font;~~

~~e.~~ c. A unique serial number that matches the product with the pharmaceutical processor batch and lot number, including the cultivator and manufacturer if produced from bulk cannabis oil, botanical cannabis, or usable cannabis obtained through distribution from another pharmaceutical processor, so as to facilitate any warnings or recalls the board or pharmaceutical processor deem appropriate;

~~f.~~ d. The date of testing and packaging;

~~g.~~ e. For products produced from bulk cannabis oil, botanical cannabis, or usable cannabis obtained through distribution from another pharmaceutical processor, the name and address of the testing laboratory;

~~h.~~ f. The expiration date, which shall be 12 months or less from the date of the cannabis product registration approval, unless supported by stability testing;

~~i.~~ g. The quantity of cannabis products contained in the batch;

~~j.~~ h. A terpenes profile and a list of all active and inactive ingredients, including:

(1) Tetrahydrocannabinol (THC);

(2) Tetrahydrocannabinol acid (THC-A);

(3) Cannabidiol (CBD); and

(4) Cannabidiolic acid (CBDA);

~~k.~~ i. For botanical cannabis products, list of only total cannabidiol (CBD) and total tetrahydrocannabinol (THC);

~~l.~~ j. For cannabis oil products, pass or fail rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, and pesticide chemical residue analysis; and

~~m.~~ k. For botanical cannabis products, a pass or fail rating based on the laboratory's microbiological, mycotoxins, heavy metals, pesticide chemical residue analysis, water activity, and moisture content.

~~C. If the immediate container is too small, then an outer layer of packaging shall include the requirements of subdivision B 3 of this section and the immediate container shall include:~~

~~1. Pharmaceutical processor name, telephone number, and email or website;~~

~~2. The cannabis product name that was registered with the board pursuant to § 4.1-1603.2 of the Code of Virginia;~~

~~3. The serial number assigned to the product during production;~~

~~4. A prominently printed expiration date;~~

~~5. The quantity of cannabis products by weight, volume, or count and weight; and~~

~~6. A list of all active ingredients, including:~~

~~a. Tetrahydrocannabinol (THC);~~

~~b. Tetrahydrocannabinol acid (THC-A);~~

~~c. Cannabidiol (CBD); and~~

~~d. Cannabidiolic acid (CBDA).~~

~~D. Labels may be accordion, expandable, extendable, or layered to permit labeling of containers of any manner of size or shape.~~

~~E. Cannabis vaporizer cartridges shall bear a universal symbol no smaller than one-quarter-inch wide by one-quarter-inch high that is engraved, printed, or affixed with a sticker.~~

~~F. No pharmaceutical processor shall label cannabis products as "organic" unless the cannabis plants have been organically grown and the cannabis oil products have been produced, processed, manufactured, and certified to be consistent with organic standards in compliance with 7 CFR Part 205.~~

3VAC10-70-40. ~~Dispensing label requirements.~~ (Repealed.)

~~A. The pharmacist or pharmacy technician under the direct supervision of the pharmacist shall affix a label, in a manner provided by the board, to each cannabis product, including:~~

~~1. A serial number assigned to the dispensing of the product;~~

~~2. The cannabis product name that was registered with the board pursuant to 3VAC10-50-70 and its strength;~~

~~3. The serial number assigned to the product during production;~~

~~4. The date of dispensing the cannabis product;~~

~~5. The quantity of cannabis products dispensed;~~

~~6. A terpenes profile and a list of all active ingredients, including:~~

~~a. Tetrahydrocannabinol (THC);~~

~~b. Tetrahydrocannabinol acid (THC-A);~~

~~c. Cannabidiol (CBD); and~~

~~d. Cannabidiolic acid (CBDA);~~

~~7. A pass rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, and pesticide chemical residue analysis and, for botanical cannabis, the water activity and moisture content analysis;~~

~~8. The name of the patient;~~

~~9. The name of the certifying practitioner;~~

~~10. Directions for use as may be provided by the practitioner, on the written certification or otherwise, or the dispensing pharmacist;~~

~~11. For botanical cannabis, the amount recommended by the practitioner or dispensing pharmacist;~~

~~12. The name or initials of the dispensing pharmacist;~~

~~13. The name, address, and telephone number of the pharmaceutical processor or cannabis dispensing facility;~~

~~14. Any necessary cautionary statement;~~

~~15. A prominently printed expiration date; and~~

~~16. The recommended conditions of use and storage from the pharmaceutical processor or cannabis dispensing facility that can be read and understood by the ordinary individual.~~

~~B. The label shall be exempt from containing the items listed in subdivisions A 6, A 7, and A 15 of this section if the items are included on the batch label as required in 3VAC10-70-20 and are clearly visible to the patient.~~

~~C. No person, except a pharmacist or a pharmacy technician operating under the direct supervision of a pharmacist, shall alter, deface, or remove any label so affixed.~~

3VAC10-70-50. ~~Medical cannabis packaging requirements.~~ (Repealed.)

~~A. Packaging shall be child resistant, except as provided in 3VAC10-40-20 A, tamper resistant, and light resistant based on the following standards:~~

~~1. A package shall be deemed child resistant if it satisfies the standard for "special packaging" as set forth in the Poison Prevention Packaging Act of 1970 Regulations, 16 CFR 1700.1(b)(4). A pharmaceutical processor shall maintain a copy of the certificate showing that any packaging containing medical cannabis is child-resistant and complies with the requirements of 16 CFR 1700.15 and 16 CFR 1700.25;~~

~~2. A package shall be deemed tamper-resistant if it has one or more indicators or barriers to entry that would preclude its contents from being accessed or adulterated without indicating to a reasonable person that the package was breached; and~~

~~3. A package shall be deemed light resistant if it is entirely and uniformly opaque and protects the whole of its contents from the effects of light.~~

~~B. No packaging shall (i) bear any reasonable resemblance to a trademarked, characteristic, or product-specialized packaging of any commercially available candy, snack, baked good, or beverage or (ii) be designed in any manner to be especially appealing to persons younger than 21 years of age.~~

VA.R. Doc. No. R26-8538; Filed November 21, 2025, 3:36 p.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Virginia Cannabis Control Authority is claiming an exemption from the Administrative Process Act in accordance with § 4.1-1602 of the Code of Virginia, which exempts adoption of regulations if prior to adoption, a notice of opportunity to comment is published in the Virginia Register of Regulations and posted on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment.

Titles of Regulations: **3VAC10-30. Applications, Licenses, Permits, and Registrations (amending 3VAC10-30-30).**

3VAC10-40. Regulated Operations (amending 3VAC10-40-160; adding 3VAC10-40-235 through 3VAC10-40-285).

3VAC10-50. Cannabis Products (amending 3VAC10-50-80).

3VAC10-70. Labeling and Packaging (amending 3VAC10-70-20; adding 3VAC10-70-45, 3VAC10-70-55).

Statutory Authority:

Sections of 3VAC10-30 and 3VAC10-70: §§ 4.1-601, 4.1-604, and 4.1-606 of the Code of Virginia.

Sections of 3VAC10-40 and 3VAC10-50: §§ 4.1-601, 4.1-604, 4.1-606, and 4.1-1602 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: February 14, 2026.

Agency Contact: Jake Shuford, Legislative and Regulatory Manager, Virginia Cannabis Control Authority, 9954 Mayland Drive, Richmond, VA 23233, telephone (804) 873-9038, or email jake.shuford@cca.virginia.gov.

Background: In 2024, the Virginia Cannabis Control Authority (CCA) Board of Directors adopted amendments to the medical cannabis program regulations to incorporate industry best practices for safety and accountability that became effective on February 10, 2025. On October 10, 2025, a circuit court ordered the CCA to void certain amendments and enforce prior regulatory language until the CCA adopts replacement requirements. The CCA subsequently initiated a regulatory action to repeal the voided amendments from February 10, 2025. That action is set to become effective January 14, 2026. Now, the CCA is once again promulgating the safety and accountability regulations adopted by the board in 2024, but these include modifications to comply with the circuit court order. CCA is complying with requirements as outlined in § 4.1-1602 Q of the Code of Virginia by publishing these proposed amendments in the Register of Regulations, accepting public comments, and considering public comments prior to publishing a final regulation.

Summary:

The proposed amendments include (i) restrictions on the use of imagery appealing to minors, such as cartoons, candy, and toys; (ii) labeling requirements, including a universal symbol on product packaging; and (iii) delivery standards such as vehicle inspections, GPS tracking, and incident and accident protocols. For clarity, the proposed amendments are published using the regulatory text that will become effective January 14, 2025.

3VAC10-30-30. Requirements for practitioner issuing a certification.

A. Prior to issuing a certification for cannabis products for any diagnosed condition or disease, the practitioner shall meet the requirements of § 4.1-1601 of the Code of Virginia.

B. A practitioner issuing a certification shall:

1. Conduct an assessment and evaluation of the patient in order to ~~develop a treatment plan for~~ diagnose the patient ~~which~~ or confirm another medical provider's diagnosis. This shall include an examination of the patient and the patient's medical history, prescription history, and current medical condition;

2. ~~Diagnose~~ Develop a treatment plan for the patient;

3. Be of the opinion that the potential benefits of cannabis products would likely outweigh the health risks of such use to the qualifying patient;

4. Authorize on the written certification the use of botanical cannabis for a minor patient if the practitioner determines such use is consistent with the standard of care to dispense botanical cannabis to a minor. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing;

5. Explain proper administration and the potential risks and benefits of the cannabis product to the qualifying patient, and if the qualifying patient lacks legal capacity, to a parent or legal guardian prior to issuing the written certification;

6. Be available or ensure that another practitioner, as defined in § 4.1-1600 of the Code of Virginia, is available to provide follow-up care and treatment to the qualifying patient, including physical examinations, to determine the efficacy of cannabis products for treating the diagnosed condition or disease;

7. Comply with generally accepted standards of medical practice, except to the extent such standards would counsel against certifying a qualifying patient for cannabis products;

8. Maintain medical records in accordance with 18VAC85-20-26 for all patients for whom the practitioner has issued a certification; and

9. Access or direct the practitioner's delegate to access the Virginia Prescription Monitoring Program of the Department of Health Professions for the purpose of determining which, if any, covered substances have been dispensed to the patient.

C. The practitioner shall use the practitioner's professional judgment to determine the manner and frequency of patient care and evaluation, which may include the use of telemedicine, provided that the use of telemedicine:

1. Includes the delivery of patient care through real-time interactive audio-visual technology;

2. Conforms to the standard of care expected for in-person care; and

3. Transmits information in a manner that protects patient confidentiality.

D. A practitioner shall not delegate the responsibility of diagnosing a patient or determining whether a patient should be issued a certification. Employees under the direct supervision of the practitioner may assist with preparing a certification, so long as the final certification is approved and signed by the practitioner before it is issued to the patient.

E. The practitioner shall provide instructions for the use of cannabis products to the patient, parent, or guardian, as applicable~~, and shall also securely transmit such instructions to the permitted pharmaceutical processor~~.

F. Upon request, a practitioner shall make a copy of medical records available to an agent of the Board of Medicine or Board of Pharmacy for the purpose of enabling the board to ensure compliance with the law and regulations or to investigate a possible violation.

G. If the authority determines that a practitioner has violated, attempted to violate, solicited any person to violate, or consented to any violation of this chapter, the authority may restrict that practitioner's ability to issue written certifications for patients in the future or report information to the applicable licensing board.

3VAC10-40-160. General provisions.

A medical cannabis facility may engage in marketing activities related to products, the medical cannabis program, the pharmaceutical processor company, and related communications, except those marketing activities that:

1. Include false or misleading statements;

2. Promote excessive consumption;

3. Depict a person younger than 21 years of age consuming cannabis;

4. ~~Include any image designed or likely to appeal~~ Appeal to minors, ~~specifically~~ including ~~cartoons, toys, animals, children, or any other likeness to images, character, or~~

~~phrases that are popularly used to advertise to children; 5. Depict products or product packaging or~~ labeling ~~that bears reasonable resemblance to any product legally available for consumption as a candy or that promotes cannabis consumption; or 6.~~ , packaging, advertising, or marketing that is pleasing or appealing to, or targets, individuals younger than 21 years of age by using or including, among other things:

a. Cartoons or mascots;

b. Bubble-type or other cartoon-like font;

c. Similarities to products, or words that refer to products that are commonly associated with, or marketed in a manner so as to be attractive to, individuals younger than 21 years of age, including any imitation of food, candy, soda, drinks, cookies, or cereal (with the exception of using the name of a cultivar), in labeling, packaging, advertising, or marketing;

d. Terms "candy" or "candies" or variants in spelling such as "kandy" or "kandeez" (with the exception of cultivar names);

e. Symbols, images, characters, public figures, phrases, toys, or games that are commonly used to market products to individuals younger than 21 years of age; or

f. Audio that may be attractive to individuals younger than 21 years of age, including audio using children's voices or cartoon voices.

5. Contain any seal, flag, crest, coat of arms, or other insignia that is likely to mislead patients or the general public to believe that the cannabis product has been endorsed, made, or used by the Commonwealth of Virginia or any of its representatives except where specifically authorized.

3VAC10-40-235. Cannabis delivery and transportation general requirements.

A. Prior to transporting medical cannabis to another medical cannabis facility or offering cannabis delivery to patients, a medical cannabis facility shall submit the following items to the authority:

1. A list of the employees or delivery agents authorized to transport or deliver cannabis, along with a copy of each authorized employee or delivery agent's valid driver license; and

2. For each transport or delivery vehicle:

a. License plate number, vehicle identification number, make, and model;

b. An attestation that the vehicle is properly registered and insured;

c. A description of the locked, safe, and secure storage compartments in the vehicle; and

d. A description of the security system, form of secure communication, global positioning system (GPS) monitoring device, and any other equipment or system required pursuant to 3VAC10-40-245.

B. A medical cannabis facility shall provide written notice to the authority, along with the documentation required in subsection A of this section, in the event the facility adds or removes a transport or delivery vehicle or an authorized employee or delivery agent.

C. No medical cannabis facility shall advertise, offer, or commence delivery or transport operations prior to receiving written approval from the authority.

D. The board may suspend or revoke the privileges of any employee or delivery agent to transport or deliver usable cannabis, cannabis oil, or cannabis products for failure of such employee or delivery agent to comply with board regulations.

3VAC10-40-245. Vehicle security.

A. All transport or delivery vehicles shall be properly registered with the Commonwealth and be insured in the Commonwealth. Medical cannabis facilities shall maintain registration and insurance documents and provide the documents to the authority and law-enforcement officials upon request.

B. A transport or delivery vehicle shall bear no marking or outward appearance, including brand or company names, that would indicate to a reasonable person that the vehicle is used to transport cannabis.

C. At all times during the transportation of cannabis, a transport or delivery vehicle shall be equipped with the following functioning features:

1. Heating and air conditioning systems sufficient for maintaining appropriate temperatures for the storage of cannabis during transport in accordance with recommendations provided by the originating medical cannabis facility to protect the quality and integrity of the cannabis;

2. A locked, safe, and secure storage compartment where cannabis will be stored during transport that is (i) a secured part of the vehicle, (ii) not easily removed, and (iii) ensures cannabis is not visible from the outside of the vehicle;

3. A GPS monitoring device that is secured to the vehicle in a manner not easily removed and able to remain powered on when the transport vehicle is not running, the information from which shall be maintained in accordance with 3VAC10-40-265;

4. A secure form of communication between the transporting agent and the transporting facility, and any originating facility if required by 3VAC10-40-265 G, at all times during the transportation of cannabis. Secure forms of communication shall include a two-way digital or analog radio, cellular phone, and satellite phone, taking into

consideration the functionality of the communication device within the geographic area of the transport; and

5. An adequate vehicle security system to prevent adulteration, diversion, theft, and loss of cannabis, including an audible alarm system.

D. Access to transport vehicle security equipment and records shall be limited to persons that are (i) essential to security operations, (ii) law-enforcement agencies, (iii) security system service employees, (iv) the authority, and (v) other persons approved by the authority. A transporting facility shall maintain a current list of all individuals that have access to any transport vehicle security equipment and records.

E. The authority may inspect a transport or delivery vehicle, as well as its equipment, including security systems, forms of secure communication, and GPS monitoring devices at any time without prior notice. If the authority determines that the transport or delivery vehicle does not satisfy the requirements of this section, or that such transport or delivery vehicle requires additional security measures to address public health and safety concerns, the medical cannabis facility shall not use the transport vehicle until such time as it receives a satisfactory inspection from the authority.

3VAC10-40-255. Manifests.

A. Prior to transporting cannabis between medical cannabis facilities or from a medical cannabis facility to a testing laboratory:

1. The originating facility shall prepare a transport manifest on a form and in a manner prescribed by the authority, itemizing all cannabis to be transported. A separate copy of the transport manifest shall be provided to the transporting employee to accompany the itemized cannabis at all times during transport.

2. The originating facility shall securely transmit a copy of the transport manifest to the receiving facility at least 24 hours prior to transport.

3. An authorized transportation employee or delivery agent shall review the transport manifest prepared by the originating facility and confirm that it accurately describes the type and quantity of cannabis in the transport vehicle to be transported by the transporting employee or delivery agent, in the aggregate and for each delivery.

B. Prior to delivering cannabis to a qualifying patient, parent, legal guardian, or registered agent:

1. The pharmaceutical processor or cannabis dispensing facility shall prepare a delivery manifest on a form and in a manner prescribed by the authority, itemizing all cannabis to be delivered. A separate copy of the delivery manifest shall be provided to the delivery employee or agent to accompany the itemized cannabis at all times during transport.

2. The delivery employee or agent shall review the delivery manifest prepared by the medical cannabis facility and confirm that it includes sufficient identifying information for each patient, parent, legal guardian, or registered agent, including name, day and month of birth.

C. A transport vehicle shall not carry any cannabis for which a manifest has not been provided, and all cannabis shall be packaged in sealed, labeled, and tamper-resistant packaging at all times.

3VAC10-40-265. Transportation of cannabis.

A. A transporting employee or delivery agent shall remain with the transport vehicle at all times that the vehicle contains cannabis, provided that if there is only one transporting employee or delivery agent, the transporting employee or delivery agent may leave the vehicle, which shall be securely locked, only for:

1. Delivering or transferring cannabis to a qualifying patient, parent, legal guardian, registered agent, or medical cannabis facility;

2. Meals, when the transport lasts more than three hours round trip;

3. Rest periods required by law;

4. Refueling; or

5. Exigent circumstances, including collisions, traffic stops, mechanical breakdowns, weather emergencies, or medical emergencies.

B. A transporting employee or delivery agent shall carry transportation credentials at all times during the transportation of cannabis and display such credentials to the appropriate persons at the originating facility prior to each instance of transportation of cannabis, and to any law-enforcement official or authorized authority representative upon request. For purposes of this section, "transportation credentials" shall mean the transporting employee or delivery agent's valid driver's license, a copy of the medical cannabis facility's permit, and all transport or delivery manifests for cannabis contained in the transport vehicle.

C. A transporting facility shall inspect and test all security systems, secure communications, and global positioning system (GPS) monitoring devices of each transport vehicle at least once per day of use, prior to the transport vehicle's first departure. The individual conducting the inspection on behalf of the transporting facility shall create a signed record of the inspection that includes (i) the name of the individual; (ii) the vehicle identification number of the transport vehicle; (iii) the date of inspection; and (iv) the status of all inspected systems, equipment, and devices. The transporting facility shall maintain all inspection records.

D. A transport vehicle shall not transport cannabis unless every security system, form of secure communication, and

GPS monitoring device is in good working order and functioning properly.

E. If any security system, form of secure communication, or GPS monitoring device fails during the transportation of cannabis, the transporting employee or delivery agent shall immediately notify the transporting facility and all impacted originating facilities of the specific failure and return directly to the transporting facility or originating facility. Such transport vehicle shall not resume transportation of cannabis until all systems resume full functioning capacity.

F. The transporting facility shall create a confidential delivery schedule within 24 hours of the transport and only provide the transporting employee or delivery agent with a copy of such confidential delivery schedule immediately prior to departure.

G. A transporting employee or delivery agent shall communicate with the transporting facility upon arriving at and departing from each scheduled delivery location.

H. A transporting employee or delivery agent shall strictly adhere to the delivery schedule provided by the transporting facility and not make any unscheduled stops. In the case of an emergency unscheduled stop, the transport vehicle shall remain securely locked, and the transporting employee or delivery agent shall verbally communicate with the transporting facility, describing the reason for the emergency unscheduled stop, the location and the duration of the emergency unscheduled stop, as well as any activities of the transporting employee or delivery agent, and the identities and activities of any persons interacting with the transport vehicle or the transporting employee or delivery agent. The transporting facility shall maintain a record of any communications related to an unscheduled stop.

I. For a period of not less than 90 days, a transporting facility shall maintain a record of the GPS information of each of its transport vehicles for the entire duration of any transportation of cannabis and make such information available to the authority upon request. A transporting facility may contract with the GPS provider or similar service provider to conduct GPS monitoring, provided that any such third-party GPS monitor shall comply with all applicable state and federal laws regarding patient confidentiality.

J. A transporting employee or delivery agent shall return any undeliverable cannabis to the respective originating facility directly after the last scheduled delivery.

K. No cannabis shall be stored in a transport vehicle after the facility's hours of operation, and in no event longer than 24 hours, unless the vehicle is contained within an enclosed, secure part of the facility.

L. A transporting facility shall report to the authority and local law enforcement any transport vehicle accidents, transport vehicle theft, cannabis diversion, loss, or adulteration and any other event deemed by the authority to be a reportable event in connection with the transportation of cannabis within 24 hours of such event being discovered.

3VAC10-40-275. Delivery to qualifying patients, parents, legal guardians, and registered agents.

A. Medical cannabis facilities offering delivery shall require each qualifying patient, parent, legal guardian, or registered agent that purchases cannabis for delivery to provide the medical cannabis facility with the full legal name, date of birth, address, email address, and telephone number of the qualifying patient, and, if applicable the legal name, date of birth, and address of the parent, legal guardian, or registered agent.

B. For each delivery of cannabis to a qualifying patient, parent, legal guardian, or registered agent, a transporting employee or delivery agent shall confirm from a valid driver's license or other valid, government-issued photographic identification, that the identity of the individual accepting the cannabis delivery is the same as the individual who ordered the cannabis and confirm the qualifying patient's registration number.

C. If the identity, age, or registration of the individual accepting the cannabis delivery remains in question after presentation of the required documentation, the transporting employee or delivery agent shall (i) immediately alert the originating facility and (ii) return the cannabis to the originating facility directly after the last scheduled delivery.

D. Medical cannabis may only be delivered to a residence in Virginia. "Residence" means a dwelling, such as a house, apartment, nursing home, or retirement center. It does not include a dormitory, hotel, motel, bed and breakfast, or other commercial business.

E. Medical cannabis may only be delivered between the hours of 6 a.m. and midnight.

3VAC10-40-285. Delivery and transportation incident notification.

A. A pharmaceutical processor transporting or delivering medical cannabis must report any traffic stop, breakdown, collision, or unscheduled stop lasting more than two hours to the authority with 24 hours.

B. An originating facility's authorized employees shall make a good faith effort to contact the authority if exigent circumstances require removal of cannabis or cannabis products from the vehicle prior to arrival at the destination listed on the transport manifest. Authorized employees and delivery agents shall make a good faith effort to protect the shipment from diversion.

3VAC10-50-80. Dispensing of cannabis products.

A. A pharmacist in good faith may dispense cannabis products to any patient, parent, legal guardian, or registered agent as indicated on the written certification.

1. Prior to the initial dispensing of cannabis products pursuant to each written certification, the pharmacist or

pharmacy technician at the location of the pharmaceutical processor or cannabis dispensing facility shall:

a. Offer patients, parents, legal guardians, and registered agents the opportunity to consult with a pharmacist regarding the use of cannabis products, including information related to safe techniques for proper use and storage of cannabis products and for disposal of the products in a manner that renders them nonrecoverable;

b. View in person or by audiovisual means a current photo identification of the patient, parent, legal guardian, or registered agent; and

c. Verify in the Virginia Prescription Monitoring Program of the Department of Health Professions or other program recognized by the board that the written certification is valid and the date and quantity of the last dispensing of cannabis products to the patient.

2. A pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make a paper or electronic copy of the current written certification that provides an exact image of the document that is clearly legible and shall maintain it on site or by electronic means for two years. The pharmaceutical processor and cannabis dispensing facility shall also provide an electronic copy of the written certification to the board.

3. Prior to any subsequent dispensing, the pharmacist or pharmacy technician shall verify that the written certification on file has not expired. An employee or delivery agent shall view a current photo identification and current registration of the patient, parent, legal guardian, or registered agent and shall maintain record of such viewing in accordance with policies and procedures of the pharmaceutical processor or cannabis dispensing facility.

B. A pharmacist may dispense a portion of a patient's 90-day supply of cannabis product. The pharmacist may dispense the remaining portion of the 90-day supply of cannabis products at any time except that no patient, parent, legal guardian, or registered agent shall receive more than a 90-day supply of cannabis products for a patient in a 90-day period from any pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. However, no more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. In determining the appropriate amount of cannabis product to be dispensed to a patient, a pharmacist shall consider all cannabis products dispensed and adjust the amount dispensed accordingly.

C. A dispensing record shall be maintained for three years from the date of dispensing, and the pharmacist or pharmacy technician under the direct supervision of the pharmacist shall affix a label that conforms to the requirements of 3VAC10-70-45 to the container of cannabis product ~~that contains:~~.

~~1. A serial number assigned to the dispensing of the product;~~

~~2. The cannabis product name that was registered with the board pursuant to 3VAC10-50-70 and its strength;~~

~~3. The serial number assigned to the product during production;~~

~~4. The date of dispensing the cannabis product;~~

~~5. The quantity of cannabis products dispensed;~~

~~6. A terpenes profile and a list of all active ingredients, including:~~

~~a. Tetrahydrocannabinol (THC);~~

~~b. Tetrahydrocannabinol acid (THC-A);~~

~~c. Cannabidiol (CBD); and~~

~~d. Cannabidiolic acid (CBDA);~~

~~For botanical cannabis products, only the total cannabidiol (CBD) and total tetrahydrocannabinol (THC) are required;~~

~~7. A pass rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, pesticide chemical residue analysis, and for botanical cannabis, the water activity and moisture content analysis;~~

~~8. The name of the patient;~~

~~9. The name of the certifying practitioner;~~

~~10. Directions for use as may be included in the practitioner's written certification or otherwise provided by the practitioner;~~

~~11. For botanical cannabis, the amount recommended by the practitioner or dispensing pharmacist;~~

~~12. The name or initials of the dispensing pharmacist;~~

~~13. Name, address, and telephone number of the pharmaceutical processor or cannabis dispensing facility;~~

~~14. Any necessary cautionary statement;~~

~~15. A prominently printed expiration date based on stability testing; and~~

~~16. The pharmaceutical processor's or cannabis dispensing facility's recommended conditions of use and storage that can be read and understood by the ordinary individual.~~

~~D. The label shall be exempt from containing the items listed in subdivisions C 6, C 7, and C 15 of this section if the items are included on the batch label as required in 3VAC10-70-20 and are clearly visible to the patient.~~

~~E. A pharmaceutical processor shall not label cannabis products as "organic" unless the cannabis plants have been organically grown and the cannabis oil products have been produced, processed, manufactured, and certified to be consistent with organic standards in compliance with 7 CFR Part 205.~~

~~F. The cannabis products shall be dispensed in child-resistant packaging, except as provided in 3VAC10-40-20 A. A package shall be deemed child-resistant if it satisfies the standard for "special packaging" as set forth in the Poison Prevention Packaging Act of 1970 Regulations, 16 CFR 1700.1(b)(4).~~

~~G. No person except a pharmacist or a pharmacy technician operating under the direct supervision of a pharmacist shall alter, deface, or remove any label so affixed.~~

~~H.~~ D. A pharmacist shall be responsible for verifying the accuracy of the dispensed product in all respects prior to dispensing and shall document that each verification has been performed.

~~I.~~ E. A pharmacist shall document a patient's self-assessment of the effects of cannabis products in treating the patient's diagnosed condition or disease or the symptoms thereof.

~~J.~~ F. If the authorization for botanical cannabis for a minor is communicated verbally or in writing to the pharmacist at the time of dispensing, the pharmacist shall also document such authorization. A pharmaceutical processor or cannabis dispensing facility shall maintain such documentation in writing or electronically for three years from the date of dispensing and such documentation shall be made available in accordance with regulation.

~~K.~~ G. A pharmacist shall exercise professional judgment to determine whether to dispense cannabis products to a patient, parent, legal guardian, or registered agent if the pharmacist suspects that dispensing cannabis products to the patient, parent, legal guardian, or registered agent may have negative health or safety consequences for the patient or the public.

3VAC10-70-20. Labeling of ~~batch of~~ cannabis products.

A. ~~Cannabis products produced as a batch~~ Each container and layer of packaging containing cannabis shall ~~not be adulterated~~ prominently display the universal symbol.

B. Cannabis products produced as a batch shall be:

1. Unadulterated;

2. Processed, packaged, and labeled according to the U.S. Food and Drug Administration's Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements (21 CFR Part 111); and

~~2.~~ 3. Labeled with:

a. The name and address of the pharmaceutical processor;

b. The cannabis product name that was registered with the board pursuant to § 4.1-1603.2 of the Code of Virginia;

c. A description of the product's purpose and instructions for use;

d. Child and safety warnings, as approved by the authority, in a conspicuous font;

e. A unique serial number that matches the product with the pharmaceutical processor batch and lot number, including the cultivator and manufacturer if produced from bulk cannabis oil, botanical cannabis, or usable cannabis obtained through distribution from another pharmaceutical processor, so as to facilitate any warnings or recalls the board or pharmaceutical processor deem appropriate;

~~d.~~ f. The date of testing and packaging;

~~e.~~ g. For products produced from bulk cannabis oil, botanical cannabis, or usable cannabis obtained through distribution from another pharmaceutical processor, the name and address of the testing laboratory;

~~f.~~ h. The expiration date, which shall be 12 months or less from the date of the cannabis product registration approval, unless supported by stability testing;

~~g.~~ i. The quantity of cannabis products contained in the batch;

~~h.~~ j. A terpenes profile and a list of all active and inactive ingredients, including:

(1) Tetrahydrocannabinol (THC);

(2) Tetrahydrocannabinol acid (THC-A);

(3) Cannabidiol (CBD); and

(4) Cannabidiolic acid (CBDA);

~~i.~~ k. For botanical cannabis products, list of only total cannabidiol (CBD) and total tetrahydrocannabinol (THC);

~~j.~~ l. For cannabis oil products, pass or fail rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, and pesticide chemical residue analysis; and

~~k.~~ m. For botanical cannabis products, a pass or fail rating based on the laboratory's microbiological, mycotoxins, heavy metals, pesticide chemical residue analysis, water activity, and moisture content.

C. If the immediate container is too small, then an outer layer of packaging shall include the requirements of subdivision B 3 of this section and the immediate container shall include:

1. Pharmaceutical processor name, telephone number, and email or website;

2. The cannabis product name that was registered with the board pursuant to § 4.1-1603.2 of the Code of Virginia;

3. The serial number assigned to the product during production;

4. A prominently printed expiration date;

5. The quantity of cannabis products by weight, volume, or count and weight; and

6. A list of all active ingredients, including:

a. Tetrahydrocannabinol (THC);

b. Tetrahydrocannabinol acid (THC-A);

c. Cannabidiol (CBD); and

d. Cannabidiolic acid (CBDA).

D. Labels may be accordion, expandable, extendable, or layered to permit labeling of containers of any manner of size or shape.

E. Cannabis vaporizer cartridges shall bear a universal symbol no smaller than 1/4-inch wide by 1/4-inch high that is engraved, printed, or affixed with a sticker.

F. No pharmaceutical processor shall label cannabis products as "organic" unless the cannabis plants have been organically grown and the cannabis oil products have been produced, processed, manufactured, and certified to be consistent with organic standards in compliance with 7 CFR Part 205.

3VAC10-70-45. Dispensing label requirements.

A. The pharmacist or pharmacy technician under the direct supervision of the pharmacist shall affix a label, in a manner provided by the board, to each cannabis product that includes:

1. A serial number assigned to the dispensing of the product;

2. The cannabis product name that was registered with the board pursuant to 3VAC10-50-70 and its strength;

3. The serial number assigned to the product during production;

4. The date of dispensing the cannabis product;

5. The quantity of cannabis products dispensed;

6. A terpenes profile and a list of all active ingredients, including:

a. Tetrahydrocannabinol (THC);

b. Tetrahydrocannabinol acid (THC-A);

c. Cannabidiol (CBD); and

d. Cannabidiolic acid (CBDA);

7. A pass rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, pesticide chemical residue analysis, and for botanical cannabis, the water activity and moisture content analysis;

8. The name of the patient;

9. The name of the certifying practitioner;

10. Directions for use as may be provided by the practitioner, on the written certification or otherwise, or the dispensing pharmacist;

11. For botanical cannabis, the amount recommended by the practitioner or dispensing pharmacist;

12. The name or initials of the dispensing pharmacist;

13. Name, address, and telephone number of the pharmaceutical processor or cannabis dispensing facility;

14. Any necessary cautionary statement;

15. A prominently printed expiration date; and

16. The recommended conditions of use and storage from the pharmaceutical processor's or cannabis dispensing facility that can be read and understood by the ordinary individual.

B. The label shall be exempt from containing the items listed in subdivisions A 6, A 7, and A 15 of this section if the items are included on the batch label as required in 3VAC10-70-20 and are clearly visible to the patient.

C. No person except a pharmacist or a pharmacy technician operating under the direct supervision of a pharmacist shall alter, deface, or remove any label so affixed.

3VAC10-70-55. Medical cannabis packaging requirements.

A. Packaging shall be child-resistant except as provided in 3VAC10-40-20 A, tamper-resistant, and light-resistant based on the following standards:

1. A package shall be deemed child-resistant if it satisfies the standard for "special packaging" as set forth in the Poison Prevention Packaging Act of 1970 Regulations, 16 CFR 1700.1(b)(4). A pharmaceutical processor shall maintain a copy of the certificate showing that any packaging containing medical cannabis is child-resistant and complies with the requirements of 16 C.F.R. 1700.15 and 16 C.F.R. 1700.25.

2. A package shall be deemed tamper-resistant if it has one or more indicators or barriers to entry that would preclude its contents from being accessed or adulterated without indicating to a reasonable person that the package was breached; and

3. A package shall be deemed light-resistant if it is entirely and uniformly opaque and protects the whole of its contents from the effects of light.

B. Packaging shall not (i) bear any reasonable resemblance to a trademarked, characteristic, or product-specialized packaging of any commercially available candy, snack, baked good, or beverage, or (ii) be designed in any manner to be especially appealing to persons younger than 21 years of age.

VA.R. Doc. No. R26-8539; Filed November 21, 2025, 4:44 p.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Final Regulation

Title of Regulation: **4VAC50-20. Impounding Structure Regulations (amending 4VAC50-20-30, 4VAC50-20-40, 4VAC50-20-53, 4VAC50-20-54, 4VAC50-20-58, 4VAC50-20-70, 4VAC50-20-105, 4VAC50-20-150, 4VAC50-20-170, 4VAC50-20-177, 4VAC50-20-200, 4VAC50-20-350, 4VAC50-20-360, 4VAC50-20-375, 4VAC50-20-380; adding 4VAC50-20-500 through 4VAC50-20-508; repealing 4VAC50-20-51, 4VAC50-20-90 through 4VAC50-20-104).**

Statutory Authority: § 10.1-605 of the Code of Virginia.

Effective Date: January 14, 2026.

Agency Contact: Lisa McGee, Policy and Planning Director, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219, telephone (804) 786-4378, fax (804) 786-6141, or email lisa.mcgee@dcr.virginia.gov.

Summary:

As a result of periodic review, the amendments (i) fully incorporate the use of a general permit for low hazard dams in the regulation, (ii) clarify the existing requirements for the general permit to ensure the requirements accurately reflect statute, (iii) refine the processes related to administering the general permit, and (iv) simplify the emergency preparedness plan criteria.

Changes to the proposed regulation include (i) adding a definition of routine maintenance to address a comment received during the public commen period; (ii) adding technical corrections to the definition of impounding structure to reflect the recodification of Title 45.1 to Title 45.2 of the Code of Virginia; (iii) allowing for submission of the limits of a dam break inundation zone in an acceptable electronic format; (iv) repealing 4VAC50-20-51 and consolidating its provisions into another section; and (v) updating 4VAC50-20-50 to reflect statutory revisions regarding the requirements for a general permit for low hazard dams.

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

4VAC50-20-30. Definitions.

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

"Acre-foot" means a unit of volume equal to 43,560 cubic feet or 325,853 gallons (equivalent to one foot of depth over one acre of area).

"Agricultural purpose" means the production of an agricultural commodity as defined in § 3.2-3900 of the Code of Virginia that requires the use of impounded waters.

"Agricultural purpose dams" means impounding structures ~~which~~ that are less than 25 feet in height or ~~which~~ that create a maximum impoundment smaller than 100 acre-feet, and operated primarily for agricultural purposes.

"Alteration" means changes to an impounding structure that could alter or affect its structural integrity. Alterations include~~, but are not limited to,~~ changing the height or otherwise enlarging the dam, increasing normal pool or principal spillway elevation or physical dimensions, changing the elevation or physical dimensions of the emergency spillway, conducting necessary structural repairs or structural maintenance, or removing the impounding structure. Structural maintenance does not include routine maintenance.

"Alteration permit" means a permit required for any alteration to an impounding structure.

"Annual average daily traffic" or "AADT" means the total volume of vehicle traffic of a highway or road for a year divided by 365 days and is a measure used in transportation planning and transportation engineering of how busy a road is.

"Board" means the Virginia Soil and Water Conservation Board.

"Conditional general permit" means the permit established pursuant to § 10.1-605.3 of the Code of Virginia that is required for the operation and maintenance of a low hazard potential impounding structure with deficiencies.

"Conditional Operation and Maintenance Certificate" means a certificate required for high or significant hazard potential impounding structures with deficiencies.

"Construction" means the construction of a new impounding structure.

"Construction ~~permit~~ Permit" means a permit required for the construction of a new impounding structure.

"Dam break inundation zone" means the area downstream of a dam that would be inundated or otherwise directly affected by the failure of a dam.

"Dam Safety Act" means Article 2 (§ 10.1-604 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"Department" means the Virginia Department of Conservation and Recreation.

"Design flood" means the calculated volume of runoff and the resulting peak discharge utilized in the evaluation, design,

construction, operation, and maintenance of the impounding structure.

"Director" means the Director of the Department of Conservation and Recreation or ~~his~~ the director's designee.

"Drill" means a type of emergency action plan exercise that tests, develops, or maintains skills in an emergency response procedure. During a drill, participants perform an in-house exercise to verify telephone numbers and other means of communication along with the owner's response. A drill is considered a necessary part of ongoing training.

"Emergency Action Plan" or "EAP" means a formal document that recognizes potential impounding structure emergency conditions and specifies preplanned actions to be followed to minimize loss of life and property damage. The EAP specifies actions the owner must take to minimize or alleviate emergency conditions at the impounding structure. It contains procedures and information to assist the owner in issuing early warning and notification messages to responsible emergency management authorities. It ~~shall~~ also ~~contain~~ contains [~~dam break inundation zone maps as required to show emergency management authorities the critical areas for action in case of emergency~~ the results of inundation analyses conducted pursuant to 4VAC50-20-54] .

"Emergency Action Plan Exercise" means an activity designed to promote emergency preparedness; test or evaluate EAPs, procedures, or facilities; train personnel in emergency management duties; and demonstrate operational capability. In response to a simulated event, exercises should consist of the performance of duties, tasks, or operations very similar to the way they would be performed in a real emergency. An exercise may include ~~but not be limited to~~ drills and tabletop exercises.

"Emergency Preparedness Plan" means a formal document prepared for ~~Low Hazard~~ low hazard impounding structures that provides [~~maps and~~] procedures for notifying owners of downstream property that may be impacted by an emergency situation at an impounding structure.

"Existing impounding structure" means any impounding structure in existence or under a ~~construction permit~~ Construction Permit prior to July 1, 2010.

"Freeboard" means the vertical distance between the maximum water surface elevation associated with the spillway design flood and the top of the impounding structure.

"General permit" means the permit established pursuant to § 10.1-605.3 of the Code of Virginia that is required for the operation and maintenance of a low hazard potential impounding structure.

"Height" means the hydraulic height of an impounding structure. If the impounding structure spans a stream or watercourse, height means the vertical distance from the natural bed of the stream or watercourse measured at the downstream toe of the impounding structure to the top of the impounding structure. If the impounding structure does not span a stream or watercourse, height means the vertical distance from the lowest elevation of the downstream limit of the barrier to the top of the impounding structure.

"Impounding structure" or "dam" means a man-made structure, whether a dam across a watercourse or structure outside a watercourse, used or to be used to retain or store waters or other materials. The term includes~~:~~ (i) all dams that are 25 feet or greater in height and that create an impoundment capacity of 15 acre-feet or greater~~,~~ and (ii) all dams that are six feet or greater in height and that create an impoundment capacity of 50 acre-feet or greater. The term "impounding structure" ~~shall~~ does not include~~:~~ (a) dams licensed by the State Corporation Commission that are subject to a safety inspection program; (b) dams owned or licensed by the United States government; (c) dams operated primarily for agricultural purposes ~~which~~ that are less than 25 feet in height or ~~which~~ that create a maximum impoundment capacity smaller than 100 acre-feet; (d) water or silt retaining dams approved pursuant to § [~~45.1-222 or 45.1-225.1~~ 45.2-618 or 45.2-1301] of the Code of Virginia; or (e) obstructions in a canal used to raise or lower water.

"Impoundment" means a body of water or other materials the storage of which is caused by any impounding structure.

"Life of the impounding structure" and "life of the project" mean that period of time for which the impounding structure is designed and planned to perform effectively, including the time required to remove the structure when it is no longer capable of functioning as planned and designed.

"Maximum impounding capacity" means the volume of water or other materials in acre-feet that is capable of being impounded at the top of the impounding structure.

"New construction" means any impounding structure issued a construction permit or otherwise constructed on or after July 1, 2010.

"Normal or typical water surface elevation" means the water surface elevation at the crest of the lowest ungated outlet from the impoundment or the elevation of the normal pool of the impoundment if different than the water surface elevation at the crest of the lowest ungated outlet. For calculating sunny day failures for flood control impounding structures, stormwater detention impounding structures, and related facilities designed to hold back volumes of water for slow release, the normal or typical water surface elevation shall be measured at the crest of the auxiliary or emergency spillway.

~~"Operation and Maintenance Certificate" means a certificate required for the operation and maintenance of all impounding structures.~~

"Owner" means the owner of the land on which an impounding structure is situated, the holder of an easement permitting the construction of an impounding structure, and

any person or entity agreeing to maintain an impounding structure. The term "owner" may include the Commonwealth or any of its political subdivisions, including ~~but not limited to~~ sanitation district commissions and authorities, any public or private institutions, corporations, associations, firms or companies organized or existing under the laws of this Commonwealth or any other state or country, as well as any person or group of persons acting individually or as a group.

"Planned land use" means land use that has been approved by a locality or included in a master land use plan by a locality, such as in a locality's comprehensive land use plan.

"Regular Operation and Maintenance Certificate" means a certificate required for the operation and maintenance of high hazard potential or significant hazard potential impounding structures.

["Routine maintenance" means activities regularly performed to prevent deterioration of the dam and its structures. These activities include mowing, removal of immature woody vegetation such as saplings and bushes, reseeding grass patches that have minor erosion, and conducting minor repairs of concrete structures.]

"Spillway" means a structure to provide for the controlled release of flows from the impounding structure into a downstream area.

"Stage I Condition" means a flood watch or heavy continuous rain or excessive flow of water from ice or snow melt.

"Stage II Condition" means a flood watch or emergency spillway activation or impounding structure overtopping where a failure may be possible.

"Stage III Condition" means an emergency spillway activation or impounding structure overtopping where imminent failure is probable.

"Sunny day dam failure" means the failure of an impounding structure with the initial water level at the normal reservoir level, usually at the lowest ungated principal spillway elevation or the typical operating water level.

"Tabletop ~~Exercise~~ exercise" means a type of emergency action plan exercise that involves a meeting of the impounding structure owner and the state and local emergency management officials in a conference room environment. The format is usually informal with minimum stress involved. The exercise begins with the description of a simulated event and proceeds with discussions by the participants to evaluate the EAP and response procedures and to resolve concerns regarding coordination and responsibilities.

"Top of the impounding structure" means the lowest point of the nonoverflow section of the impounding structure.

"Watercourse" means a natural channel having a well-defined bed and banks and in which water normally flows.

4VAC50-20-40. Hazard potential classifications of impounding structures.

A. Impounding structures shall be classified in one of three hazard classifications as defined in subsection B of this section and Table 1 of 4VAC50-20-50.

B. For the purpose of this chapter, hazards pertain to potential loss of human life or damage to the property of others downstream from the impounding structure in event of failure or faulty operation of the impounding structure or appurtenant facilities. Hazard potential classifications of impounding structures are as follows:

1. High ~~Hazard Potential~~ hazard potential is defined where an impounding structure failure will cause probable loss of life or serious economic damage. "Probable loss of life" means that impacts will occur that are likely to cause a loss of human life, including ~~but not limited to~~ impacts to residences, businesses, other occupied structures, or major roadways. Economic damage may occur to, but not be limited to, ~~building(s)~~ buildings, industrial or commercial facilities, public utilities, major roadways, railroads, personal property, and agricultural interests. "Major roadways" include~~, but are not limited to,~~ interstates, primary highways, high-volume urban streets, or other high-volume roadways, except those having an AADT volume of 400 vehicles or less in accordance with 4VAC50-20-45.

2. Significant ~~Hazard Potential~~ hazard potential is defined where an impounding structure failure may cause the loss of life or appreciable economic damage. "May cause loss of life" means that impacts will occur that could cause a loss of human life, including ~~but not limited to~~ impacts to facilities that are frequently utilized by humans other than residences, businesses, or other occupied structures, or to secondary roadways. Economic damage may occur to, but not be limited to, ~~building(s)~~ buildings, industrial or commercial facilities, public utilities, secondary roadways, railroads, personal property, and agricultural interests. "Secondary roadways" include~~, but are not limited to,~~ secondary highways, low-volume urban streets, service roads, or other low-volume roadways, except those having an AADT volume of 400 vehicles or less in accordance with 4VAC50-20-45.

3. Low ~~Hazard Potential~~ hazard potential is defined where an impounding structure failure would result in no expected loss of life and would cause no more than minimal economic damage. "No expected loss of life" means no loss of human life is anticipated.

C. To support the appropriate hazard potential classification, dam break analysis shall be conducted by the owner's engineer or the department in accordance with one of the following alternatives and utilizing procedures set out in 4VAC50-20-54.

1. The owner of an impounding structure that does not currently hold a regular or conditional certificate or a

conditional general permit or general permit from the board, or the owner of an impounding structure that is already under certificate ~~but the owner~~ or general permit who believes that a condition has changed downstream of the impounding structure that may reduce its hazard potential classification, may request in writing that the department conduct a simplified dam break inundation zone analysis to determine whether the impounding structure has a low hazard potential classification. The owner shall pay a fee to the department in accordance with 4VAC50-20-395 for conducting each requested analysis. The department shall address requests in the order received and shall strive to complete analysis within 90 days; or

2. The owner may propose a hazard potential classification that shall be subject to approval by the board. To support the proposed hazard potential classification, an analysis shall be conducted by the owner's engineer and submitted to the department. The hazard potential classification shall be certified by the owner.

D. Findings of the analysis conducted pursuant to subsection C of this section shall result in one of the following actions:

1. For findings by the department resulting from analyses conducted in accordance with subdivision C 1 of this section:

a. If the department finds that the impounding structure appears to have a low hazard potential classification, the owner ~~may be~~ is eligible for general permit coverage in accordance with ~~4VAC50-20-103~~ 4VAC50-20-503.

b. If the department finds that the impounding structure appears to have a high hazard potential or significant hazard potential classification, the owner's engineer shall provide further analysis in accordance with the procedures set out in 4VAC50-20-54 and this chapter. The owner may be eligible for grant assistance from the Dam Safety, Flood Prevention, and Protection Assistance Fund in accordance with Article 1.2 (§ 10.1-603.16 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

2. For findings by the owner's engineer resulting from analyses conducted in accordance with subdivision C 2 of this section:

a. If the engineer finds that the impounding structure has a low hazard potential classification, the owner ~~may be~~ is eligible for general permit coverage in accordance with ~~4VAC50-20-103~~ 4VAC50-20-503; or

b. If the engineer finds that the impounding structure appears to have a high hazard potential or significant hazard potential classification, then the owner shall comply with the applicable certification requirements set out in this chapter.

E. An incremental damage analysis in accordance with 4VAC50-20-52 may be utilized as part of a hazard potential classification by the owner's engineer.

F. Impounding structures shall be subject to reclassification by the board as necessary.

[4VAC50-20-51. ~~Special criteria for certain low hazard impounding structures~~ (Repealed.)

~~A. Notwithstanding the requirements of this chapter, should the failure of a low hazard potential impounding structure cause no expected loss of human life and no economic damage to any property except property owned by the impounding structure owner, then the owner may follow the below requirements instead of the requirements specified in this chapter:~~

~~1. No map required pursuant to 4VAC50-20-54 shall be required to be developed for the impounding structure should a licensed professional engineer certify that the impounding structure is a low hazard potential impounding structure and eligible to utilize the provisions of this section;~~

~~2. The spillway design flood for the impounding structure is recommended as a minimum 50-year flood; however, no specific spillway design flood shall be mandatory for an impounding structure found to qualify under the requirements of this section;~~

~~3. No emergency preparedness plan prepared pursuant to 4VAC50-20-177 shall be required. However, the impounding structure owner shall notify the local emergency services coordinator in the event of a failure or emergency condition at the impounding structure;~~

~~4. An owner shall perform inspections of the impounding structure annually in accordance with the requirements of 4VAC50-20-105. No inspection of the impounding structure by a licensed professional engineer shall be required, however, so long as the owner certifies at the time of operation and maintenance certificate renewal that conditions at the impounding structure and downstream are unchanged since the last inspection conducted by a licensed professional engineer; and~~

~~5. No certificate or permit fee established in this chapter shall be applicable to the impounding structure.~~

~~B. Any owner of an impounding structure electing to utilize the requirements of subsection A of this section shall otherwise comply with all other requirements of this chapter applicable to low hazard impounding structures.~~

~~C. The owner shall notify the department immediately of any change in circumstances that would cause the impounding structure to no longer qualify to utilize the provisions of this section.~~]

4VAC50-20-53. Special criteria for reduced SDF requirement for certain high hazard dams.

A. An existing impounding structure that is currently classified as high hazard, or is subsequently found to be high hazard through reclassification, shall be allowed to pass the flood resulting from 0.6 PMP instead of the flood resulting from 0.9 PMP SDF if the dam owner certifies annually that

such impounding structure meets each of the following conditions:

1. The owner has a current emergency action plan that is approved by the board and that is developed and updated in accordance with 4VAC50-20-175;

2. The owner has exercised the emergency action plan in accordance with 4VAC50-20-175 and conducts a table-top exercise at least once every two years;

3. The department has verification that both the local ~~organization for~~ emergency management coordinator and the Virginia Department of Emergency Management have on file current emergency action plans and updates for the impounding structure;

4. The conditions at the impounding structure are monitored on a daily basis and as dictated by the emergency action plan;

5. The impounding structure is inspected at least annually by a professional engineer and all observed deficiencies are addressed within 120 days of such inspection. Such inspection reports shall be completed in accordance with 4VAC50-20-105 E and be submitted to the department with the owner's certification;

6. The owner has a dam break inundation zone map developed in accordance with the regulations that is acceptable to the department or has provided the limits of the dam break inundation zone in an acceptable electronic format in accordance with 4VAC50-20-54;

7. The owner is insured in an amount that will substantially cover the costs of downstream property losses to others that may result from a dam failure; and

8. The owner has the impounding structure's emergency action plan posted on his website, or upon the request of the owner, the department or another state agency responsible for providing emergency management services to citizens agrees to post the plan on its website. If the department or another state agency agrees to post the plan on its website, the owner shall provide the plan in a format suitable for posting.

A dam owner who meets the conditions of subdivisions 1 through 8 of this subsection, but has not provided record drawings to the department for his impounding structure, shall submit a complete record report developed in accordance with 4VAC50-20-70 J, excluding the required submittal of the record drawings.

B. The dam owner must retain documents for a six-year period that supports the certification of the elements set out in subsection A.]

4VAC50-20-54. Dam break inundation zone [~~mapping~~ analysis].

A. Dam break inundation zone maps [or an acceptable electronic format of the limits of the dam break inundation zone] and analyses shall be provided to the department, except as provided for in [~~4VAC50-20-51~~ 4VAC50-20-501], to meet the requirements set out in 4VAC50-20-40~~,~~ and 4VAC50-20-175~~, and 4VAC50-20-177~~, as applicable. In accordance with subsection G of this section, a simplified dam break inundation zone ~~map and~~ analysis may be completed by the department and shall be provided to the impounding structure's owner to assist such owner in complying with the requirements of this chapter. All analyses shall be completed in accordance with 4VAC50-20-20 D.

B. The location of the end of the inundation [~~mapping~~ zone] should be [~~indicated~~] where the water surface elevation of the dam break inundation zone and the water surface elevation of the spillway design flood during an impounding structure nonfailure event converge to within one foot of each other. [~~The~~ Any] inundation maps [provided] shall be supplemented with water surface profiles showing the peak water surface elevation prior to failure and the peak water surface elevation after failure.

C. All inundation zone ~~map(s)~~ maps shall be signed and sealed by a licensed professional engineer. [A cover letter, signed and sealed by a professional engineer, must be submitted with the electronic format of the limits of the dam break inundation zone.]

D. Present and planned ~~land-use~~ land use for which a development plan has been officially approved by the locality in the dam break inundation zones downstream from the impounding structure shall be considered in determining the classification.

E. For determining the hazard potential classification, an analysis including~~, but not limited to,~~ those hazards created by flood and nonflood dam failures shall be considered. At a minimum, the following shall be provided to the department:

1. A sunny day dam break analysis utilizing the volume retained at the normal or typical water surface elevation of the impounding structure;

2. A dam break analysis utilizing the spillway design flood with a dam failure;

3. An analysis utilizing the spillway design flood without a dam failure; and

4. A dam break analysis utilizing the probable maximum flood with a dam failure.

F. To meet the Emergency Action Plan requirements set out in 4VAC50-20-175 ~~and the Emergency Preparedness Plan requirements set out in 4VAC50-20-177~~, all owners of high hazard potential or significant hazard potential impounding

structures shall provide dam break inundation zone ~~map(s)~~ maps [or an acceptable electronic format of the limits of the dam break inundation zone] representing the impacts that would occur with both a sunny day dam failure and a probable maximum flood with a dam failure.

1. The ~~map(s)~~ maps [or the limits of the dam break inundation zone] shall be developed at a scale sufficient to graphically display downstream inhabited areas and structures, roads, public utilities that may be affected, and other pertinent structures within the identified inundation area. In coordination with the local [~~organization for~~] emergency management [coordinator], a list of downstream inundation zone property owners and occupants, including telephone numbers, may be plotted on the map or may be provided with the map for reference during an emergency.

2. Each map [or the limits of the dam break inundation zone] shall include the following statement: "The information contained in this map is prepared for use in notification of downstream property owners by emergency management personnel."

~~Should the department prepare a dam break inundation zone map and analysis in response to a request received pursuant to 4VAC50-20-40 C, the owner shall utilize this map to prepare a plan in accordance with this subsection.~~

G. Upon receipt of a written request in accordance with 4VAC50-20-40 C and receipt of a payment in accordance with 4VAC50-20-395, the department shall conduct a simplified dam break inundation zone analysis. In conducting the analysis, a model acceptable to the department shall be utilized. The analysis shall result in [~~maps produced as~~] Geographic Information System shape files for viewing and analyzing and shall meet the other analysis criteria of this section.

Upon completion of the analysis, the department shall issue a letter to the owner communicating the results of the analysis, including the [~~dam break inundation zone map~~ shape files], stipulating the department's finding regarding hazard potential classification based on the information available to the department, and explaining what the owner needs to do procedurally with this information to be compliant with the requirements of the Dam Safety Act ~~(§ 10.1-604 et seq.)~~ and this chapter.

4VAC50-20-58. Local government notifications.

For each certificate or general permit issued, the impounding structure owner shall send a copy of the certificate or general permit to the appropriate local ~~government(s)~~ government with planning and zoning responsibilities. A project description and [either (i)] ~~the map(s)~~ any maps required under 4VAC50-20-54 showing the area that could be affected by the impounding structure failure [, or (ii) the limits of the dam break inundation zone in an acceptable electronic format in accordance with 4VAC50-20-54] shall be submitted with the certificate or general permit. The department will provide a standard form cover letter for forwarding the certificate copy or general permit and accompanying materials.

Part II

Construction and Alteration Permit Requirements

4VAC50-20-70. Construction permits.

A. Prior to preparing the complete design report for a Construction Permit, applicants may submit a preliminary design report to the department to determine if the project concept is acceptable to the department. The preliminary design report should contain, at a minimum, a general description of subdivisions 1 through 12 of subsection B of this section and subdivisions 1 and 2 of this subsection:

1. Proposed design criteria and a description of the size of the impounding structure, ground cover conditions, extent of current upstream development within the watershed and the hydraulic, hydrological and structural features, geologic conditions, and the geotechnical engineering assumptions used to determine the foundation, impoundment rim stability, and materials to be used.

2. Preliminary drawings of a general nature, including cross sections, plans and profiles of the impounding structure, proposed pool levels, and types of ~~spillway(s)~~ spillways.

B. An applicant for a Construction Permit shall submit a design report. A form for the design report is available from the department ~~(Design Report for the Construction or Alteration of Virginia Regulated Impounding Structures)~~. The design report shall be prepared in accordance with 4VAC50-20-240. The design report is a required element of a complete application for a Construction Permit and shall include the following information:

1. Project information including a description of the proposed construction, name of the impounding structure, inventory number if available, name of the reservoir, and the purpose of the reservoir.

2. The proposed hazard potential classification in conformance with Table 1 of 4VAC50-20-50.

3. Location of the impounding structure, including the city or county, number of feet or miles upstream or downstream of a highway, and the highway number, name of the river or the stream, and the latitude and longitude.

4. Owner's name or representative if corporation, mailing address, residential and business telephone numbers, and other means of communication.

5. Owner's engineer's name, firm, professional engineer Virginia number, mailing address, and business telephone number.

6. Impounding structure data, including type of material (i.e., earth, concrete, masonry, or other), and the following design configurations:

a. Top of impounding structure (elevation);

b. Downstream toe – lowest (elevation);

c. Height of impounding structure (feet);

d. Crest length – exclusive of spillway (feet);

e. Crest width (feet);

f. Upstream slope (horizontal to vertical); and

g. Downstream slope (horizontal to vertical).

7. Reservoir data, including the following:

a. Maximum capacity (acre-feet);

b. Maximum pool (elevation);

c. Maximum pool surface area (acres);

d. Normal capacity (acre-feet);

e. Normal pool (elevation);

f. Normal pool surface area (acres); and

g. Freeboard (feet).

8. Spillway data, including the type, construction material, design configuration, and invert elevation for the ~~low-level~~ low-level drain, the principal spillway, and the emergency spillway.

9. Watershed data, including drainage area (square miles); type and extent of watershed development; time of concentration (hours); routing procedure; spillway design flood used and state source; design inflow hydrograph volume (acre-feet), peak inflow (cfs), and rainfall duration (hours); and freeboard during passage of the spillway design flood (feet).

10. A description of properties located in the dam break inundation zone downstream from the site of the proposed impounding structure, including the location and number of structures, buildings, roads, utilities, and other property that would be endangered should the impounding structure fail.

11. Evidence that the local government ~~or governments have~~ has been notified of the proposal by the owner to build an impounding structure.

12. Maps showing the location of the proposed impounding structure that include~~:~~ the county or city in which the proposed impounding structure would be located, the location of roads and access to the site, and the outline of the impoundment. Existing aerial photographs or existing topographic maps may be used for this purpose.

13. A report of the geotechnical investigations of the foundation soils~~,~~ or bedrock~~, or both~~ and of the materials to be used to construct the impounding structure.

14. Design assumptions and analyses sufficient to indicate that the impounding structure will be stable during its construction and during the life of the impounding structure under all conditions of impoundment operations, including rapid filling, flood surcharge, seismic loadings, and rapid drawdown of the impoundment.

15. Evaluation of the stability of the impoundment rim area to safeguard against impoundment rim slides of such magnitude as to create waves capable of overtopping the impounding structure and evaluation of rim stability during seismic activity.

16. Design assumptions and analyses sufficient to indicate that seepage in, around, through, or under the impounding structure, foundation, and abutments will be reasonably and practically controlled so that internal or external forces or results thereof will not endanger the stability and integrity of the impounding structure. The design report shall also include information on graded filter design.

17. Calculations and assumptions relative to hydraulic and structural design of the ~~spillway or~~ spillways and energy ~~dissipater or~~ dissipaters. Spillway capacity shall conform to the criteria of Table 1 and 4VAC50-20-52.

18. Provisions to ensure that the impounding structure and appurtenances will be protected against unacceptable deterioration or erosion due to freezing and thawing, wind, wave action, and rain or any combination thereof.

19. Other pertinent design data, assumptions, and analyses commensurate with the nature of the particular impounding structure and specific site conditions, including, when required by this chapter, a plan and water surface profile of the dam break inundation zone.

20. A description of the techniques to be used to divert stream flow during construction so as to prevent hazard to life, health, and property, including a detailed plan and procedures to maintain a stable impounding structure during storm events, a drawing showing temporary diversion devices, and a description of the potential impoundment during construction. Such diversion plans shall also be in accordance with applicable environmental laws.

21. A plan for project construction monitoring and quality control testing to confirm that construction materials and performance standards meet the design requirements set forth in the specifications.

22. Plans and specifications as required by 4VAC50-20-310.

23. Certification by the owner's engineer that the information provided pursuant to this subsection is true and correct in ~~their~~ the engineer's professional judgment. Such certification shall include the engineer's signature, printed name, Virginia number, date, and the engineer's Virginia seal.

24. Owner's signature certifying receipt of the information provided pursuant to this subsection.

C. A plan of construction is a required element of a complete permit application for a Construction Permit and shall include:

1. A construction sequence with milestones.

2. Elements of the work plan that should be considered include~~, but are not limited to,~~ foundation and abutment treatment, stream or river diversion, excavation and material fill processes, phased fill and compaction, testing and control procedures, construction of permanent spillway, and drainage devices.

3. The erosion and sediment control plan, as approved by the local government, ~~which~~ that minimizes soil erosion and sedimentation during all phases of construction.

4. The stormwater management plan or stormwater management facility plan, as approved by the local government, if the impounding structure is a stormwater management best management practice.

D. A Temporary Emergency Action Plan is a required element of a complete application for a Construction Permit and shall include:

1. A notification list of state and local emergency response agencies;

2. Provisions for notification of potentially affected residences and structures;

3. Construction site evacuation routes; and

4. Any other special notes particular to the project.

E. Within 120 days of receipt of a complete Construction Permit Application, the board shall act on the application. If the application is not acceptable, the director shall inform the applicant within 60 days of receipt and shall explain what changes are required for an acceptable application. A complete Construction Permit Application consists of the following:

1. A final design report, submitted on the department form ~~(Design Report for the Construction or Alteration of Virginia Regulated Impounding Structures)~~, with attachments as needed, and certified by the owner and the owner's engineer;

2. A plan of construction that meets the requirements of subsection C of this section; and

3. A ~~Temporary~~ temporary Emergency Action Plan that meets the requirements of subsection D of this section.

F. Prior to and during construction the owner shall provide the director with any proposed changes from the approved design, plans, specifications, or plan of construction. Approval shall be obtained from the director prior to the construction or installation of any changes that will affect the integrity or impounding capacity of the impounding structure.

G. The Construction Permit shall be valid for the plan of construction specified in the Construction Permit Application.

H. Construction must commence within two years after the permit is issued. If construction does not commence within two years after the permit is issued, the permit shall expire, except that the applicant may petition the board for extension of the two-year period and the board may extend such period for good cause with an appropriately updated plan of construction and Temporary Emergency Action Plan.

I. The board, the director, or both may take any necessary action consistent with the Dam Safety Act ~~(§ 10.1-604 et seq. of the Code of Virginia)~~ if any terms of this section or of the permit are violated, if the activities of the owner are not in accordance with the approved plans and specifications, if construction is conducted in a manner hazardous to downstream life or property, or for other cause as described in the Dam Safety Act.

J. Within 90 days after completion of the construction of an impounding structure, the owner shall submit:

1. A complete set of record drawings signed and sealed by a licensed professional engineer and signed by the owner:

2. A complete Record Report ~~(Record Report for Virginia Regulated Impounding Structures)~~ signed and sealed by a licensed professional engineer and signed by the owner that includes:

a. Project information, including the name and inventory number of the structure, name of the reservoir, and whether the report is associated with a new or old structure;

b. Location of the impounding structure, including the city or county, number of feet or miles upstream or downstream of a highway and the highway number, name of the river or the stream, and the latitude and longitude;

c. Owner's name or representative if corporation, mailing address, residential and business telephone numbers, and other means of communication;

d. Information on the design report, including who it was prepared by, the date of design report preparation, whether it was for new construction or for an alteration, and the permit issuance date;

e. Owner's engineer's name, firm, professional engineer Virginia number, mailing address, and business telephone number;

f. Impounding structure data, including type of material (i.e., earth, concrete, masonry, or other) and the following configurations:

(1) Top of impounding structure (elevation);

(2) Downstream toe – lowest (elevation);

(3) Height of impounding structure (feet);

(4) Crest length – exclusive of spillway (feet);

(5) Crest width (feet);

(6) Upstream slope (horizontal to vertical); and

(7) Downstream slope (horizontal to vertical).

g. Reservoir data, including the following:

(1) Maximum capacity (acre-feet);

(2) Maximum pool (elevation);

(3) Maximum pool surface area (acres);

(4) Normal capacity (acre-feet);

(5) Normal pool (elevation);

(6) Normal pool surface area (acres); and

(7) Freeboard (feet).

h. Spillway data, including the type, construction material, design configuration, and invert elevation for the low level drain, the principal spillway, and the emergency spillway; a description of the ~~low-level~~ low-level drain and principal spillway, including dimensions, trash guard information, and orientation of intake and discharge to impounding structure if looking downstream; and a description of the emergency spillway, including dimensions and orientation to impounding structure if looking downstream;

i. Watershed data, including drainage area (square miles); type and extent of watershed development; time of concentration (hours); routing procedure; spillway design flood used and state source; design inflow hydrograph volume (acre-feet), peak inflow (cfs), and rainfall duration (hours); and freeboard during passage of the spillway design flood (feet);

j. Impounding structure history, including the date construction was completed, who it was designed by and the date, who it was built by and the date, who performed inspections and dates, description of repairs, and confirmation as to whether the impounding structure has ever been overtopped;

k. A narrative describing the impounding structure procedures for operation, maintenance, filling, emergency action plan implementation, and structure evaluation;

l. A narrative describing the hydraulic and hydrologic data on the spillway design flood, hydrologic records, flood experience, flood potential, reservoir regulation, and comments or recommendations regarding these attributes;

m. A narrative describing stability of the foundation and abutments, embankment materials, and a written evaluation of each;

n. A complete set of record drawings signed and sealed by a licensed professional engineer and signed by the owner;

o. Certification by the owner's engineer that the information provided pursuant to this subdivision J 2 ~~of this section~~ is true and correct in ~~their~~ the engineer's professional judgment. Such certification shall include the engineer's signature, printed name, Virginia number, date, and the engineer's Virginia seal; and

p. Owner's signature certifying receipt of the information provided pursuant to this subdivision J 2 ~~of this section~~.

3. Certification from the licensed professional engineer who has monitored construction of the impounding structure during construction that, to the best of the engineer's judgment, knowledge and belief, the impounding structure and its appurtenances were constructed in conformance with the plans, specifications, drawings, and other requirements approved by the board;

4. Operation and Maintenance Certificate Application ~~(Operation and Maintenance Certificate Application for Virginia Regulated Impounding Structures)~~ in accordance with 4VAC50-20-105 or a registration statement submitted in accordance with 4VAC50-20-502; and

5. Emergency Action Plan or Emergency Preparedness Plan in accordance with 4VAC50-20-175 or 4VAC50-20-177.

K. Upon completion of construction, the impoundment may be filled upon board issuance of an Operation and Maintenance Certificate or a general permit.

4VAC50-20-90. ~~Transfer of permits.~~ (Repealed.)

~~A. Prior to the transfer of ownership of a permitted impounding structure the permittee shall notify the director in writing and the new owner shall file a transfer notification with the department. A form for the transfer notification is available from the department (Transfer of Impounding Structure Notification form Past Owner to New Owner). The new owner shall amend the existing permit application as necessary and shall certify to the director that he is aware of and will comply with all of the requirements and conditions of the permit.~~

~~B. The transfer notification shall include the following required information:~~

~~1. Project information including the name and inventory number of the structure, name of the reservoir, and impoundment hazard classification;~~

~~2. Location of the impounding structure including the city or county, number of feet or miles upstream or downstream of a highway and the highway number, name of the river or the stream, and the latitude and longitude;~~

~~3. Type of certificates and permits to be transferred including effective date and expiration date of all certificates and permits;~~

~~4. Past owner's name, mailing address, and residential and business telephone numbers;~~

~~5. New owner's name, mailing address, and residential and business telephone numbers;~~

~~6. Request to transfer certification statement signed and dated by the past owner;~~

~~7. Certification of compliance with permit or certificate with all said terms and conditions signed and dated by the new owner; and~~

~~8. Contact information updates for Emergency Action Plan or Emergency Preparedness Plan provided by the new owner. Such updates shall include the name, mailing~~

address, and residential and business telephone numbers for the impounding structure owner, impounding structure operator, rainfall and staff gage observer, and alternate observer.

4VAC50-20-101. General permit requirements for low hazard potential impounding structures. (Repealed.)

Any impounding structure owner whose registration statement is approved by the board will receive the following permit and shall comply with the requirements in it. If the failure of a low hazard potential impounding structure is not expected to cause loss of human life or economic damage to any property except property owned by the owner, the owner may follow the special criteria established for certain low hazard impounding structures in accordance with 4VAC50-20-51 in lieu of coverage under the general permit.

General Permit No.: Dam Safety 1

Effective Date: (Date of Issuance of Coverage)

Expiration Date: (6 years following Date of Issuance of Coverage)

GENERAL PERMIT FOR OPERATION OF A LOW HAZARD POTENTIAL IMPOUNDING STRUCTURE

In compliance with the provisions of the Dam Safety Act and attendant regulations, owners of an impounding structure covered by this permit are authorized to operate and maintain a low hazard potential impounding structure. The owner shall be subject to the following requirements as set forth herein.

1. The spillway design of the owner's impounding structure shall be able to safely pass a 100 year flood. When appropriate, the spillway design flood requirement may be further reduced to the 50 year flood in accordance with an incremental damage analysis conducted by the owner's engineer.

2. The owner shall develop and maintain an emergency preparedness plan in accordance with 4VAC50-20-177. The owner shall update and resubmit the emergency preparedness plan immediately upon becoming aware of necessary changes to keep the plan workable.

3. The owner shall perform an annual inspection of the impounding structure. The owner shall maintain such records and make them available to the department upon request. The department also shall conduct inspections as necessary in accordance with 4VAC50-20-180.

4. The owner shall ensure that the impounding structure is properly and safely maintained and operated and shall have the following documents available for inspection upon request of the department:

a. An operating plan and schedule including narrative on the operation of control gates and spillways and the impoundment drain;

b. For earthen embankment impounding structures, a maintenance plan and schedule for the embankment, principal spillway, emergency spillway, low level outlet, impoundment area, downstream channel, and staff gages; and

c. For concrete impounding structures, a maintenance plan and schedule for the upstream face, downstream face, crest of dam, galleries, tunnels, abutments, spillways, gates and outlets, and staff gages.

Impounding structure owners shall not permit growth of trees and other woody vegetation and shall remove any such vegetation from the slopes and crest of embankments and the emergency spillway area, and within a distance of 25 feet from the toe of the embankment and abutments of the dam.

5. The owner shall file a dam break inundation zone map developed in accordance with 4VAC50-20-54 with the department and with the offices with plat and plan approval authority or zoning responsibilities as designated by the locality for each locality in which the dam break inundation zone resides.

6. The owner shall notify the department immediately of any change in circumstances that would cause the impounding structure to no longer qualify for coverage under the general permit. In the event of a failure or an imminent failure of the impounding structure, the owner shall immediately notify the local emergency services coordinator, the Virginia Department of Emergency Management, and the department. The department shall take actions in accordance with § 10.1-608 or 10.1-609 of the Code of Virginia, depending on the degree of hazard and the imminence of failure caused by the unsafe condition.

4VAC50-20-102. Registering for coverage under the general permit for low hazard potential impounding structures. (Repealed.)

A. Pursuant to § 10.1-605.3, an impounding structure owner may seek general permit coverage from the board for a low hazard potential impounding structure in lieu of obtaining a Low Hazard Potential Regular Operation and Maintenance Certificate in accordance with 4VAC50-20-105 or a Conditional Operation and Maintenance Certificate for Low Hazard Potential impounding structures in accordance with 4VAC50-20-150.

B. An owner shall submit a complete and accurate registration statement in accordance with the requirements of this section prior to the issuance of coverage under the general permit. A complete registration statement shall include the following:

1. The name and address of the owner;

2. The location of the impounding structure;

3. The height of the impounding structure;

4. The volume of water impounded;

~~5. An Emergency Preparedness Plan prepared in accordance with 4VAC50-20-101;~~

~~6. The applicable fee for the processing of registration statements as set out in 4VAC50-20-375;~~

~~7. A dam break inundation zone map completed in accordance with 4VAC50-20-54 and evidence that such map has been filed with the offices with plat and plan approval authority or zoning responsibilities as designated by the locality for each locality in which the dam break inundation zone resides; and~~

~~8. A certification from the owner that the impounding structure (i) is classified as low hazard pursuant to a determination by the department or the owner's professional engineer in accordance with § 10.1-604.1 and this chapter; (ii) is, to the best of his knowledge, properly and safely constructed and currently has no observable deficiencies; and (iii) shall be maintained and operated in accordance with the provisions of the general permit.~~

4VAC50-20-103. ~~Transitioning from regular or conditional certificates to general permit coverage for low hazard potential impounding structures.~~ (Repealed.)

~~A. Holders of a regular certificate to operate a low hazard potential impounding structure shall be eligible for general permit coverage upon the expiration of their regular certificate. In lieu of a regular certificate renewal, registration coverage materials pursuant to 4VAC50-20-102 shall be submitted to the department 90 days prior to the expiration of the regular certificate.~~

~~B. Holders of a conditional certificate to operate a low hazard potential impounding structure shall be eligible for general permit coverage upon satisfying the registration requirements for a general permit pursuant to 4VAC50-20-102.~~

4VAC50-20-104. ~~Maintaining general permit coverage for low hazard potential impounding structures.~~ (Repealed.)

~~Provided that an impounding structure's hazard potential classification does not change, an owner's coverage under the general permit shall be for a six-year term after which time the owner shall reapply for coverage by filing a new registration statement and paying the necessary fee. No inspection of the impounding structure by a licensed professional engineer shall be required if the owner certifies at the time of general permit coverage renewal that conditions at the impounding structure and downstream are unchanged. If such certification is made, the owner is not required to submit an updated dam break inundation zone map.~~

4VAC50-20-105. Regular Operation and Maintenance Certificates for high hazard potential or significant hazard potential impounding structures.

A. A Regular Operation and Maintenance Certificate is required for ~~an~~ a high hazard potential or significant hazard potential impounding structure. Such six-year certificates shall include the following based on hazard classification:

1. High Hazard Potential Regular Operation and Maintenance Certificate; or

2. Significant Hazard Potential Regular Operation and Maintenance Certificate~~; or~~

~~3. Low Hazard Potential Regular Operation and Maintenance Certificate~~.

B. The owner of ~~an~~ a high hazard potential or significant hazard potential impounding structure shall apply for the renewal of the six-year Regular Operation and Maintenance Certificate 90 days prior to its expiration. If a Regular Operation and Maintenance Certificate is not renewed as required, the board shall take appropriate enforcement action.

C. Any owner of ~~an~~ a high hazard potential or significant hazard potential impounding structure that does not have a Regular Operation and Maintenance Certificate or any owner renewing a Regular Operation and Maintenance Certificate for a high hazard potential or significant hazard potential impounding structure shall file an Operation and Maintenance Certificate Application. A form for the application is available from the department ~~(Operation and Maintenance Certificate Application for Virginia Regulated Impounding Structures)~~. Such application shall be signed by the owner and signed and sealed by a licensed professional engineer. The following information shall be submitted on or with the application:

1. The application shall include the following required information:

a. The name of structure and inventory number;

b. The proposed hazard potential classification;

c. Owner's name or representative if corporation, mailing address, residential and business telephone numbers, and other means of communication;

d. An operating plan and schedule, including a narrative on the operation of control gates and spillways and the impoundment drain;

e. For earthen embankment impounding structures, a maintenance plan and schedule for the embankment, principal spillway, emergency spillway, low-level outlet, impoundment area, downstream channel, and staff gages;

f. For concrete impounding structures, a maintenance plan and schedule for the upstream face, downstream face, crest of dam, galleries, tunnels, abutments, spillways, gates and outlets, and staff gages;

g. An inspection schedule for operator inspection, maintenance inspection, technical safety inspection, and overtopping situations;

h. A schedule including the rainfall amounts, emergency spillway flow levels or storm event that initiates the

Emergency Action ~~or Preparedness~~ Plan and the frequency of observations;

i. A statement as to whether or not the current hazard potential classification for the impounding structure is appropriate and whether or not additional work is needed to make an appropriate hazard potential designation;

j. For newly constructed or recently altered impounding structures, a certification from a licensed professional engineer who has monitored the construction or alteration of the impounding structure that, to the best of the engineer's judgment, knowledge, and belief, the impounding structure and its appurtenances were constructed or altered in conformance with the plans, specifications, drawings, and other requirements approved by the board;

k. Certification by the owner's engineer that the Operation and Maintenance Certificate Application information provided pursuant to subdivision 1 of this subsection is true and correct in ~~their~~ the engineer's professional judgment. Such certification shall include the engineer's signature, printed name, Virginia number, date, and the engineer's Virginia seal; and

l. Owner's signature certifying the Operation and Maintenance Certificate Application information provided pursuant to subdivision 1 of this subsection and that the operation and maintenance plan and schedule shall be conducted in accordance with this chapter.

2. An ~~Inspection Report (Annual Inspection Report for Virginia Regulated Impounding Structures)~~ inspection report in accordance with subsection E of this section;

3. An Emergency Action Plan in accordance with 4VAC50-20-175 ~~or an Emergency Preparedness Plan in accordance with 4VAC50-20-177~~ and evidence that the required copies of such plan have been submitted to the local [~~organization for~~] emergency management [coordinator] and the Virginia Department of Emergency Management;

4. Any additional analysis determined necessary by the director, the board, or the owner's engineer to address public safety concerns. Such additional analysis may include~~, but not be limited to,~~ seismic stability, earthen spillway integrity, adequate freeboard allowance, stability assessment of the impoundment's foundation, potential liquefaction of the embankment, overturning or sliding of a concrete structure, and other structural stress issues; and

5. If applicable, a current certification from the dam owner in accordance with 4VAC50-20-53.

D. If the Operation and Maintenance Certificate Application submittal is found to be ~~not complete~~ incomplete, the director shall inform the applicant within 30 days and shall explain what changes are required for an acceptable submission. Within 60 days of receipt of a complete application, the board shall act upon the application. Upon finding that the impounding structure as currently operating is in compliance with this chapter, the board shall issue a Regular Operation and Maintenance Certificate. Should the board find that the impounding structure as currently operating is not in compliance with this chapter, the board may deny the ~~permit~~ certificate application or issue a Conditional Operation and Maintenance Certificate in accordance with 4VAC50-20-150.

E. Inspections shall be performed on an impounding structure annually.

1. Inspection ~~Reports (Annual Inspection Report for Virginia Regulated Impounding Structures)~~ reports signed and sealed by a licensed professional engineer shall be submitted to the department in accordance with the following schedule:

a. For a ~~High Hazard Potential~~ high hazard potential impounding structure, every two years;

b. For a ~~Significant Hazard Potential~~ significant hazard potential impounding structure, every three years; or

c. ~~For a Low Hazard Potential impounding structure, every six years; or d.~~ For a ~~High Hazard Potential~~ high hazard potential impounding structure to which 4VAC50-20-53 applies, annually in accordance with 4VAC50-20-53~~, where applicable~~.

In years when an ~~Inspection Report~~ inspection report signed and sealed by a licensed professional engineer is not required, an owner shall submit the Annual Inspection Report for Virginia Regulated Impounding Structures.

2. The ~~Inspection Report~~ inspection report shall include the following required information:

a. Project information, including the name and inventory number of structure, name of the reservoir, and purpose of the reservoir;

b. City or county where the impounding structure is located;

c. Owner's name or representative if corporation, mailing address, residential and business telephone numbers, and other means of communication;

d. Owner's engineer's name, firm, professional engineer Virginia number, mailing address, and business telephone number;

e. Inspection observation of the impounding structure, including the following:

(1) Earthen embankment information, including any embankment alterations; erosion; settlement, misalignments, or cracks; seepage and seepage flow rate; and location;

(2) Upstream slope information, including notes on woody vegetation removed, rodent burrows discovered, and remedial work performed;

(3) Intake structure information, including notes on deterioration of concrete structures, exposure of rebar

reinforcement, need to repair or replace trash rack, any problems with debris in the reservoir, and whether the drawdown valve operated;

(4) Abutment contacts, including notes on seepage and seepage flow rate and location;

(5) Earthen emergency spillway, including notes on obstructions to flow and plans to correct, rodent burrows discovered, and deterioration in the approach or discharge channel;

(6) Concrete emergency spillway, including notes on the deterioration of the concrete, exposure of rebar reinforcement, any leakage below concrete spillway, and obstructions to flow and plans to correct;

(7) Downstream slope information, including notes on woody vegetation removed, rodent burrows discovered, whether seepage drains are working, and any seepage or wet areas;

(8) Outlet pipe information, including notes on any water flowing outside of discharge pipe through the impounding structure and a description of any reflection or damage to the pipe;

(9) Stilling basin information, including notes on the deterioration of the concrete, exposure of rebar reinforcement, deterioration of the earthen basin slopes, repairs made, and any obstruction to flow;

(10) Gates information, including notes on gate malfunctions or repairs, corrosion or damage, and whether any gates were operated and, if so, how often and to what extreme;

(11) Reservoir information, including notes on new developments upstream of the dam, slides or erosion of lake banks, and general comments to include silt, algae, or other influence factors;

(12) Instruments information, including any reading of instruments and any installation of new instruments; and

(13) General information, including notes on new development in the downstream dam break inundation zone that would impact hazard classification or spillway design flood requirements, the maximum stormwater discharge or peak elevation during the previous year, whether general maintenance was performed and when, and actions that need to be completed before the next inspection.

f. Evaluation rating of the impounding structure and appurtenances (i.e., excellent, good, or poor), general comments, and recommendations;

g. Certification by the owner and date of inspection; and

h. Certification and seal by the owner's engineer and date of inspection, as applicable.

F. The owner of an impounding structure shall notify the department immediately of any change in the use of the area downstream that would impose hazard to life or property in the event of failure.

4VAC50-20-150. Conditional ~~operation and maintenance certificate~~ Operation and Maintenance Certificate for high hazard potential or significant hazard potential impounding structures.

A. During the review of any Operation and Maintenance Certificate Application ~~(Operation and Maintenance Certificate Application for Virginia Regulated Impounding Structures)~~ completed in accordance with 4VAC50-20-105, should the director determine that the impounding structure has nonimminent deficiencies, the director may recommend that the board issue a Conditional Operation and Maintenance Certificate.

B. The Conditional Operation and Maintenance Certificate for High~~,~~ Hazard Potential or Significant~~, and Low~~ Hazard Potential impounding structures shall be for a maximum term of two years. This certificate will allow the owner to continue normal operation and maintenance of the impounding structure~~,~~ and shall require that the owner correct the deficiencies on a schedule approved by the board.

C. A Conditional Operation and Maintenance Certificate may be extended in accordance with the procedures of 4VAC50-20-155, provided that ~~Inspection Reports (Annual Inspection Report for Virginia Regulated Impounding Structures)~~ inspection reports are on file, and the board determines that the owner is proceeding with the necessary corrective actions.

D. Once the deficiencies are corrected, the board shall issue a Regular Operation and Maintenance Certificate based upon the impounding structure's meeting the requirements of 4VAC50-20-105.

4VAC50-20-170. Transfer of certificates.

A. Prior to the transfer of ownership of an impounding structure, the certificate holder shall notify the director in writing and the new owner shall file a transfer notification with the department. A form for the transfer notification is available from the department ~~(Transfer of Impounding Structure Notification from Past Owner to New Owner)~~. The new owner may elect to continue the existing operation and maintenance certificate for the remaining term or ~~he may~~ apply for a new certificate in accordance with 4VAC50-20-105. If the owner elects to continue the existing certificate, ~~he~~ the owner shall certify to the director that ~~he~~ the owner is aware of and will comply with all of the requirements and conditions of the certificate.

B. The transfer notification shall include the following required information:

1. Project information, including the name and inventory number of the structure, name of the reservoir, and impoundment hazard classification;

2. Location of the impounding structure, including the city or county, number of feet or miles upstream or downstream

of a highway and the highway number, name of the river or the stream, and the latitude and longitude;

3. Type of certificates and permits to be transferred, including effective date and expiration date of all certificates and permits;

4. Past owner's name, mailing address, and residential and business telephone numbers;

5. New owner's name, mailing address, and residential and business telephone numbers;

6. Request to transfer certification statement signed and dated by the past owner;

7. Certification of compliance with permit or certificate with all ~~said~~ terms and conditions signed and dated by the new owner; and

8. Contact information updates for the Emergency Action Plan ~~or Emergency Preparedness Plan~~ provided by the new owner. Such updates shall include the name, mailing address, and residential and business telephone numbers for the impounding structure owner, impounding structure operator, rainfall and staff gage observer, and alternate observer.

4VAC50-20-177. Emergency Preparedness Plan for ~~Low Hazard~~ low hazard impounding structures.

~~Low Hazard~~ Owners of low hazard impounding structures shall provide information for emergency preparedness to the department, the local ~~organization for~~ emergency management coordinator, and the Virginia Department of Emergency Management. A form for the submission is available from the department ~~(Emergency Preparedness Plan for Low Hazard Virginia Regulated Impounding Structures)~~. The information shall include~~, but not be limited, to~~ the following:

1. Name and location information for the impounding structure, including city or county and latitude and longitude;

2. Name of owner and operator and associated contact information, including residential and business telephone numbers and other means of communication;

3. Contact information for ~~relevant~~ the local emergency ~~responders including the following: a. Local dispatch center or centers governing the impounding structure's dam break inundation zone; and b. City or county emergency services coordinator's name or names~~ management coordinator;

4. Procedures for notifying downstream property owners or occupants potentially impacted by the impounding structure's failure;

5. ~~A dam break inundation zone map completed in accordance with 4VAC50-20-54 and evidence that: a. Such map has been filed with the offices with plat and plan approval authority or zoning responsibilities as designated by the locality for each locality in which the dam break inundation zone resides; and b. Required copies of such plan have been submitted to the local organization for emergency management and the Virginia Department of Emergency Management~~ Identification of any downstream roadways that would be impacted by the impounding structure's failure; and

6. Certification ~~of the accuracy of the plan~~ by the owner that the plan is accurate and that the owner understands the responsibilities included in the plan.

4VAC50-20-200. Enforcement.

The provisions of this chapter may be enforced by the board, the director, or both in any manner consistent with the provisions of the Dam Safety Act ~~(§ 10.1-604 et seq. of the Code of Virginia)~~. Failure to comply with the provisions of the general permit issued in accordance with ~~4VAC50-20-103~~ 4VAC50-20-503 may result in enforcement actions, including penalties assessed in accordance with §§ [10.1-609 and] 10.1-613.1 [~~and 10.1-613.2~~] of the Code of Virginia.

4VAC50-20-350. Fee submittal procedures.

A. Effective September 26, 2008, fees for all application submittals required pursuant to 4VAC50-20-370 through 4VAC50-20-390 are due prior to issuance of a certificate or permit. No application for an Operation and Maintenance Certificate ~~or~~, a Construction Permit, or a general permit will be acted upon by the board without full payment of the required fee per § 10.1-613.5 of the Code of Virginia.

B. Fees shall be paid by check, draft, or postal money order payable to the Treasurer of Virginia, or submitted electronically (if available), and must be in ~~U.S.~~ United States currency, except that agencies and institutions of the Commonwealth of Virginia may submit ~~Interagency Transfers~~ interagency transfers for the amount of the fee. All fees shall be sent to the following address (or submitted electronically, if available): Virginia Department of Conservation and Recreation, Division of Finance, Accounts Payable, ~~203 Governor Street, 4th Floor~~ 600 East Main Street, 24th floor, Richmond, Virginia 23219.

C. All fee payments shall be accompanied by the following information:

1. Applicant name, address, and daytime ~~phone~~ telephone number.

2. The name of the impounding structure~~,~~ and the impounding structure location.

3. The type of application or report submitted.

4. Whether the submittal is for a new permit or certificate issuance or permit or certificate reissuance.

5. The amount of fee submitted.

6. Impounding structure identification number, if applicable.

D. No permit fees remitted to the department shall be subject to refund except as credits provided for in 4VAC50-20-390 C.

4VAC50-20-360. Fee exemptions.

Impounding structures owned by Virginia Soil and Water Conservation Districts shall be exempt from all fees associated with this part in accordance with § 10.1-613.5 of the Code of Virginia. There will be no fee assessed for a low hazard impounding structure exempted from fees pursuant to [~~4VAC50-20-51 or~~] 4VAC50-20-501 or for the decommissioning of an impounding structure.

4VAC50-20-375. Fee for coverage under the conditional general permit or general permit for low hazard impounding structures.

A. The fee for processing registration statements from impounding structure owners seeking to obtain coverage under the general permit for low hazard impounding structures shall be $300.

B. There will be no fee assessed for a low hazard impounding structure exempted from fees pursuant to [~~4VAC50-20-51 and~~] 4VAC50-20-501.

C. The fee for processing registration statements from impounding structure owners obtaining coverage under the conditional general permit for low hazard impounding structures shall be $200.

D. The board may allow a partial credit towards the general permit fee if the owner of the impounding structure has completed, to the director's satisfaction, the conditions of the conditional general permit prior to its expiration.

4VAC50-20-380. Regular Operation and Maintenance Certificate application fees.

A. Any application for a six-year Regular Operation and Maintenance Certificate after September 26, 2008, except as otherwise exempted, shall be accompanied by a payment as determined in subsection B of this section.

B. Fees for ~~High, Significant, or Low Hazard Potential~~ high hazard potential or significant hazard potential impounding structures shall be as follows:

1. $600 for ~~High Hazard Potential~~ high hazard potential.

2. $600 for ~~Significant Hazard Potential~~ significant hazard potential.

~~3. $300 for Low Hazard Potential.~~

C. Fees for extension of Regular Operation and Maintenance Certificates shall be $250 per year or portion ~~thereof~~ of a year.

Part VII

General Permit for Low Hazard Potential Impounding Structure Requirements

4VAC50-20-500. Registering for coverage under the general permit.

A. Pursuant to § 10.1-605.3 of the Code of Virginia, the owner of a low hazard potential impounding structure shall apply for general permit coverage from the board in accordance with 4VAC50-20-502, except as provided for in 4VAC50-20-501.

B. Holders of a either a regular or conditional Operation and Maintenance Certificate for a low hazard potential impounding structure shall be transitioned to general permit coverage upon the expiration of the certificate. In lieu of a certificate renewal, registration coverage materials pursuant to 4VAC50-20-502 shall be submitted to the department 90 days prior to the expiration of the certificate.

4VAC50-20-501. Exemption from general permit requirements for certain low hazard potential impounding structures.

A. In accordance with § 10.1-605.3 of the Code of Virginia, should the failure of a low hazard potential impounding structure cause no expected loss of human life and no economic damage to any property except property owned by the impounding structure owner, the owner may choose to meet the following requirements instead of the requirements specified in the general permit for low hazard impounding structures:

1. A licensed professional engineer certifies that the impounding structure is a low hazard potential impounding structure that will cause no expected loss of human life and no economic damage to any property except property owned by the impounding structure owner;

2. The owner of an impounding structure shall notify the local emergency management coordinator in the event of a failure or emergency condition at the impounding structure; however, no emergency preparedness plan prepared pursuant to 4VAC50-20-177 shall be required; and

3. The owner of an impounding structure shall perform inspections of the impounding structure annually in accordance with the requirements of 4VAC50-20-105.

B. No specific spillway design flood is required for a dam that meets the criteria established in subsection A of this section, although the recommended minimum spillway design flood is a 50-year flood.

C. Any owner of an impounding structure electing to utilize the requirements of subsection A of this section shall otherwise comply with all other requirements of this chapter applicable to low hazard impounding structures.

D. The owner shall notify the department immediately of any change in circumstances that would cause the impounding structure to no longer qualify to utilize the provisions of this section.

E. No certificate or permit fee established in this chapter shall be applicable to the impounding structure.

4VAC50-20-502. General permit registration statement requirements.

A. A complete and accurate registration statement shall be filed by the dam owner in accordance with the requirements of this section prior to the issuance of coverage under the general permit.

B. A complete registration statement shall include the following:

1. The name and address of the owner;

2. The location of the impounding structure;

3. The height of the impounding structure;

4. The volume of water impounded;

5. An Emergency Preparedness Plan prepared in accordance with 4VAC50-20-177;

6. [The results of a safety inspection conducted by a licensed professional engineer consistent with § 10.1-607 of the Code of Virginia upon initial application for a permit for any dams that are not currently operating under a Regular or Conditional Operation and Maintenance Certificate. For any dam that is transitioning from a Regular Operation and Maintenance Certificate and has had a safety inspection completed within the last six years, a safety inspection will not be required as part of the general permit registration statement. For any dam that is transitioning from a Conditional Operation and Maintenance Certificate and has had a safety inspection completed within the last two years, a safety inspection will not be required as part of the general permit registration statement.

7.] The applicable fee for the processing of registration statements as set out in 4VAC50-20-375; and

[~~7.~~ 8.] A certification from the owner that the impounding structure (i) is classified as low hazard potential pursuant to a determination by the department or the owner's professional engineer in accordance with § 10.1-604.1 of the Code of Virginia and this chapter; (ii) is, to the best of the owner's knowledge, properly and safely constructed [~~and~~ ; (iii)] currently has no observable deficiencies [or if deficiencies exist, such deficiencies shall be corrected in a timeframe and manner acceptable to the department]; and [~~(iii)~~ iv] shall be maintained and operated in accordance with the provisions of the general permit.

4VAC50-20-503. General permit requirements for low hazard potential impounding structures.

Any impounding structure owner whose registration statement is approved by the board will receive the following permit and shall comply with the requirements in it.

General Permit No.: Dam Safety 1

Effective Date: (Date of Issuance of Coverage)

Expiration Date: (six years following Date of Issuance of Coverage)

GENERAL PERMIT FOR OPERATION OF A LOW HAZARD POTENTIAL IMPOUNDING STRUCTURE

In compliance with the provisions of the Dam Safety Act and attendant regulations, owners of an impounding structure covered by this permit are authorized to operate and maintain a low hazard potential impounding structure. The owner shall be subject to the following requirements as set forth in this general permit.

1. The spillway design of the owner's impounding structure shall be able to safely pass a 100-year flood. When [~~appropriate~~ no critical infrastructure, as defined in § 44.146.28:2 of the Code of Virginia, public highway, or any access to a public utility, as defined in § 56-232 of the Code of Virginia, is determined to be within the dam break inundation zone], the spillway design flood requirement may be further reduced to the 50-year flood [~~in accordance with an incremental damage analysis conducted by the owner's engineer~~ if approved by the department].

2. The owner shall develop and maintain an Emergency Preparedness Plan in accordance with 4VAC50-20-177. The owner shall update and resubmit the Emergency Preparedness Plan immediately upon becoming aware of necessary changes to keep the plan workable.

3. The owner shall perform an annual inspection of the impounding structure. The owner shall maintain such records and make them available to the department upon request. The department also shall conduct inspections as necessary in accordance with 4VAC50-20-180.

4. The owner shall ensure that the impounding structure is properly and safely maintained and operated and shall have the following documents available for inspection upon request of the department:

a. An operating plan and schedule, including narrative on the operation of control gates and spillways and the impoundment drain;

b. For earthen embankment impounding structures, a maintenance plan and schedule for the embankment, principal spillway, emergency spillway, low-level outlet, impoundment area, downstream channel, and staff gages; and

c. For concrete impounding structures, a maintenance plan and schedule for the upstream face, downstream face, crest

of dam, galleries, tunnels, abutments, spillways, gates and outlets, and staff gages.

5. The owner shall not permit growth of trees and other woody vegetation and shall remove any such vegetation from the slopes and crest of embankments and the emergency spillway area, and within a distance of 25 feet from the toe of the embankment and abutments of the dam.

6. The owner shall notify the department immediately of any change in circumstances that would cause the impounding structure to no longer qualify for coverage under the general permit. In the event of a failure or an imminent failure of the impounding structure, the owner shall immediately notify the local emergency management coordinator, the Virginia Department of Emergency Management, and the department. The department shall take actions in accordance with § 10.1-608 or 10.1-609 of the Code of Virginia, depending on the degree of hazard and the imminence of failure caused by the unsafe condition.

7. In order to qualify for the protections established in § 10.1-606.3 of the Code of Virginia, the owner shall file a dam break inundation zone map developed in accordance with 4VAC50-20-54 [or provide the limits of the dam break inundation zone in an acceptable electronic format in accordance with 4VAC50-20-54] with the department and with the offices with plat and plan approval authority or zoning responsibilities as designated by the locality for each locality in which the dam break inundation zone resides.

4VAC50-20-504. Issuance of general permit for low hazard potential impounding structures.

If the general permit registration statement submittal is found to be incomplete, the director shall inform the applicant within 30 days and shall explain what changes are required for an acceptable submission. Within 60 days of receipt of a complete registration statement, the board shall act upon the application. Upon finding that the impounding structure as currently operating is in compliance with this chapter, the board shall issue a general permit for low hazard potential impounding structures. Should the board find that the impounding structure as currently operating is not in compliance with this chapter, the board may deny the permit registration statement or issue a conditional general permit for low hazard potential impounding structures in accordance with 4VAC50-20-505.

4VAC50-20-505. Conditional general permit for low hazard potential impounding structures.

A. During the review of any general permit for low hazard potential impounding structures issued in accordance with 4VAC50-20-502, should the director determine that the impounding structure has nonimminent deficiencies, the director may recommend that the board issue a conditional general permit for low hazard potential impounding structures.

B. Notwithstanding the provisions of 4VAC50-20-503, the conditional general permit for low hazard potential impounding structures shall be for a maximum term of two years. This permit will allow the owner to continue normal operation and maintenance of the impounding structure and shall require that the owner correct the deficiencies on a schedule approved by the board.

C. A conditional general permit for low hazard potential impounding structures may be extended provided that the owner submits a written request justifying an extension, the amount of time needed to comply with the requirements set out in the current conditional permit for low hazard potential impounding structures, and any required fees. The owner must have demonstrated substantial and continual progress toward meeting the requirements of the conditional permit for low hazard potential impounding structures in order to receive an extension.

D. Once the deficiencies are corrected, the board shall issue a general permit for low hazard potential impounding structures when the impounding structure meets the requirements of 4VAC50-20-502.

4VAC50-20-506. Reapplying for general permit coverage for low hazard potential impounding structures.

A. Provided that an impounding structure's hazard potential classification does not change, an owner's coverage under the general permit shall be for a six-year term, after which time the owner shall reapply for coverage by filing a new registration statement and paying the necessary fee.

B. No less than 90 days prior to the expiration of the general permit, the owner shall submit a complete registration statement as established in 4VAC50-20-502.

C. No inspection of the impounding structure by a licensed professional engineer shall be required if the owner certifies at the time of general permit coverage renewal that conditions at the impounding structure and downstream are unchanged.

4VAC50-20-507. Enforcement of general permit requirements for low hazard potential impounding structures.

Failure to comply with the provisions of the general permit issued in accordance with 4VAC50-20-503 or the provisions of a conditional general permit issued in accordance with 4VAC50-20-505 may result in enforcement actions pursued in accordance with the Dam Safety Act, including penalties assessed in accordance with §§ [10.1-609 and] 10.1-613.1 [~~and 10.1-613.2~~] of the Code of Virginia.

4VAC50-20-508. Transfer of permits.

A. Prior to the transfer of ownership of a permitted impounding structure, the permittee shall notify the director in writing, and the new owner shall file a transfer notification with the department. A form for the transfer notification is

available from the department. The new owner shall amend the existing permit application as necessary and shall certify to the director that the new owner is aware of and will comply with all of the requirements and conditions of the permit.

B. The transfer notification shall include the following required information:

1. Project information, including the name and inventory number of the structure and name of the reservoir;

2. Location of the impounding structure, including the city or county and the latitude and longitude;

3. Effective date and expiration date of the permit to be transferred;

4. Past owner's name, mailing address, and residential and business telephone numbers;

5. New owner's name, mailing address, and residential and business telephone numbers;

6. Request to transfer certification statement signed and dated by the past owner;

7. Certification of compliance with the permit terms and conditions signed and dated by the new owner; and

8. Contact information updates for the new owner, including name, mailing address, and residential and business telephone numbers.

VA.R. Doc. No. R24-7875; Filed November 19, 2025, 3:30 p.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Fast-Track Regulation

Titles of Regulations: **8VAC20-580. Regulations for the School Breakfast Program (repealing 8VAC20-580-10 through 8VAC20-580-100).**

8VAC20-720. Regulations Governing Local School Boards and School Divisions (adding 8VAC20-720-60).

8VAC20-740. Regulations Governing Nutritional Standards for Competitive Foods Available for Sale in the Public Schools (amending 8VAC20-740-20, 8VAC20-740-35).

Statutory Authority: §§ 22.1-16 and 22.1-207.3 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 14, 2026.

Effective Date: January 29, 2026.

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

Basis: Section 22.1-16 of the Code of Virginia authorizes the State Board of Education to promulgate regulations necessary to carry out its powers and duties and the provisions of Title 22.1 of the Code of Virginia. Section 22.1-207.3 of the Code Virginia requires the board to have regulations to implement the school breakfast program.

Purpose: The provisions retained in 8VAC20-720 are necessary for the public health, safety, and welfare because they set needed, relevant standards that ensure that students receive breakfast at school.

Rationale for Using Fast-Track Rulemaking Process: This action is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process because it repeals language that no longer reflects current statutory requirements and streamlines the board's regulatory catalog. This action is not expected to change practice in schools.

Substance: The amendments (i) repeal Regulations for the School Breakfast Program (8VAC20-580); (ii) move all necessary, substantive provisions from 8VAC20-580 to a new section in Regulations Governing Local School Boards and School Divisions (8VAC20-720); and (iii) update cross-references to the repealed chapter.

Issues: The primary advantage to the public and the Commonwealth is that the regulation will be consistent with the current statutory language and provide accurate information to individuals referring to the material. There are no disadvantages to the public or 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.[1]

Summary of the Proposed Amendments to Regulation. Following a periodic review,[2] the Board of Education (board) proposes to 1) repeal 8 VAC 20-580 (Chapter 580); 2) move some of the underlying requirements in Chapter 580 to 8 VAC 20-720 (Chapter 720); and replace references to Chapter 580 with references to Chapter 720 in 8 VAC 20-740 (Chapter 740).

Background. According to the Department of Education (DOE), in order to streamline its regulatory catalog, the Board proposes to repeal several sections in Chapter 580, as they were made redundant by Chapter 683 of the 2020 Acts of Assembly.[3] Also, the Board proposes to move the remaining sections in Chapter 580 into Chapter 720. Finally, the Board proposes to amend Chapter 740 to replace references to Chapter 580 with references to Chapter 720.

Estimated Benefits and Costs. According to DOE, the proposed changes would mainly update the regulatory language to align it with the Code of Virginia; relocate some of the requirements from

one chapter to another; and update references. DOE states that the proposed changes are editorial in nature and would not introduce any new requirements. Consequently, no significant economic impact is expected other than clarifying the regulatory text for the readers of the regulation.

Businesses and Other Entities Affected. Although the proposed changes would not directly affect any entity, according to DOE, the regulation applies to 132 school divisions in the Commonwealth with a total enrollment of approximately 1.3 million as of the 2024-2025 school year. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[5] The proposal would mainly clarify regulatory language and therefore is not expected to adversely affect any entity.

Small Businesses[6] Affected.[7] The proposed amendments do not adversely affect small businesses.

Localities[8] Affected.[9] The proposed regulatory amendments do not introduce costs for localities, nor do they affect any locality more than others.

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

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

[2] https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=2552.

[3] https://legacylis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP0683.

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

[5] Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

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

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

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

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

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

Summary:

The amendments (i) repeal Regulations for the School Breakfast Program (8VAC20-580); (ii) move all necessary, substantive provisions from 8VAC20-580 to a new section in Regulations Governing Local School Boards and School Divisions (8VAC20-720); and (iii) update cross-references to the repealed chapter.

8VAC20-720-60. School Breakfast Program.

A. Local education agencies shall manage the scholastic records of all students in compliance with applicable law, including National School Lunch Program (7 CFR 210); School Breakfast Program (7 CFR 220); Determining Eligibility For Free And Reduced Price Meals And Free Milk In Schools (7 CFR 245); and §§ 22.1-79.7:1, 22.1-207.2:2, and 22.1-207.3 of the Code of Virginia.

B. Public schools are required to participate in the federal funded School Breakfast Program. Each school board shall notify the Department of Education of its plan through the renewal of the "Agreement to Participate." Procedures used to implement the School Breakfast Program for all students in the school must be included in the "Agreement to Participate" and the "Policy Statement for Free and Reduced Price Meals."

C. Each school board shall submit a plan to comply with the provisions of § 22.1-207.3 of the Code of Virginia. Those school boards that include all required schools in the "Agreement to Participate" are deemed to have satisfied this provision.

D. Each school board must submit to the Department of Education the number and socioeconomic characteristics of school-age children eligible for meal benefits under the federal guidelines for any school that does not provide the federally funded National School Lunch Program.

E. A school's food services, including kitchen and dining areas, must meet, at a minimum, all applicable state and federal

regulations for meal preparation, service, and food consumption.

F. School breakfast programs will be evaluated for nutritional and financial integrity, accountability, and benefits for students through reviews prescribed by federal regulation and through Department of Education assessments.

G. Complaints received from parents or students or appeals concerning a student's eligibility for meal benefits shall be processed by a school or school board official. If unresolved, appeals by the complainant shall follow the prescribed procedures in the "Policy Statement for Free and Reduced Price Meals."

H. The breakfast program may be provided before the school day begins or during a scheduled morning break. It is recommended that students have a minimum of two hours between breakfast and lunch whenever possible. Students must be provided a minimum of 10 minutes to eat breakfast after the meal is served.

I. All foods that are sold from 6 a.m. until after the close of the last breakfast service period must be of sound nutritional value and contribute significantly to student nutritional needs as identified in current Recommended Dietary Allowances, which can be found at https://ods.od.nih.gov/HealthInformation/nutrientrecommendations.aspx. The income from any food sales during this period shall accrue to the school food service.

8VAC20-740-20. Applicability.

A. This chapter shall apply to all public school divisions, public schools, and public school food authorities (SFAs) in the Commonwealth of Virginia.

B. Unless otherwise provided in this chapter, its provisions shall not apply to beverages.

C. This chapter shall apply to the nutritional content of food items available for sale to students on the school campus of any public school, and other public SFAs such as residential child care institutions, during the school day. It shall apply to:

1. Foods available for sale to students in vending machines.

2. Foods available for sale to students as a la carte items in the school cafeteria.

3. Foods available for sale to students at snack bars and stores operated by the school, a student association, or other school-sponsored organization.

4. Foods available for sale to students at school activities such as fundraisers.

5. Foods available for sale to students by culinary or other educational programs.

D. This chapter shall not apply to the nutritional content of foods:

1. Provided as meals reimbursed under programs authorized by the Richard B. Russell National School Lunch Act (42 USC § 1751 et seq.) and the Child Nutrition Act of 1966 (42 USC § 1771 et seq.).

2. Available for sale at snack bars, concession stands, or athletic events after the school day.

3. Available for sale either during intermission or immediately before or after athletics events scheduled after the school day.

4. Available for sale for school-related fundraising activities that take place off the school campus or for exempt fundraisers as outlined in 8VAC20-740-35.

5. Available for sale during activities that take place after the school day, such as clubs, yearbook, band and choir practice, student government, drama, sports practices, interscholastic sporting events, school plays, and band concerts.

6. Available for sale to adults only in areas not accessible to students.

E. The requirements of this chapter supplement ~~8VAC20-290 and 8VAC20-580~~ 8VAC20-720-60, which remain in effect.

8VAC20-740-35. Exemption to the nutrition standards for school-sponsored fundraisers.

A. Each public school shall be permitted to conduct, on the school campus during regular school hours, no more than 30 school-sponsored fundraisers per school year during which food or beverages that do not meet the nutrition standards in this chapter or in the U.S. Department of Agriculture's regulations may be sold to students. School divisions are not required to allow exemptions to the nutrition standards in this chapter for school-sponsored fundraisers and may implement more restrictive guidelines as part of the local wellness policy requirements outlined in 8VAC20-740-40 A.

B. One fundraiser is defined as one or more fundraising activities that last one school day. If multiple school-sponsored organizations conduct fundraisers on the same day, the combined activities shall be counted as one fundraiser. If a fundraising activity lasts more than one school day, each subsequent day's activity shall be considered as one fundraiser and shall count toward the 30 exempt fundraisers total per year.

C. Any fundraiser that sells food or beverages, whether the items meet the nutrition standards or are exempt from the nutrition standards in this chapter, may not be conducted during school meal service times. Pursuant to the ~~Regulations Governing School Lunch Sale of Food Items (8VAC20-290) and the Regulations for the~~ School Breakfast Program (~~8VAC20-580~~ 8VAC20-720-60), ~~any~~ no food or beverage item ~~cannot~~ may be sold in competition with the National School Lunch Program and School Breakfast Program from 6 a.m. until after the close of the last breakfast period and from the beginning of the first lunch period to the end of the last

lunch period. Pursuant to ~~8VAC20-290 and 8VAC20-580~~ 8VAC20-720-60, the income from any food or beverage sold to students during these times shall accrue to the nonprofit School Nutrition Program account.

D. An exemption is not required for nonfood fundraisers or for fundraisers that sell food or beverage items that meet the nutrition standards in this chapter.

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 (8VAC20-740)

Policy Statement for Providing Free and Reduced-Price Meals to Students, web form (eff. 1/2026)

Permanent Agreement to Participate in the School Nutrition Program, web form (eff. 1/2026)

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Proposed Regulation

Title of Regulation: **8VAC20-671. Regulations Governing the Operation of Private Schools for Students with Disabilities (amending 8VAC20-671-10, 8VAC20-671-650, 8VAC20-671-660; adding 8VAC20-671-665).**

Statutory Authority: §§ 22.1-16 and 22.1-321 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: February 13, 2026.

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Basis: Item 130 H of Chapter 1 of the 2023 Acts of Assembly, Special Session I, directs the State Board of Education to "develop and promulgate regulations for private special education day schools on restraint and seclusion that establish the same requirements for restraint and seclusion as those for public schools." Section 22.1-16 of the Code of Virginia authorizes the State Board of Education to promulgate regulations necessary to carry out its powers and duties and the provisions of Title 22.1 of the Code of Virginia. The board's regulatory authority over schools for students with disabilities is found in § 22.1-321 of the Code of Virginia.

Purpose: This action is the result of Item 130 H of Chapter 1 of the 2023 Acts of Assembly, Special Session I. The amendments will help protect the health, safety, and welfare of special education students by ensuring that adequate standards are in place for the use of seclusion and restraint in private special education day schools. The goal of this regulatory action is to establish the same requirements on restraint and seclusion for private special education day schools as those for public schools. Currently, the requirements for restraint and seclusion differ between the public and private school contexts.

Substance: The proposed amendments establish the same requirements for restraint and seclusion for private special education day schools as those for public school, as directed by the General Assembly with minimal, technical modifications to account for the differences between private day schools and public schools. The amendments (i) modify and add definitions, (ii) align the chapter with parallel requirements for public schools, and (iii) remove all current requirements regarding restraint and seclusion for private schools for students with disabilities and establish new requirements that are in line with requirements for public schools.

Issues: The primary advantage of this action to the public is that it effectuates the legislative intent of Item 130 H of Chapters 1 and 769 of the 2023 Acts of the Assembly, Special Session I. The action has no disadvantages to the public. There are no 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.[1]

Summary of the Proposed Amendments to Regulation. The 2021 through 2025 Appropriation Acts direct the Board of Education (board) to develop and promulgate regulations for private special education day schools on restraint and seclusion that establish the same requirements for restraint and seclusion as those for public schools.[2] The board proposes to amend 8VAC20-671 to accomplish this without any other changes.

Background. Chapter 142 of the 2015 Acts of Assembly required the Board to adopt regulations on the use of seclusion and restraint in public elementary and secondary schools in the Commonwealth that (i) are consistent with its Guidelines for the Development of Policies and Procedures for Managing Student Behavior in Emergency Situations and the Fifteen Principles contained in the U.S. Department of Education's Restraint and Seclusion: Resource Document; (ii) include definitions, criteria for use, restrictions for use, training requirements, notification requirements, reporting requirements, and follow-up requirements; and (iii) address distinctions, including distinctions in emotional and physical development, between (a) the general student population and the special education student population and (b) elementary school students and secondary school students. To address the 2015 legislation, the board promulgated a new regulation, Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia (8VAC20-750),

which defined what constitutes seclusion and physical restraint, as well as mechanical restraint, pharmacological restraint and aversive stimuli. The regulation bans the use of mechanical restraints, pharmacological restraints, and aversive stimuli, and describes the conditions under which it is permissible for a student to be restrained or secluded. The regulation also provides for notification and reporting to parents, debriefing with staff and the student following incidents and for follow-up when a student has been restrained or secluded more than twice during the course of a school year. In addition, the regulation also provides for reporting to the Virginia Department of Education (VDOE). The regulation also requires local school divisions to adopt policies and procedures regarding the use of seclusion and restraint. Finally, the regulation requires that all school personnel be trained in techniques for avoiding the use of seclusion and restraint, and that school personnel who work with students who are likely to be restrained or secluded must receive additional training on safe methods for restraining or secluding a student. Pursuant to the Appropriation Acts, the board proposes to revise 8VAC20-671 to match the 8VAC20-750 requirements with minimal, technical modifications to account for the differences between private day schools and public schools. VDOE believes the changes have largely been already implemented.

Estimated Benefits and Costs. Benefits: In a 2009 report[3] prepared for presentation to the U.S. House of Representatives Committee on Education and Labor, the U.S. Government Accountability Office (GAO) identified several hundred cases of alleged abuse, including deaths that were related to the use of restraint or seclusion of children in public and private schools. The GAO observed that problems with untrained or poorly trained staff were often related to many instances of alleged abuse. The proposed required training should help reduce the frequency and the magnitude of harm to students from seclusion and restraint. The proposed requirements for notification and reporting to parents and VDOE should help parents and state authorities be better informed. Better data may help state authorities make better-informed policy decisions.

Costs: The primary costs associated with the proposed regulation are associated with the training requirements for school staff. When Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia (8VAC20-750) was promulgated seven years ago, VDOE used information provided by training programs to estimate that the average training program lasts three days and charges $2,328 per person. Accounting for inflation, that would now be approximately $2,980 per person.[4] Additional costs would result from the hiring of substitutes while teachers attend training. To the extent that school staff do not already have the relevant training, the 109 private schools for students with disabilities in the Commonwealth would face these costs. Beyond training, the proposed regulation also requires that additional staff time be spent on notifications, reporting and debriefing.

Businesses and Other Entities Affected. The proposed amendments affect the 109 private schools for students with disabilities in the Commonwealth licensed by DOE, their staff and students, and firms that provide training on safe methods for restraining or secluding students. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[5] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[6] As the proposed requirements are directly due to the Appropriation Acts with no discretionary additions, no adverse impact is indicated.

Small Businesses[7] Affected.[8] Types and Estimated Number of Small Businesses Affected: Most if not all of the 109 private schools for students with disabilities in Virginia would qualify as small businesses and be affected. Most if not all firms that provide training on safe methods for restraining or secluding students would also qualify as small businesses and be affected. Costs and Other Effects: For small schools who have staff who do not already have the relevant training, there would be costs as described above in the Estimated Benefits and Costs section. Small firms that provide training on safe methods for restraining or secluding students would benefit from increased demand for their services. Alternative Method that Minimizes Adverse Impact: There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

Localities[9] Affected.[10] The proposed amendments neither disproportionally affect particular localities nor affect costs for local governments.

Projected Impact on Employment. The proposed requirements that all school personnel be trained in techniques for avoiding the use of seclusion and restraint, and that school personnel who work with students who are likely to be restrained or secluded must receive additional training on safe methods for restraining or secluding a student, may increase employment at firms that supply such training.

Effects on the Use and Value of Private Property. The proposed training requirements may increase the value of firms that provide such training. To the extent that staff at the private schools for students with disabilities are not already receiving the relevant training, the value of such private schools may moderately decrease through higher training costs. The proposed amendments do not affect real estate development costs.

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

[2] It is common practice to continue the presence of regulatory authority language in successive budgets until the regulation becomes effective.

[3] See https://www.gao.gov/assets/130/122526.pdf.

[4] The Consumer Price Index for All Urban Consumers increased by 28% between the first half of 2018 and the first half of 2025.

[5] Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities

should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

[6] Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

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

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

[9] "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

[10] Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to the Economic Impact Analysis: The State Board of Education thanks the Department of Planning and Budget for its thorough economic impact analysis (EIA) concerning this action. While the agency understands and appreciates the cost estimate on page three of the EIA, the agency would also maintain that the $2,980 projected cost should be taken as no more than a best estimate and that the actual cost is indeterminate. Several factors encourage such a conclusion. First, the $2,980 projected cost is based on the training required to go from an unregulated state to a regulated state in the public school context. However, the same is not true for private special education day schools, which already have regulations resembling public school restraint and seclusion regulations. Second, since the legislative directive and regulatory action are a course correction rather than a new initiative, private special education day schools are likely already training employees on restraint and seclusion. Accordingly, an estimate of cost would be the difference between the current costs of training and the new costs of training resulting from the regulatory action. Although the agency does not have precise data for the current costs of training, the expectation is that the difference would be significantly less than the $2,980 project cost.

Summary:

The proposed amendments (i) modify and add definitions, (ii) align the chapter with parallel requirements for public schools, and (iii) remove all current requirements regarding restraint and seclusion for private schools for students with disabilities and establish new requirements that are in line with requirements for public schools.

8VAC20-671-10. Definitions.

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

~~"504 Plan" means a written plan required under § 504 of the Rehabilitation Act of 1973 (29 USC § 701 et seq.), as amended. A student's 504 Plan details modifications, accommodations, and services that are needed for the student with a disability to participate in and enjoy the benefits of school programs at the same level as his peers without disabilities.~~

"Accredited status" means accreditation by an agency recognized by the Virginia Council for Private Education.

"Applicant" means the person, partnership, corporation, or association that has completed and submitted an application to the department for approval for a license to operate a school for students with disabilities in Virginia.

"Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before three years of age, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance. A child who manifests the characteristics of autism after three years of age could be identified as having autism if the criteria in this definition are satisfied.

"Aversive stimuli" means ~~any action used to punish a student or to eliminate, reduce, or discourage the problem behavior by use of any of the following or any other actions that are painful, humiliating, degrading, or abusive~~ interventions that are intended to induce pain or discomfort to a student for the purposes of punishing the student or eliminating or reducing maladaptive behaviors, such as:

1. Noxious odors and tastes.

2. Water and other mists or sprays.

3. Blasts of air.

4. Corporal punishment as defined in § 22.1-279.1 of the Code of Virginia.

5. Verbal and mental abuse.

~~6. Placement of a student alone in a room where the door is locked or held shut and the student is prevented from leaving the room.~~

~~7.~~ 6. Forced exercise where:

a. The student's behavior is related to the student's disability;

b. The exercise would have a harmful effect on the student's health; or

c. The student's disability prevents participation in activities.

~~8.~~ 7. Deprivation of necessities, including:

a. Food ~~or~~ and liquid at a time when it is customarily served;

b. Medication; or

c. Use of the restroom.

"Behavioral intervention plan" or "BIP" means a plan that utilizes positive behavioral interventions and supports to address (i) behaviors that interfere with ~~the~~ a student's learning ~~of students with disabilities~~ or ~~with the learning~~ that of others or (ii) behaviors that require disciplinary action.

"Board" means the State Board of Education.

"Business day" means Monday through Friday, 12 months of the year, exclusive of federal and state holidays (unless holidays are specifically included in the designation of business days).

"Calendar days" means consecutive days, inclusive of Saturdays and Sundays. Whenever any period of time fixed by this chapter shall expire on a Saturday, Sunday, or federal or state holiday, the period of time for taking such action under this chapter shall be extended to the next day that is not a Saturday, Sunday, or federal or state holiday.

"Child with a disability" or "student with a disability" means an elementary or secondary school student evaluated in accordance with the provisions of Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81), as having an intellectual disability; a hearing impairment, including deafness; a speech or language impairment; a visual impairment, including blindness; a serious emotional disability, referred to in the 8VAC20-81 as an emotional disability; an orthopedic impairment, autism, traumatic brain injury, or other health impairment; a specific learning disability, deaf-blindness; or multiple disabilities that, by reason thereof, requires special education and related services. This also includes developmental delay if the sending school division recognizes this category as a disability under 8VAC20-81-80 M 3. If it is determined through an appropriate evaluation that a child has one of the disabilities identified, but the child only needs related services and not special education, the child is not a child with a disability pursuant to 8VAC20-81. If the related service required by the child is considered special education rather than a related service under Virginia standards, the child would be determined to be a child with a disability. As used in this chapter, the disability categories set forth in this definition and the terms "special education" and "related services" shall have the meanings set forth in 8VAC20-81-10.

"Complaint" means an accusation that a school has violated one or more of the requirements of this chapter or other applicable regulation.

"Consent" means:

1. The parent or eligible student has been fully informed of all information relevant to the activity for which consent is sought in the parent's or eligible student's native language or other mode of communication;

2. The parent or eligible student understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

3. The parent or eligible student understands that the granting of consent is voluntary on the part of the parent or eligible student and may be revoked any time.

If a parent or eligible student revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked.) Revocation ceases to be relevant after the activity for which consent was obtained is completed.

The meaning of the term "consent" is not the same as the meaning of the term "agree" or "agreement." "Agree" or "agreement" refers to an understanding between the parent or eligible student and the school about a particular matter and as required in this chapter. There is no requirement that an agreement be in writing, unless stated in this chapter. The school should document its agreement.

"Controlled substance" means a drug or other substance identified under Schedule I, II, III, IV, or V of the Controlled Substances Act, 21 USC § 812(c).

"Corporal punishment" means the infliction of or causing the infliction of physical pain on a student as a means of discipline.

"Corrective action plan" means the school's plan of action to correct a finding of noncompliance applicable to this chapter or other applicable regulations. The plan must identify specific timelines and the person responsible for implementation.

"Day" means calendar day unless otherwise designated as business day or school day.

"Deaf-blindness" means simultaneous hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

"Deafness" means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects the child's educational performance.

"Department" means the Virginia Department of Education.

"Developmental delay" means a disability affecting a child two years of age by September 30 through six years of age, inclusive:

1. Who (i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; or (ii) has an established physical or mental condition that has a high probability of resulting in developmental delay;

2. The delay is not primarily a result of cultural factors, environmental or economic disadvantage, or limited English proficiency; and

3. The presence of one or more documented characteristics of the delay has an adverse effect on educational performance and makes it necessary for the student to have specially designed instruction to access and make progress in the general educational activities for this age group.

"Disability category" means a listing of special education eligibility classifications for students served, including: autism, deaf-blindness, developmental delay, emotional disability, hearing impairment ~~(~~, including deafness~~)~~, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment ~~(~~, including blindness~~)~~.

"Education records" means those records that are directly related to a student and maintained by the school or by a party acting for the school. Education records may be recorded in any manner, including handwriting, print, computer media, video or audiotape, film, microfilm, or microfiche. Education records include discipline and medical records. Education records include electronic exchanges between school personnel and the parent regarding matters associated with the child's educational program.

"Eligible student" means a student who has reached 18 years of age.

"Emotional disability" or "emotional disturbance" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

1. An inability to learn that cannot be explained by intellectual, sensory, or health factors;

2. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

3. Inappropriate types of behavior or feelings under normal circumstances;

4. A general pervasive mood of unhappiness or depression; or

5. A tendency to develop physical symptoms or fears associated with personal or school problems.

Emotional disability or emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance or emotional disability as defined in this section.

"Evaluation" means procedures used in accordance with 8VAC20-81 to determine whether a child has a disability and the nature and extent of the special education and related services the child needs.

"Functional behavioral assessment" or "FBA" means a process to determine the underlying cause or functions of a student's behavior that impede the learning of the student or the learning of the student's peers. A functional behavioral assessment may include a review of existing data or new testing data or evaluation as determined by the IEP team.

"Funding agency" means a community policy and management team under the Children's Services Act, Chapter 52 (§ 2.2-5200 et seq.) of Title 2.2 of the Code of Virginia; local school division; or local department of social services.

"Guaranty instrument" means a surety bond, irrevocable letter of credit, or certificate of deposit.

"Hearing impairment" means an impairment in hearing in one or both ears, with or without amplification, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8VAC20-81).

"Illegal drug" means a controlled substance or a prescription drug not prescribed for the person but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under the Controlled Substances Act, 21 USC § 812(c), or under any other provision of federal law.

"Individualized Education Program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised at least annually in a team meeting in accordance with the Regulations Governing Special Education for Children with Disabilities in Virginia (8VAC20-81). The IEP specifies the individual educational needs of the child and what special education and related services are necessary to meet the child's educational needs.

"Individualized Instruction Plan" or "IIP" means a written statement for a child who is privately placed or for a child who has not been determined eligible for special education services

that is developed, reviewed, and revised at least annually in a team meeting that includes the parent and student when appropriate. The IIP specifies the student's academic level, course of study, individual educational needs, and the educational services the child will receive.

"Individualized education program team" or "IEP team" means a group of individuals described in 8VAC20-81-110 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

"Intellectual disability" means the definition formerly known as "mental retardation" and means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.

"Licensee," also known as the sponsor, means the person, partnership, corporation, or association to whom a license is issued and who is legally responsible for compliance with this chapter.

"License to operate" or "license" means a document issued by the state Superintendent of Public Instruction that authorizes approval to operate a school for students with disabilities.

"Mechanical restraint" means the use of any material, device, or equipment to restrict a student's freedom of movement. ~~This~~ The term "mechanical constraint" does not include devices implemented by trained school personnel or utilized by a student that have been prescribed by an appropriate medical or related services professional and are used with parental consent for the specific and approved purposes for which such devices were designed, such as:

1. Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;

2. Vehicle safety restraints, including seat belts, when used as intended during the transport of a student in a moving vehicle;

3. Restraints for medical immobilization; ~~or~~

4. Orthopedically prescribed devices that permit a student to participate in activities without risk of harm; or

5. High chairs and feeding stations used for age or developmentally appropriate students.

"Multiple disabilities" mean simultaneous impairments (such as intellectual disability with blindness or intellectual disability with orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

"Orthopedic impairment" means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

"Other health impairment" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome, and that adversely affects a child's educational performance.

"Paraprofessional," also known as paraeducator, means an appropriately trained employee who assists and is supervised by qualified professional staff in meeting the requirements of this chapter.

"Parent" means:

1. A person who is:

a. A biological or adoptive parent of a child;

b. A foster parent, even if the biological or adoptive parent's rights have not been terminated, but subject to subdivision 3 of this definition;

c. A guardian generally authorized to act as the child's parent or make educational decisions for the child (but not the Commonwealth if the child is a ward of the Commonwealth);

d. An individual acting in the place of a biological or adoptive parent (including grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

e. If no party qualified under subdivisions 1 a through 1 d of this definition can be identified, or those parties are unwilling to act as parent, a surrogate parent who has been appointed in accordance with 8VAC20-81-220.

2. The biological or adoptive parent, when attempting to act as the parent pursuant to this section and when more than one party is qualified under subdivision 1 of this definition to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent has had residual parental rights and responsibilities terminated pursuant to § 16.1-277.01, 16.1-277.02, or 16.1-283 of the Code of Virginia or a comparable law in another state.

3. The local school division shall provide written notice to the biological or adoptive parents at their last known address that a foster parent is acting as the parent pursuant to this

section, and the local school division is entitled to rely upon the actions of the foster parent pursuant to this section until such time that the biological or adoptive parent attempts to act as the parent.

4. If a judicial decree or order identifies a specific person among subdivisions 1 a through 1 e of this definition to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person shall be determined to be the "parent" for purposes of the special education identification, evaluation, and placement of a child and the provision of a free appropriate public education to a child.

"Pat down" means a thorough external body search of a clothed student.

"Personally identifiable information" means information that includes:

1. The student's name, the child's parent, or other family member;

2. The address of the child;

3. A personal identifier, such as the child's social security number or student number; or

4. A list of personal characteristics that would make the student's identity easily traceable.

"Pharmacological restraints" means a drug or medication used on a student to control behavior or restrict freedom of movement that is neither (i) prescribed by a licensed physician or other qualified health professional acting under the scope of the professional's authority for the standard treatment of a student's medical or psychiatric condition nor (ii) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority.

"Physical restraint" means ~~the use of approved physical interventions or "hands-on" holds by trained staff to prevent a student from moving his body to engage in a behavior that places the student or others at risk of physical harm. Physical restraint~~ a personal restriction that immobilizes or reduces the ability of a student to move freely. The term "physical restraint" does not include:

1. Briefly holding a student in order to calm or comfort the student; ~~or~~

2. Holding a student's hand or arm to escort the student safely from one area to another; or

3. The use of incidental, minor, or reasonable physical contact or other actions designed to maintain order and control.

"Placing agency" means the community policy and management team under the Children's Services Act, Chapter 52 (§ 2.2-5200 et seq.) of Title 2.2 of the Code of Virginia; the local school division; or the local department of social services.

"Privately placed student" means a student placed in a private school for students with disabilities by the parent.

"Publicly placed student" means a student placed in a private school for students with disabilities by a local school division, family assessment and planning team under the Children's Services Act, or court order.

"Qualified personnel" or "qualified staff" means personnel who have met the state-approved or state-recognized certification, licensing, or other comparable requirement applicable to a specific discipline.

"Regular basis" means more than twice a month.

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education and includes speech-language pathology and audiology services; interpreting services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services, including rehabilitation counseling; orientation and mobility services and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services; social work services in schools; and parent counseling and training. Related services do not include a medical device that is surgically implanted, including cochlear implants, the optimization of device functioning (e.g., mapping), maintenance of the device, or the replacement of that device. The list of related services is not exhaustive and may include other developmental, corrective, or supportive services (such as artistic and cultural programs, and art, music, and dance therapy, if those programs are required to assist a child with a disability to benefit from special education).

"Restraint" means mechanical restraint, physical restraint, or pharmacological restraint.

"School" means a school for students with disabilities that has a license to operate issued by the Superintendent of Public Instruction.

"School day" means any day, including a partial day, that students are in attendance at school for instructional purposes. The term has the same meaning for all students in school, including students with and without disabilities.

"School for students with disabilities" or "schools" means a privately owned and operated preschool, school, or educational organization, no matter how titled, maintained, or conducting classes for the purpose of offering instruction, for a consideration, profit or tuition, to persons determined to have autism, deaf-blindness, developmental delay, a hearing impairment, including deafness, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, an emotional disturbance, a specific learning

disability, a speech or language impairment, a traumatic brain injury, or a visual impairment, including blindness.

"School personnel" means individuals employed by the school on a full-time or part-time basis or as independent contractors or subcontractors as instructional, administrative, and support personnel and includes individuals serving as a student teacher or intern under the supervision of appropriate school personnel.

"Seclusion" means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Provided that no such room or space is locked, the term "seclusion" does not include (i) time-out, as defined in this chapter; (ii) in-school suspension; (iii) detention; (iv) student-requested breaks in a different location in the room or in a separate room; (v) removal of a student for a short period of time from the room or a separate area of the room to provide the student with an opportunity to regain self-control, so long as the student is in a setting from which the student is not physically prevented from leaving; (vi) removal of a student for disruptive behavior from a classroom by the teacher; or (vii) confinement of a student alone in a room or area from which the student is physically prevented from leaving during the investigation and questioning of the student by school personnel regarding the student's knowledge of or participation in events constituting a violation of the code of student conduct, such as a physical altercation, or an incident involving drugs or weapons.

"Section 504 plan" means a written plan of modifications and accommodations under § 504 of the Rehabilitation Act of 1973 (29 USC § 794).

"Serious incident" means:

1. Any accident or injury requiring medical attention by a licensed physician;

2. Any illness that requires hospitalization;

3. Any runaway; or

4. Any event that affects, or potentially may affect, the health, safety, or welfare of any student being served at the school or school-related activity.

"Serious injury" means any injury resulting in bodily hurt, damage, harm, or loss that requires medical attention by a licensed physician.

"Special education" means specially designed instruction to meet the unique needs of a child with a disability.

The term includes:

1. Speech-language pathology services or any other related service, if the service is considered special education rather than a related service under state standards;

2. Vocational education; and

3. Travel training.

"Specially designed instruction" means adapting, as appropriate, to the needs of an eligible child under this chapter, the content, methodology, or delivery of instruction to:

1. Address the unique needs of the child that result from the child's disability; and

2. Ensure access of the child to the general curriculum so that the child can meet the educational standards that apply to all children within the jurisdiction of the local educational agency.

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of (i) visual, hearing, or motor disabilities; (ii) intellectual disabilities; (iii) emotional disabilities; or (iv) environmental, cultural, or economic disadvantage.

Dyslexia is distinguished from other learning disabilities due to its weakness occurring at the phonological level. Dyslexia is a specific learning disability that is neurobiological in origin. It is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

"Speech or language impairment" means a communication disorder, such as stuttering, impaired articulation, expressive or receptive language impairment, or voice impairment, that adversely affects a child's educational performance.

"Standard precautions" mean universal precautions designed to prevent transmission of HIV, hepatitis B virus (HBV), and other bloodborne pathogens when providing first aid or health care. Standard precautions apply to blood; all body fluids, secretions, and excretions except sweat, regardless of whether or not the secretions contain blood; nonintact skin; and mucous membranes. The precautions are designed to reduce the risk of transmission of microorganisms from both recognized and unrecognized sources of infection when providing first aid or health care. Standard precautions include protective barriers, such as gloves, gowns, aprons, masks, and protective eye wear, that can reduce the risk of exposure with materials that may contain infectious microorganisms.

"Standards of Learning" or "SOL" means Virginia's rigorous academic standards established by the Board of Education.

"Strip search" means a visual inspection of the body of a student when that student's outer clothing or total clothing is removed, and there is an inspection of the removed clothing. Strip searches are conducted for the detection of contraband.

"Student" means any student, with or without a disability, enrolled in a private school for students with a disability. With regard to restraint and seclusion, students placed through public or private means in a private day or residential school for students with disabilities shall be afforded the protections set forth in this chapter.

"Substantial compliance" means that while there may be noncompliance with one or more regulations that represent minimum risk, compliance clearly and obviously exists with most of the regulations as a whole.

"Superintendent" means the state Superintendent of Public Instruction.

"Teacher of record" means the teacher who is responsible for the delivery of instruction. The teacher of record shall hold a license issued by the State Board of Education.

"Time-out" means ~~assisting a student to regain control by removing~~ a behavioral intervention in which the student ~~from the immediate environment to a different open location until~~ is temporarily removed from the learning activity but in which the student is ~~calm or the problem behavior has subsided~~ not confined.

"Traumatic brain injury" means an acquired injury to the brain caused by an external physical force or by other medical conditions, including stroke, anoxia, infectious disease, aneurysm, brain tumors, and neurological insults resulting from medical or surgical treatments, resulting in total or partial functional disability or psychosocial impairment or both that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

"Virtual learning" means the delivery of instruction through emerging technologies, such as satellite, streaming video, or the Internet.

"Visual impairment including blindness" means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

"Volunteer" means any individual who, of the individual's own free will and without compensation, provides goods or services to the school.

8VAC20-671-650. Prohibitions.

A. The following actions are prohibited:

1. ~~Restraint and seclusion, except when it is necessary to protect the student or others from personal harm, injury, or death and other less restrictive interventions were unsuccessful~~ Use of mechanical restraints;

2. ~~Prone "face down"~~ Use of prone restraints~~, mechanical restraints, pharmacological restraints, and~~ (i.e., lying face down) or any other ~~restraint~~ restraints that ~~restricts~~ restrict a student's breathing or ~~harms~~ harm the ~~child or interferes with the child's ability to communicate~~ student;

~~3. Deprivation of drinking water or food;~~

~~4.~~ 3. Limitation on contacts and visits from the student's probation officer, social worker, placing agency representative, or other service provider as appropriate;

~~5.~~ 4. Any action that is humiliating, degrading, or abusive;

~~6. Corporal~~ 5. Use of corporal punishment;

~~7. Deprivation of approved prescription medication or other necessary services;~~

~~8. Denial of access to toilet facilities;~~

~~9. Application~~ 6. Use of aversive stimuli;

~~10.~~ 7. Strip and body cavity searches; ~~and~~

~~11.~~ 8. Discipline, restraint, or implementation of behavior management plans by other students~~.~~;

9. Use of pharmacological restraints;

10. Use of seclusion that restricts a student's breathing or harms the student;

11. Use of physical restraint or seclusion (i) as punishment or discipline; (ii) as a means of coercion or retaliation; (iii) as a convenience; or (iv) to prevent property damage, or in any manner other than as provided in 8VAC20-671-665;

12. Use of seclusion rooms or freestanding units not meeting the standards set forth in this chapter; and

13. Use of restraint or seclusion when medically or psychologically contraindicated as stated in documentation by the IEP team, the student's Section 504 plan team, school professionals, or by a licensed physician, psychologist, or other qualified health professional under the scope of the professional's authority.

B. Nothing in this section shall be construed to prohibit physical restraint or seclusion under the conditions outlined in 8VAC20-671-665.

8VAC20-671-660. Managing student behavior in emergency situations.

~~A.~~ Each school shall have written policies and procedures made available annually to students, parents, and placing agencies that include~~, but are not limited to~~:

1. Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student.

2. A statement that corporal punishment and abusive techniques and interventions are not authorized, permitted, or condoned.

3. A statement that behavior management techniques are applied in order of ~~their~~ degree of intrusiveness or restrictiveness and the conditions under which they may be used by trained personnel.

~~B. Physical restraint or seclusion is allowed only in an emergency situation and only when it is necessary to protect the student or another person from imminent danger of serious physical harm after less intrusive interventions have been attempted and failed to manage that particular behavior and there is a substantial explanation for why other interventions were deemed inadequate or inappropriate.~~

~~1. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, shall trigger a review and, if appropriate, a revision of behavioral strategies currently in place to address dangerous behavior. If positive behavioral strategies are not in place, staff shall develop them.~~

~~2. In cases where a student has a history of dangerous behavior for which restraint or seclusion was considered or used, a school shall have a plan developed in consultation with the parent for (i) teaching and supporting more appropriate behavior and (ii) determining positive methods to prevent behavioral escalations that have previously resulted in the use of restraint or seclusion.~~

~~3. Physical restraint or seclusion shall not be used for disciplinary reasons, as a punishment, or retaliation, or for staff's convenience.~~

~~4. Each student is entitled to be completely free from any unnecessary use of physical restraint or seclusion.~~

~~5. Staff shall continuously monitor the use of physical restraint and seclusion and shall not rely on an electronic surveillance device.~~

~~6. Physical restraint may only be implemented, monitored, or discontinued by staff who have received proper training.~~

~~7. The door to any room in which a student is secluded may be held shut only when a staff member is personally securing it. The door must immediately disengage when the staff member steps away from it. The room must meet specification including size and viewing panels that ensure the student's safety at all times including during a fire or other emergency.~~

~~8. Schools shall permit parents to inspect any area used during an emergency for the purpose of seclusion.~~

~~9. The parent shall be informed on the day of each incident of physical restraint or seclusion. The student's home school division and placing agency shall be informed as soon as possible but within 24 hours of the occurrence.~~

~~10. Each application of physical restraint or seclusion shall be fully documented in the student's record including date, time, staff involved, justification for the physical restraint or seclusion, behavior antecedents, less restrictive interventions that were unsuccessfully attempted prior to using physical restraint or seclusion, duration, description of method or methods of physical restraint techniques used, signature of the person completing the report and date, and reviewer's signature and date. The written report shall be made available to the parent within two business days of the occurrence and opportunity given for the parent and student, as appropriate, to discuss the matter with school staff.~~

~~11. Schools shall collect and annually report to the department the number of times restraint and seclusion were used during the school year. The data shall be disaggregated by students and number of occurrences.~~

8VAC20-671-665. Restraint and seclusion.

A. Nothing in this chapter shall be construed to require a school to employ physical restraint or seclusion. Schools electing to use physical restraint and seclusion shall comply with the requirements of this chapter.

B. Use of physical restraint and seclusion.

1. School personnel may implement physical restraint or seclusion only when other interventions are or would be, in the reasonable judgment of the particular school personnel implementing physical restraint or seclusion in an emergency situation, ineffective and only to:

a. Prevent a student from inflicting serious physical harm or injury to self or others;

b. Quell a disturbance or remove a student from the scene of a disturbance in which the student's behavior or damage to property threatens serious physical harm or injury to persons;

c. Defend self or others from serious physical harm or injury;

d. Obtain possession of controlled substances or paraphernalia that are upon the person of the student or within the student's control; or

e. Obtain possession of weapons or other dangerous objects that are upon the person of the student or within the student's control.

2. Physical restraint and seclusion shall be discontinued as soon as the imminent risk of serious physical harm or injury to self or others presented by the emergency situation has dissipated.

3. Nothing in this section shall be construed to require school personnel to attempt to implement a less restrictive intervention prior to using physical restraint or seclusion when, in the reasonable judgment of the school personnel in an emergency situation, a less restrictive intervention would be ineffective.

4. Unless a student's damage to property creates an imminent risk of serious physical harm or injury to the student or others, the damage of property does not itself indicate an imminent risk of serious physical harm or injury and shall not be the justification for the restraint or seclusion of a student.

5. Any incident involving physical restraint or seclusion in any of the circumstances described in this section shall be subject to the requirements of subsections C through H of this section.

C. Seclusion; standards for use.

1. Schools electing to use seclusion as permitted by this chapter shall meet the following structural and physical standards for rooms designated by the school to be used for seclusion:

a. Any seclusion room or area shall be free of any objects or physical features that may cause injury to the student.

b. Any seclusion room or area shall be of sufficient dimensions and shall have sufficient lighting, heating, cooling, and ventilation to comport with the dignity and safety of the student.

c. Windows in the seclusion room shall be constructed to minimize breakage and otherwise prevent the occupant from harming himself.

d. All space in the seclusion room shall be visible through the door, either directly or by mirrors.

2. Schools electing to use seclusion as authorized by this chapter shall provide for the continuous visual monitoring of any seclusion, either by the presence of school personnel in the seclusion room or area or observation by school personnel through a window, viewing panel, or half-door.

3. Schools electing to use seclusion as authorized by this chapter shall include within school policies and procedures provisions that address the appropriate use and duration of seclusion based upon the age and development of the student.

D. Notification and reporting.

1. When any student has been physically restrained or secluded:

a. The school personnel involved shall report the incident and the use of any related first aid to the school administrator or the school administrator's designee as soon as possible by the end of the school day in which the incident occurred;

b. The school administrator or the school administrator's designee, or other school personnel, shall make a reasonable effort to ensure that direct contact is made with the student's parent, either in person or through telephone conversation, or other means of communication authorized by the parent such as email, to notify the parent of the incident and any related first aid on the day the incident occurred; and

c. The student's home school division and placing agency shall be informed as soon as possible following the occurrence, but in no circumstances less than by close of business the next school day.

2. When any student has been physically restrained or secluded after the regular school day, the notifications required by subdivision 1 of this subsection shall be made as soon as practicable in compliance with the school's written policies required as part of the contingency plans outlined in 8VAC20-671-380.

3. As soon as practicable, but no later than two school days after an incident in which physical restraint or seclusion has been implemented, the school personnel involved in the incident or other school personnel, as may be designated by the school administrator, shall complete and provide to the administrator or the administrator's designee a written incident report. The school shall provide the parent with a copy of the incident report within seven calendar days of the incident.

The written incident report shall contain information sufficient to inform the parent about the incident. Such information would typically include the following:

a. Student name, age, gender, grade, and ethnicity;

b. Location of the incident;

c. Date, time, and total duration of incident, including documentation of the beginning and ending time of each application of physical restraint or seclusion;

d. Date of report;

e. Name of person completing the report;

f. School personnel involved in the incident, their roles in the use of physical restraint or seclusion, and documentation of their completion of the school's training program;

g. Description of the incident, including the resolution and process of return of the student to the student's educational setting, if appropriate;

h. Detailed description of the physical restraint or seclusion method used;

i. Student behavior that justified the use of physical restraint or seclusion;

j. Description of prior events and circumstances prompting the student's behavior, to the extent known;

k. Less restrictive interventions attempted prior to the use of physical restraint or seclusion and an explanation if no such interventions were employed;

l. Whether the student has an IEP, a Section 504 plan, a BIP, or other plan;

m. If a student, school personnel, or any other individual sustained bodily injury, the date and time of nurse or emergency response personnel notification and the treatment administered, if any;

n. Date, time, and method of parental notification of the incident, as required by this section; and

o. Date, time, and method of school personnel debriefing.

4. Following an incident of physical restraint or seclusion, the school shall ensure that, within two school days, the school administrator or the school administrator's designee reviews the incident with all school personnel who implemented the use of physical restraint or seclusion to discuss:

a. Whether the use of restraint or seclusion was implemented in compliance with this chapter and local policies; and

b. How to prevent or reduce the future need for physical restraint or seclusion.

5. As appropriate, depending on the student's age and developmental level, following each incident of physical restraint or seclusion the school shall ensure that, as soon as practicable, but no later than two school days or upon the student's return to school, the school administrator or the school administrator's designee shall review the incident with the student involved to discuss:

a. Details of the incident in an effort to assist the student and school personnel in identifying patterns of behaviors, triggers, or antecedents; and

b. Alternative positive behaviors or coping skills the student may utilize to prevent or reduce behaviors that may result in the application of physical restraint or seclusion.

6. The school administrator or the school administrator's designee shall regularly review the use of physical restraint or seclusion to ensure compliance with the school's policy and procedures. When there are multiple incidents within the same classroom or by the same individual, the school administrator or the school administrator's designee shall take appropriate steps to address the frequency of use.

E. School policies and procedures.

1. Each school that elects to use physical restraint or seclusion shall develop and implement written policies and procedures that meet or exceed the requirements of this chapter and that include, at a minimum, the following:

a. A statement of intention that the school will encourage the use of positive behavioral interventions and supports to reduce and prevent the need for the use of physical restraint and seclusion.

b. Examples of the positive behavioral interventions and support strategies consistent with the student's rights to be treated with dignity and to be free from abuse that the school uses to address student behavior, including the appropriate use of effective alternatives to physical restraint and seclusion.

c. A description of initial and advanced training for school personnel that addresses (i) appropriate use of effective alternatives to physical restraint and seclusion and (ii) the proper use of restraint and seclusion.

d. A statement of the circumstances in which physical restraint and seclusion may be employed, which shall be no less restrictive than that set forth in subsections B and C of this section.

e. Provisions addressing the:

(1) Notification of parents regarding incidents of physical restraint or seclusion, including the manner of such notification;

(2) Documentation of the use of physical restraint and seclusion;

(3) Continuous visual monitoring of the use of any physical restraint or seclusion to ensure the appropriateness of such use and the safety of the student being physically restrained or secluded, other students, school personnel, and others. These provisions shall include exceptions for emergency situations in which securing visual monitoring before implementing the physical restraint or seclusion would, in the reasonable judgment of the school personnel implementing the physical restraint or seclusion, result in serious physical harm or injury to persons; and

(4) Securing of any room in which a student is placed in seclusion. These provisions shall ensure that any seclusion room or area meet specifications for size and viewing panels that ensure the student's safety at all times, including during a fire or other emergency, as required by this chapter.

2. Each school shall review its policies and procedures regarding physical restraint and seclusion at least annually and shall update these policies and procedures as appropriate. In developing, reviewing, and revising its

policies, schools shall consider the distinctions in emotional and physical development between elementary and secondary students and between students with and without disabilities.

3. A current copy of a school's policies and procedures regarding restraint and seclusion shall be available to school personnel, students, parents, and placing and licensing agencies. Schools shall ensure that printed copies of such policies and procedures are available as needed to those who do not have online access.

4. In developing policies and procedures, schools shall give due consideration to practices that encourage parent involvement and collaboration with regard to these matters.

F. Prevention; multiple uses of restraint and seclusion.

1. In the initial development and subsequent review and revision of a student's IEP or Section 504 plan, the student's IEP or Section 504 plan team shall consider whether the student displays behaviors that are likely to result in the use of physical restraint or seclusion. If the IEP or Section 504 plan team determines that future use is likely, the team shall consider, among other things, the need for (i) an FBA; (ii) a new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions; (iii) any new or revised behavioral goals; and (iv) any additional evaluations or reevaluations.

Within 10 school days following the second school day in a single school year on which an incident of physical restraint or seclusion has occurred, the student's IEP or Section 504 plan team shall meet to discuss the incident and to consider, among other things, the need for (i) an FBA; (ii) a new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions; (iii) any new or revised behavioral goals; and (iv) any additional evaluations or reevaluations.

2. For students other than those described in subdivision 1 of this subsection, within 10 school days of the second school day in a single school year on which an incident of physical restraint or seclusion has occurred, a team consisting of the parent, school administrator or the school administrator's designee, a teacher of the student, school personnel involved in the incident (if not the teacher or administrator already invited), and other appropriate school personnel, such as a school psychologist, school counselor, or school security officer, as determined by the school, shall meet to discuss the incident and to consider, among other things, the need for (i) an FBA; (ii) a new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions; and (iii) a referral for evaluation.

3. Nothing in this section shall be construed to (i) excuse the team convened under subdivision 2 of this subsection or its individual members from the obligation to refer the student for evaluation if the team or members have reason to suspect that the student may be a student with a disability; or (ii) prohibit the completion of an FBA or a BIP for any student, with or without a disability, who might benefit from these measures but whose behavior has resulted in fewer than two incidents of physical restraint or seclusion in a single school year.

G. The school administrator or the school administrator's designee shall submit to the Superintendent of Public Instruction or the superintendent's designee a report on the use of physical restraint and seclusion in the school based on the individual incident reports completed and submitted to the school administrator or the school administrator's designee by school personnel pursuant to subdivision D 3 of this section.

H. Schools that employ physical restraint or seclusion shall:

1. Ensure that all school personnel receive training that focuses on skills related to positive behavior support, conflict prevention, de-escalation, and crisis response, including follow-up support and social-emotional strategy support for students, staff, and families;

2. Ensure that all school personnel receive initial training regarding the regulations, policies, and procedures governing the use of physical restraint and seclusion;

3. Provide advanced training in the use of physical restraint and seclusion for at least one administrator in every school building and for school personnel assigned to work with any student whose IEP or Section 504 plan team determines the student is likely to be physically restrained or secluded; and

4. Ensure that any initial or advanced training is evidence based.

I. Nothing in this chapter shall be construed to modify or restrict:

1. The initial authority of teachers to remove students from a classroom; or

2. The authority and duties of school security officers as defined in § 9.1-101 of the Code of Virginia, if such officers are being utilized by a private school for students with disabilities.

VA.R. Doc. No. R24-7025; Filed November 10, 2025, 9:03 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Fast-Track Regulation

Title of Regulation: **12VAC5-200. Regulations Governing Eligibility Standards and Charges for Medical Care Services to Individuals (amending 12VAC5-200-10, 12VAC5-200-50, 12VAC5-200-80, 12VAC5-200-90, 12VAC5-200-105 through 12VAC5-200-150, 12VAC5-200-230, 12VAC5-200-270, 12VAC5-200-280, 12VAC5-200-290; repealing 12VAC5-200-20, 12VAC5-200-30, 12VAC5-200-40, 12VAC5-200-60, 12VAC5-200-100, 12VAC5-200-170, 12VAC5-200-180, 12VAC5-200-220).**

Statutory Authority: §§ 32.1-11 and 32.1-12 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 14, 2026.

Effective Date: January 29, 2026.

Agency Contact: Lisa Park, Health Care Reimbursement Manager, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7018, fax (804) 864-7022, or email lisa.park@vdh.virginia.gov.

Basis: Section 32.1-11 of the Code of Virginia authorizes the State Board of Health to (i) formulate a program of environmental health services, laboratory services, and preventive, curative, and restorative medical care services to be provided by the Virginia Department of Health on a regional, district, or local basis; (ii) define the income limitations for medically indigent persons; (iii) prescribe the charges to be paid for medical care services of the department; (iv) prescribe a scale of charges based on the ability to pay; and (v) authorize the department to charge an amount equal to the allowable charge of an insurer for persons who have private health insurance. Section 32.1-12 of the Code of Virginia authorizes the board to promulgate regulations and provide for reasonable variances and exemptions that may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia and other laws of the Commonwealth administered by the board, the Commissioner of Health, and the department.

Purpose: This action protects the health, safety, and welfare of the public because it provides the local health department offices with clear information about determining whether a person is medically indigent and the person's eligibility to receive low-cost or no-cost medical services.

Rationale for Using Fast-Track Rulemaking Process: This action is appropriate for the fast-track rulemaking process because the amendments update style and formatting, add missing references, remove redundancies, and clarify information. No changes alter the intent, meaning, or function of the regulation.

Substance: The amendments (i) raise the age limit to 22 years of age for an individual enrolled in school to be eligible for free immunizations, (ii) update style, (iii) remove redundancies, (iv) add missing citations, and (v) clarify information.

Issues: The primary advantage to the public and to the Commonwealth is that the amendments clarify the regulatory requirements and provisions regarding eligibility standards and charges for medical care services to individuals provided by the department and local health districts. Further, the public benefits from expansion of access to certain no-cost services. 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.[1]

Summary of the Proposed Amendments to Regulation. As a result of a periodic review,[2] the State Board of Health (board) proposes numerous amendments to improve the clarity of the regulatory text without affecting the eligibility or fees for services covered in practice under this regulation.

Background. This regulation defines income limitations within which a person is deemed to be medically indigent, thus receiving medical services (e.g., immunizations, family planning, sexually transmitted infection and communicable disease testing and treatment, and other public-health-related medical care) from Virginia Department of Health (VDH) clinics around the state at low cost or at no charge. These rules provide the mechanism for the establishment of an agency-wide fee schedule and prescribe the specific methodology for implementing a sliding fee scale of discounts used when charging patients for medical services received in local health department clinics. The regulation also identifies certain services that are provided free of charge and allows the health commissioner to delegate authority to health district directors to waive fees in certain circumstances. After the periodic review of this regulation, the board determined that amendments are needed to make format and style changes (e.g., relocation of language to different and more relevant sections to improve continuity), add or update references to the Code of Virginia, remove duplicative language, and add clarifying language. One of the proposed changes would revise the text of the regulation that provides free immunization to children as required by § 32.1-46 of the Code of Virginia. Although an amendment to the regulation would expand the age of eligible persons from 21 years old to 22 years old, this would conform the regulation to current practice. According to VDH, these vaccines have always been provided without cost to these individuals, because some persons enrolled in high school are older than 21 years of age, in order to reduce the incidence of vaccine-preventable communicable diseases. Thus, the proposed revision would conform the regulation to the status quo, and there is no change in practice. In short, none of the proposed changes would affect the eligibility or fees for services covered in practice under this regulation.

Estimated Benefits and Costs. The proposed changes would not alter how the regulation is interpreted or implemented in practice. Thus, no economic impact is expected other than improving the clarity of the rules and standards.

Businesses and Other Entities Affected. This regulation applies to individuals who are eligible for services provided by local VDH clinics. In fiscal year 2023, local health department offices provided medical services to approximately 190,000 individuals. Of those individuals, 41% were determined to be eligible to receive services free or at a reduced cost based on the sliding scale. Many of the remaining individuals received free services outright without having a sliding scale evaluation because they received vaccines required for K-12 school entry, which are provided at no charge to the family. None of these individuals are disproportionately affected. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[3] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined. The proposed changes would not alter how the regulation is interpreted or implemented in practice, and therefore no adverse impact on any entity is indicated.

Small Businesses[4] Affected.[5] The proposed amendments do not adversely affect small businesses.

Localities[6] Affected.[7] The proposed amendments do not introduce costs for localities, nor do they have a disproportionate impact.

Projected Impact on Employment. No effect on employment is expected.

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

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

[2] https://townhall.virginia.gov/l/ViewPReview.cfm?PRid=1837.

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

[4] 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."

[5] 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.

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

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

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

Summary:

The amendments (i) make formatting and style changes, (ii) add and update cross-references, (iii) remove duplicative language, (iv) add clarifying language, and (v) consolidate sections.

12VAC5-200-10. Definitions.

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

"Applicant" means the person requesting medical care services for himself or on whose behalf a request is made.

"Board" means the State Board of Health.

"Child" means a person ~~under~~ younger than 18 years of age and includes ~~any~~ a biological or adopted child~~,~~ and ~~any~~ a child placed for adoption or foster care unless otherwise treated as a separate unit for the purposes of determining eligibility and charges under ~~these regulations~~ this chapter.

"Commissioner" means the Commissioner of Health.

"Department" means the ~~state~~ Virginia Department of Health and includes the central office, regional offices, health districts, and local health departments.

"Eligibility determination" means the process of obtaining required information regarding family size, income, and other related data in order to establish charges to the applicant.

"Extraordinary financial hardship" includes hardship due to ~~such events as~~ natural disasters, damage to or the loss of uninsured real or personal property, unpaid legal liabilities, and obligatory and unavoidable expenditures for close relatives outside the family unit.

"Family" or "family unit" means the applicant and other ~~such~~ household members who together constitute one economic unit. An economic unit is one or more individuals who generally reside together and share income. The economic unit shall count in its income any contributions to the unit from persons not necessarily living with the unit.

A parent may be a biological, adoptive, or stepparent.

A woman who is pregnant may be counted as a multiple beneficiary ~~when the pregnancy has been verified by a physician or a nurse practitioner working under the supervision of a physician~~.

~~A husband and wife~~ Spouses who are separated and are not living together shall be considered to be separate family units.

"Flat rate charges" means charges for specified goods or services that are to be charged to ~~all~~ clients regardless of income and with no eligibility determination.

"Gross income" means total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from nonfarm or farm self-employment (e.g., receipts from an applicant's own business or farm expenses) income, plus any depreciation shown on income tax forms. They include regular payments from social security or railroad retirement, unemployment and workers' compensation, strike benefits from union funds, veterans' benefits, training stipends, alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; and income from dividends, interest, net rental income, net royalties, or periodic receipts from estates or trusts, lump sum settlements, and net gambling or lottery winnings.

"Gross income" does not include the value of food stamps, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) checks, fuel assistance payments, housing assistance, money borrowed, tax refunds, gifts, withdrawal of bank deposits from earned income, earnings of minor children, money received from the sale of property, general relief from the Department of Social Services, or college or university scholarships, grants, fellowships, and assistantships when provided to pay for, or in the form of, tuition, fees, other direct educational expenses, housing, or meals.

"Income scales" means scales based on individual or family gross income. They shall be based on the official federal poverty guidelines updated annually by the U.S. Department of Health and Human Services in accordance with ~~§§ 652 and 6763(2)~~ § 673(2) of the Omnibus Reconciliation Act of 1981 (Public Law 97-35). There shall be two income scales: one for Northern Virginia and one for the remainder of the Commonwealth ~~as follows:~~

~~Income Level A — those clients with incomes up to and including 100% of the federal poverty income guidelines will qualify as Income Level A clients, except for Northern Virginia where the Income Level A will be up to and including 110% of the federal poverty income guidelines.~~

~~Income Level B — those clients with incomes above 100% and no more than 110% of the federal poverty guidelines will qualify as Income Level B clients, except for Northern Virginia where the Income Level B will be above 110% and no more than 133.3% of the federal poverty income guidelines.~~

~~Income Level C — those clients with incomes above 110% and no more than 133.3% of the federal poverty income guidelines will qualify as Income Level C clients, except for Northern Virginia where the Income Level C will be above 133.3% and no more than 166.6% of the federal poverty income guidelines.~~

~~Income Level D — those clients with incomes above 133.3% and no more than 166.6% of the federal poverty income guidelines will qualify as Income Level D clients, except for Northern Virginia where the Income Level D will be above 166.6% and no more than 200% of the federal poverty income guidelines.~~

~~Income Level E — those clients with incomes above 166.6% and less than 200% of the federal poverty income guidelines will qualify as Income Level E clients, except for Northern Virginia where the Income Level E will be above 200% and less than 233.3% of the federal poverty income guidelines.~~

~~Income Level F — those clients with incomes equal to or above 200% and less than 250% of the federal poverty income guidelines will qualify as Income Level F clients, except for Northern Virginia where the Income Level F will be equal to or above 233.3% and less than 283.3% of the federal poverty income guidelines.~~

~~Income Level G — those clients with incomes equal to or above 250% of the federal poverty level guidelines will qualify as Income Level G clients, except for Northern Virginia where income level G will be equal to or above 283.3% of the federal poverty income guidelines~~.

"Medical care services" means clinical medical, dental, and nursing services provided to patients by physicians, dentists, nurses, and other health care providers employed by health districts or contracted by health districts to provide these services. It does not include laboratory tests, pharmaceutical and biological products, radiological or other imaging studies, other goods or products, or other medical services that a health district does not directly provide.

"Medically indigent" means applicants whose individual or family gross income is defined as Income Level A.

"Minor" means a person ~~less~~ younger than 18 years of age whose parents are responsible for ~~his~~ the minor's care. A minor will be considered a separate family unit when married or not living with any relative or deemed an adult.

A minor shall be deemed an adult for the purposes of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious or

contagious disease ~~which~~ that the State Board of Health requires to be reported.

2. Medical and health services required for birth control, pregnancy, or family planning except for the purposes of sexual sterilization.

"Nonchargeable services" means the medical care and related goods and services that the department has determined will be provided without charge and without an eligibility determination pursuant to 12VAC5-200-150 to ~~all citizens~~ individuals regardless of income.

"Northern Virginia" means the area which includes the cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and the counties of Arlington, Fairfax, Loudoun, and Prince William.

"Venereal disease" is synonymous with "sexually transmitted infection."

12VAC5-200-20. ~~Authority for regulations.~~ (Repealed.)

~~Section 32.1-11 of the Code of Virginia establishes the responsibility of the board as follows: "The board may formulate a program of environmental health services, laboratory services and preventive, curative and restorative medical care services, including home and clinic health services described in Titles V, XVIII and XIX of the United States Social Security Act and amendments thereto, to be provided by the department on a district or local basis. The board shall define the income limitations within which a person shall be deemed to be medically indigent. Persons so deemed to be medically indigent shall receive the medical care services of the department without charge. The board may also prescribe the charges to be paid for the medical care services of the department by persons who are not deemed to be medically indigent and may, in its discretion and within the limitations of available funds, prescribe a scale of such charges based upon ability to pay. Funds received in payment of such charges are hereby appropriated to the board for the purpose of carrying out the provisions of this title. The board shall review periodically the program and charges adopted pursuant to this section."~~

12VAC5-200-30. ~~Purpose of chapter.~~ (Repealed.)

~~The board has promulgated this chapter to: (i) establish financial eligibility criteria to determine if a person is medically indigent and therefore qualified to receive medical care services from the department without charge; (ii) establish income scales and a mechanism for determining charges for medical care provided by the department to individuals who are not medically indigent, based upon their ability to pay; (iii) establish a mechanism for handling appeals and waivers; and (iv) establish continuity of eligibility among state agencies. The regulations are constructed to assure that eligibility criteria remain appropriate for changing economic conditions.~~

12VAC5-200-40. ~~Administration of chapter.~~ (Repealed.)

~~This chapter is administered by the commissioner.~~

~~The commissioner shall assure uniformity and consistency by interpreting and implementing the rules of the department for the provision of medical care and related goods and services. The commissioner may issue a guidance document that interprets these regulations and provides guidance for their implementation. Such a document shall be reviewed and revised whenever the regulations of this chapter are reviewed, and may also be amended or revised as needed to meet changing circumstances.~~

~~Whenever possible, charges for services shall use the most appropriate current Medicaid charges (and matching Medicaid codes). If there is no Medicaid code for a particular service, the most appropriate current Medicare charge (and matching code) shall be used. If both Medicaid and Medicare charges (and codes) exist for the same service, the Medicaid charge (and code) will be used. If neither a Medicaid nor a Medicare code exists for a particular service, the commissioner, or a designee, shall determine an appropriate charge and develop a matching code. A guidance document shall include procedures for determining the costs and establishing the charges for medical care and related goods and services when any of these are not otherwise addressed in these regulations or the Code of Virginia.~~

~~The commissioner shall publish specific income levels expressed in dollar amounts for determining eligibility for medical care services of the department in accordance with the income scales defined in 12VAC5-200-10.~~

12VAC5-200-50. Recipients of services.

This chapter shall apply to ~~all persons~~ a person seeking medical care services provided by the department, except where other eligibility criteria are required for programs administered under federal statute.

12VAC5-200-60. ~~Application of the Administrative Process Act.~~ (Repealed.)

~~The provisions of the Virginia Administrative Process Act govern the adoption of these regulations and any subsequent amendments.~~

12VAC5-200-80. Application process and termination of services.

A. Upon an applicant's request for medical care services ~~(excepting those~~, except the services described in 12VAC5-200-150~~,~~ and 12VAC5-200-160~~, and 12VAC5-200-170)~~, the ~~department will require~~ applicant or the applicant's authorized representative shall provide to the department accurate information ~~as to~~ and documentation regarding the applicant's family size, financial status, and other ~~related~~ data ~~as described on the application for medical care~~ needed to register the applicant as a patient and classify the applicant into the

appropriate income level. ~~The applicant must be informed during the interviewing process of the provisions as described in this section of the regulations.~~

~~An application date is established when the applicant completes and signs the application for medical care services. When~~ B. The department shall record the applicant's eligibility date as the date on which the applicant signs the Patient Application and Consent for Health Care.

C. If an applicant ~~is in need of~~ needs emergency medical services, the district director~~,~~ or ~~his~~ the district director's designee~~,~~ shall waive this application process for that individual until ~~such time as~~ the individual is able to participate in the interviewing process.

~~It is the applicant's responsibility to furnish the department with proof of the applicant's financial data in order to be appropriately classified according to income level and family size so that eligibility for discounts for medical care services can be determined.~~

~~Any individual who is acting on behalf of an applicant will be responsible for the accuracy of all financial data provided to the department.~~

~~Individuals who have failed~~ D. The district director may terminate medical care services to a patient if the patient fails to make ~~any~~ a payment for medical care services or other goods or services received from the department within ~~the past~~ 90 days ~~for medical care services or other~~ after receiving the goods or services ~~they have received may have their medical care services terminated~~. The district director may not terminate services ~~only following~~ without (i) giving notice to the ~~individual that such services will be terminated and only after~~ patient or patient's authorized representative of the intent to terminate, (ii) determining that terminating services would not be detrimental to the ~~individual's~~ patient's health~~. Medical care services cannot be terminated~~, and (iii) for individuals receiving ongoing care ~~without,~~ making a good faith effort to secure alternative care.

12VAC5-200-90. Charges for services.

A. Charges for services means the reasonable charges established by the board for medical care services. No charge shall be established outside the provisions of ~~these regulations~~ this chapter. The department may prescribe a scale of discounts for certain medical care services. ~~Charges will be based on current published Medicaid reimbursement levels. In those instances where Medicaid does not reimburse for a service provided by the department, charges shall be based on the appropriate current Medicare reimbursement levels. Where neither Medicaid nor Medicare reimburse for a service, the commissioner shall establish charges based on the costs of providing the medical care services~~ The commissioner shall publish specific income levels expressed in dollar amounts for determining eligibility for medical care services of the department in accordance with the income scales defined in 12VAC5-200-110.

B. The commissioner shall use the most appropriate current Medicaid charges to establish the fee schedule for services provided by the department pursuant to this chapter. If there is no Medicaid charge for a particular service, the commissioner shall use the most appropriate current Medicare charge. If neither a Medicaid nor a Medicare charge exists for a particular service, the commissioner shall determine an appropriate charge based on the cost of providing the medical care service. Charges for goods and services not directly provided by the agency may be based on the agency's cost. Directors of health districts may request permission from the commissioner~~,~~ or the commissioner's designee~~,~~ to round charges to ~~a convenient value~~ the nearest whole dollar.

C. If the department provides a medical care service to a patient with private health insurance that covers the service provided, the department shall charge to the private health insurance carrier an amount equal to the allowable charge of the patient's private health insurance coverage. If the health insurance carrier denies a claim for the medical care service, the department may not charge the patient an amount greater than the amount the patient would have paid if the patient did not have private health insurance.

D. On selected occasions it may be desirable to provide certain medical services, ~~e.g.,~~ such as influenza immunization, to large numbers of people quickly and conveniently and thereby promote their use by the public. In order to accomplish this, districts may charge a flat rate charge for these services under these circumstances. This provision includes services that are otherwise available at a discounted charge. No eligibility determination will be done, and ~~all~~ service recipients will be charged the same flat rate charge. However, the district must also provide convenient alternative times and venues where applicants can request an eligibility determination and obtain these services at a discounted rate if eligible. The commissioner or commissioner's designee must approve ~~such~~ flat rate charge arrangements in advance, including approval of the specific flat rate charge.

E. Except as otherwise set out in this chapter, charges for certain goods and medical care services may be set at a flat rate charge not subject to discounting. Flat rate charges must be expressly approved by the commissioner or commissioner's designee prior to implementation.

12VAC5-200-100. ~~Flat rate charges.~~ (Repealed.)

~~Except as otherwise set out in this chapter, charges for certain goods and medical care services may be set at a flat rate charge not subject to discounting. All flat rate charges must be expressly approved by the commissioner or commissioner's designee prior to their implementation.~~

12VAC5-200-105. Charges for services and goods provided by contract.

The department, health districts, and local health departments may enter into contracts with agencies external to the department whereby the department, health district, or local health department provides medical services and goods. Charges for ~~such~~ services and goods will be determined by the contract. If a patient copayment is required in the contract, the patient shall pay the full copayment to the department, district, or local health department regardless of the patient's income status. The patient shall not be required to pay if state or federal law precludes a copayment.

12VAC5-200-110. Income levels for charges.

A. The department shall annually publish specific income levels expressed in dollar amounts for determining eligibility for discounts to the charges for medical care services. The ~~charges made to the applicant shall be subject to 100% discounting for those who are found to be medically indigent as defined in Part I.~~ income levels established by the department shall be as follows:

1. Income Level A - those clients with individual or family incomes up to and including 100% of the federal poverty income guidelines will qualify as Income Level A clients, except for Northern Virginia, where the Income Level A will be up to and including 110% of the federal poverty income guidelines. These clients will be considered medically indigent.

2. Income Level B - those clients with individual or family incomes above 100% and no more than 110% of the federal poverty guidelines will qualify as Income Level B clients, except for Northern Virginia, where the Income Level B will be above 110% and no more than 133.3% of the federal poverty income guidelines.

3. Income Level C - those clients with individual or family incomes above 110% and no more than 133.3% of the federal poverty income guidelines will qualify as Income Level C clients, except for Northern Virginia, where the Income Level C will be above 133.3% and no more than 166.6% of the federal poverty income guidelines.

4. Income Level D - those clients with individual or family incomes above 133.3% and no more than 166.6% of the federal poverty income guidelines will qualify as Income Level D clients, except for Northern Virginia, where the Income Level D will be above 166.6% and no more than 200% of the federal poverty income guidelines.

5. Income Level E - those clients with individual or family incomes above 166.6% and less than 200% of the federal poverty income guidelines will qualify as Income Level E clients, except for Northern Virginia, where the Income Level E will be above 200% and less than 233.3% of the federal poverty income guidelines.

6. Income Level F - those clients with individual or family incomes equal to or above 200% and less than 250% of the federal poverty income guidelines will qualify as Income Level F clients, except for Northern Virginia, where the Income Level F will be equal to or above 233.3% and less than 283.3% of the federal poverty income guidelines.

7. Income Level G - those clients with individual or family incomes equal to or above 250% of the federal poverty level guidelines will qualify as Income Level G clients, except for Northern Virginia, where income level G will be equal to or above 283.3% of the federal poverty income guidelines.

B. Applicants for medical care services, including those in Northern Virginia as defined in Part I, whose family income exceeds Income Level A shall be assessed a charge as follows:

1. Income Level A – 100% discount of the established charge for the service.

2. Income Level B – 90% discount of the established charge for the service.

3. Income Level C – 75% discount of the established charge for the service.

4. Income Level D – 50% discount of the established charge for the service.

5. Income Level E – 25% discount of the established charge for the service.

6. Income Level F – 5.0% discount of the established charge for the service.

7. Income Level G – No discount will be given.

12VAC5-200-120. Automatic eligibility.

~~Applicants receiving~~ The department shall provide services to an applicant receiving assistance from the following ~~public assistance program will receive services~~ programs as Income Level A patients without additional income verification:

1. General Relief.

2. Title XIX-Medicaid.

3. National School Lunch Program for children receiving school meals at no cost. Only ~~used for~~ applicable to child dental services.

4. Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Only applicable to dental varnish services under the Dental Varnish Program for children from six months to three years of age.

~~Applicants who are eligible for services under this section, and are not participating in Medicaid or any other children's medical insurance program sponsored by the state, should apply for these programs. Applicants who do not apply for Medicaid or a children's medical insurance program within 60 days of receiving services may be assessed the undiscounted charge for the medical care and related goods and services provided.~~

12VAC5-200-130. Explanation of charges.

~~Prior to services being rendered,~~ The department shall provide an explanation of the estimated charges, applicable discounts, and expected payment ~~shall be provided~~ to the applicant before rendering services.

12VAC5-200-140. Redetermination of eligibility.

~~Eligibility~~ Unless otherwise required by law or regulation, the department shall redetermine eligibility to receive discounts ~~from~~ on established charges ~~must be redetermined at least~~ every 12 months~~, or~~ and when income or family status changes~~, unless otherwise required by law or regulation~~.

12VAC5-200-150. Services provided at no charge to the patient.

A. The department shall provide the following services ~~are provided~~ at no charge to the patient:

1. Those immunizations for all children as required by ~~§~~ §§ 22.1-271.4 and 32.1-46 of the Code of Virginia~~, and of persons~~.

2. Immunizations for a person up to ~~the~~ 22 years of age ~~of 21 when the person~~who is enrolled in a public or private primary or secondary school and lacks evidence of complete and appropriate immunizations for the diseases covered by ~~that section~~ § 32.1-46 of the Code of Virginia.

3. Examination and testing of persons suspected of having or known to have tuberculosis as required by § 32.1-50 of the Code of Virginia.

~~3.~~ 4. Examination, testing, and treatment of persons for sexually transmitted diseases as required by § 32.1-57 of the Code of Virginia.

~~4.~~ 5. Anonymous or confidential testing for human immunodeficiency virus as required by § 32.1-55.1 of the Code of Virginia.

B. The department may provide other medical services at no charge to appropriate citizens of the Commonwealth if directed by the board, the commissioner, or a district health director.

12VAC5-200-170. ~~Other health care services.~~ (Repealed.)

~~The department may elect to provide other medical services at no charge to appropriate citizens of the Commonwealth when directed by the board, the commissioner or a district health director.~~

12VAC5-200-180. ~~Exceptions.~~ (Repealed.)

~~A continuing exception to the above regulations for assessing charges for medical care services will exist for patients determined to be eligible for services provided under those programs of the department specified in the Code of Virginia or published in separate state plans.~~

12VAC5-200-220. ~~General.~~ (Repealed.)

~~In instances when patients have financial hardships and there are no other avenues of care, the patient, guardian or other authorized person may request a waiver of charges for up to 180 calendar days. A waiver shall be requested in writing to the district director. If a waiver is granted, it shall be for the duration of the financial hardship or 180 days, whichever is shorter.~~

~~If the waiver request is approved, the patient will receive a full discount for all charges while covered by the waiver. If the waiver request is denied, the charges will continue as before.~~

12VAC5-200-230. Waivers.

A. The commissioner is authorized, and may delegate the authority to a local health director, to grant or deny ~~requested waivers and may delegate this authority to the district directors. A~~ a waiver to all or a portion of a charge ~~may be granted~~ for reasons of unusually serious health problems or extraordinary financial hardship if a patient or the patient's guardian or legal representative applies for a waiver in writing. A resulting waived or partially waived charge shall be determined by the commissioner or designee~~,~~ and reviewed and revised as needed. The commissioner or designee shall also identify those expenses that are considered to be ~~medical~~ bills~~,~~ for medical care services and shall review and revise this determination as needed.

B. In the event of an adverse decision, the patient, guardian or other authorized person will be advised of their rights to appeal under Part VII (12VAC5-200-270) of this chapter.

C. ~~Waivers will not be continued past 180 days. Additional waivers may be granted, but the applicant must reapply at least every~~ An approved waiver shall only be effective for the duration of the health or financial hardship or 180 days, whichever is shorter. The commissioner or the commissioner's designee may grant an additional waiver related to the health or financial hardship if the patient or the patient's guardian or legal representative reapplies for the waiver.

D. No person believed to be eligible for Medicaid or any state-sponsored children's medical insurance program and who has failed to complete an application for these programs will be eligible for a waiver.

12VAC5-200-270. Rights.

A. If an applicant for or recipient of medical care services ~~as defined in these regulations~~ is denied ~~such~~ services, has services terminated, wishes to contest the determined income level, or is denied a waiver as defined in Part VI (12VAC5-200-220 et seq.) of ~~these regulations~~ this chapter, the ~~applicant/recipient~~ applicant or recipient is entitled to appeal that action as set forth under this part. ~~There are no further rights of appeal except as set forth in this part.~~

B. The ~~applicant/recipient has the right to be informed~~ district director shall notify the applicant or recipient in writing of the appeal process, including time limits, and the right to receive a written statement of the reasons for denial. If a person already receiving services is denied those services, a written notice of termination shall be given 30 days in advance of discontinuing services. The ~~person~~ applicant or recipient has the right to confront any witnesses who may have testified against him.

C. An individual or ~~his~~ the individual's representative may make a written or oral appeal to the district or program director within 30 days of the denial of service.

D. Upon receipt of the appeal, the district director shall review and make written recommendations to the commissioner~~,~~ or commissioner's designee~~,~~ within 15 days. Within 45 days following the date on which an appeal is filed, the commissioner~~,~~ or commissioner's designee~~,~~ shall make a final decision and notify the district director of the decision in writing.

E. ~~Services to applicants/recipients~~ The district director or the program director shall notify the individual or the individual's representative in writing of the final decision.

F. The department shall continue to provide medical care services to the applicant or recipient during the appeal process.

12VAC5-200-280. Fraud.

~~If the district director identifies a patient~~ If an applicant for or recipient of medical care services is willfully misrepresenting himself~~,~~ or withholding or falsifying information in an attempt to obtain medical services free or at a reduced rate, the district director may discontinue services to the affected person 30 days after notifying the person that services will be discontinued. ~~Such recipient~~ The affected person is entitled to the appeal process set forth in Part VII (12VAC5-200-270) of this chapter.

12VAC5-200-290. Charges and payment requirements.

~~This part shall be administered by the commissioner.~~ A. The commissioner shall establish a procedure for the ongoing development~~;~~, maintenance, revision, and updating~~; and promulgation~~ of ~~these~~ the charges and payments schedules pursuant to this chapter. There shall be two sets of schedules, one for Northern Virginia as defined in 12VAC5-200-10 and one for the remainder of the Commonwealth.

~~By the provisions of the "Regulations Governing Eligibility Standards and Charges for Medical Care Services to Individuals" (12VAC5-200) promulgated by the Board of Health in accordance with §§ 32.1-11 and 32.1-12 of the Code of Virginia,~~ B. The department shall make the charges for medical care services~~, stating the minimum required payments to be made by patients or other responsible persons toward their charges, according to~~ and the income ~~levels are~~ schedules used to determine sliding scale discounts available to the public for inspection and copying at the headquarters, district, and local health department offices of the department.

VA.R. Doc. No. R23-7424; Filed November 14, 2025, 2:28 p.m.

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Final Regulation

REGISTRAR'S NOTICE: The State Board of Behavioral Health and Developmental Services is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **12VAC35-260. Certified Recovery Residences (amending 12VAC35-260-10 through 12VAC35-260-40).**

Statutory Authority: §§ 37.2-203 and 37.2-431.1 of the Code of Virginia.

Effective Date: January 14, 2026.

Agency Contact: Susan Puglisi, Regulatory Research Specialist, Department of Behavioral Health and Developmental Services, Jefferson Building, 1220 Bank Street, Fourth Floor, Richmond, VA 23219, telephone (804) 975-0538, fax (804) 371-6638, TDD (804) 371-8977, or email susan.puglisi@dbhds.virginia.gov.

Summary:

Pursuant to Chapter 608 of the 2025 Acts of Assembly, the amendments create a conditional certification process for recovery residences that is valid for six months and can be extended for a maximum of three months.

12VAC35-260-10. Definitions.

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

"Certification list" means the list of certified recovery residences maintained by DBHDS.

"Credentialing entity" means a nonprofit organization that develops and administers professional certification programs according to standards of the National Alliance for Recovery Residences or standards endorsed by Oxford House, Inc.

"DBHDS" means the Virginia Department of Behavioral Health and Developmental Services.

"Level of support" means the level of support and structure that a recovery residence provides to residents, as specified in the standards of the National Alliance for Recovery Residences.

"Recovery residence" means a housing facility that ~~(i) is certified by DBHDS in accordance with this chapter; (ii)~~ provides alcohol-free and illicit-drug-free housing to individuals with substance abuse disorders and individuals with co-occurring mental illnesses and substance abuse disorders~~; and (iii)~~ that does not include clinical treatment services.

"Serious injury" means any injury resulting in bodily hurt, damage, harm, or loss that requires medical attention by a licensed physician, doctor of osteopathic medicine, physician assistant, or nurse practitioner.

12VAC35-260-20. Recovery residence.

A. Any person, nonprofit organization, or business entity seeking to operate a recovery residence under this chapter shall for each location (i) meet the qualifications, policies, and practices of a credentialing entity and hold a credential, accreditation, or charter from the Virginia Association of Recovery Residences or Oxford House, Inc.; and (ii) be certified by DBHDS.

B. A recovery residence seeking to be certified by DBHDS shall:

1. Submit a completed application on a form provided by DBHDS;

2. Provide evidence of accreditation by a charter from or membership in a credentialing entity listed in this section; and

3. Provide evidence that the recovery residence complies with any minimum square footage requirements related to beds and sleeping rooms established by the credentialing entity or the square footage requirements set forth in § 36-105.4 of the Code of Virginia, whichever is greater.

C. Each recovery residence shall report the following information concerning deaths and serious injuries to DBHDS in a manner prescribed by DBHDS within 48 hours of discovery. All deaths that occur as a result of illness or injury occurring when the individual was in a recovery residence shall be reported regardless of the location where the death occurs. All reports of death and serious injuries shall include:

1. Date and place of the death or serious injury;

2. Nature of the injuries; and

3. Circumstances of the death or serious injury.

D. Notwithstanding the provisions of subsection B of this section, DBHDS may issue a six-month conditional certification to an applicant that has indicated an intent to receive accreditation by or membership in a credentialing entity.

1. The maximum term of a conditional certification issued under this subsection shall be six months.

2. At the discretion of DBHDS, a conditional certification may be renewed once, for a period not to exceed three months, if the recovery residence is not able to demonstrate compliance with all certification regulations but demonstrates progress toward compliance.

3. In no case shall the total period of conditional certification exceed nine successive months.

12VAC35-260-30. List of recovery residences.

A. DBHDS shall maintain a list of certified and conditionally certified recovery residences on its website.

B. DBHDS shall monitor recovery residences for regulatory compliance and shall consult with the credentialing entities to keep the list of recovery homes up to date.

12VAC35-260-40. Disclosures, restrictions, and violations.

A. No person shall operate a recovery residence or advertise, represent, or otherwise imply to the public that a recovery residence or other housing facility is certified by DBHDS unless such recovery residence or other housing facility has received certification from DBHDS. Violation of this subsection is a Class 1 misdemeanor.

B. Any recovery residence that fails to maintain the requirements for certification by DBHDS as required by this chapter shall have the certification revoked and be removed from the certification list. Conditional certifications may be revoked for serious health and safety concerns.

C. Every recovery residence shall disclose to each prospective resident its credentialing entity. If the credentialing entity is the National Alliance for Recovery Residences, the recovery residence shall disclose the level of support provided by the recovery residence. If the credentialing entity is Oxford House, Inc., the recovery residence shall disclose that the recovery residence is self-governed and unstaffed.

~~D. DBHDS may institute civil proceedings in the name of the Commonwealth to enjoin any person from violating the provisions of this chapter and to recover a civil penalty of at least $200 but no more than $1,000 for each violation. Such proceedings shall be brought in the general district or circuit court for the county or city in which the violation occurred or where the defendant resides. Civil penalties assessed under this section shall be paid into the Behavioral Health and Developmental Services Trust Fund established in § 37.2-318 of the Code of Virginia.~~

VA.R. Doc. No. R26-8373; Filed November 20, 2025, 10:45 a.m.

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Final Regulation

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is claiming an exemption from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4 of the Code of Virginia.

Titles of Regulations: **13VAC10-90. Rules and Regulations for Virginia Rental Rehabilitation Program (repealing 13VAC10-90-10 through 13VAC10-90-80).**

13VAC10-130. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons (repealing 13VAC10-130-10 through 13VAC10-130-140).

13VAC10-150. Rules and Regulations for the Virginia Senior Home Equity Account Program (repealing 13VAC10-150-10 through 13VAC10-150-240).

13VAC10-160. Rules and Regulations for Administration of Rent Reduction Tax Credits (repealing 13VAC10-160-10 through 13VAC10-160-120).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: December 31, 2025.

Agency Contact: Fred Bryant, Chief Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5837, or email fred.bryant@virginiahousing.com.

Summary:

As a result of periodic review, the action repeals (i) Rules and Regulations for Virginia Rental Rehabilitation Program (13VAC10-90), because the program provided for in the regulation no longer exists; (ii) Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons (13VAC10-130), because Virginia Housing Development Authority (VHDA) does not use the financing provided for in the regulation to assist Virginians with disabilities; (iii) Rules and Regulations for the Virginia Senior Home Equity Account Program (13VAC10-150), because VHDA has never and does not plan to make the funds provided for in the regulation available for senior home equity accounts; and (iv) Rules and Regulations for Administration of Rent Reduction Tax Credits (13VAC10-160), which provides for a program that no longer exists.

VA.R. Doc. No. R26-8416; Filed November 18, 2025, 4:15 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BARBERS AND COSMETOLOGY

Proposed Regulation

Title of Regulation: **18VAC41-20. Barbering and Cosmetology Regulations (amending 18VAC41-20-10, 18VAC41-20-100, 18VAC41-20-140, 18VAC41-20-160, 18VAC41-20-170, 18VAC41-20-180, 18VAC41-20-260, 18VAC41-20-270, 18VAC41-20-280; adding 18VAC41-20-35).**

Statutory Authority: §§ 54.1-201 and 54.1-700.1 of the Code of Virginia.

Public Hearing Information:

January 14, 2026 - 9 a.m. - Department of Professional and Occupational Regulation, 9960 Mayland Drive, Board Room One, Suite 200, Richmond, VA 23233.

Public Comment Deadline: February 13, 2026.

Agency Contact: Kelley Smith, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, fax (866) 245-9693, or email barbercosmo@dpor.virginia.gov.

Basis: Section 54.1-201 of the Code of Virginia authorizes the Board for Barbers and Cosmetology to promulgate regulations necessary to ensure continued competency, prevent deceptive or misleading practices by practitioners, and effectively administer the regulatory system. Section 54.1-700.1 of the Code of Virginia authorizes the board to regulate cosmetologists as part of an interstate compact.

Purpose: The board protects the public welfare, in part, by establishing through regulation (i) the minimum qualifications of applicants for certification or 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. The regulation and the minimum qualifications established for out-of-state cosmetologists are essential to protecting the health, safety and welfare of the public. The goal of the regulatory change is to enact the compact and facilitate the interstate practice and regulation of cosmetology with the goal of improving public access to, and the safety of, cosmetology services and reducing unnecessary burdens related to cosmetology licensure. Through the compact, the member states seek to establish a regulatory framework that provides for a new multistate licensing program, whereby the member states seek to provide increased value and mobility to licensed cosmetologists in the member states, while ensuring the provision of safe, effective, and reliable services to the public. As mandated by Chapter 281 of the 2024 Acts of the Assembly, this regulation establishes the regulatory

framework for Virginia to issue multistate licenses in accordance with the provisions of the compact. The Commission for the Cosmetology Compact has not yet issued rules for member states. Therefore, the final regulation to implement the compact may not exactly match the emergency regulation. If the commission does not issue rules prior to the final, effective regulation becoming effective, the board may have to amend the regulation implementing the compact soon after promulgation.

Substance: The amendments (i) add definitions to the regulation related to the Cosmetology Compact (§ 54.1-700.1 of the Code of Virginia) and update other definitions to reflect the addition of the multistate cosmetology license; (ii) add provisions for the issuance of multistate cosmetology licenses to Virginia applicants and for the renewal and reinstatement of multistate cosmetology licenses issued by the board, including establishment of application fees; (iii) add provisions to allow multistate cosmetology license holders to qualify for certification as an instructor; and (iv) revise standards of practice provisions to make these provisions applicable to holders of multistate cosmetology license holders.

Issues: The primary advantage of the multistate license is that it significantly reduces burdens for Virginia cosmetologists who want to practice in other states participating in the Compact Commission. With this additional license, they can practice in other compact states by simply adhering to that state's laws and regulations. This means they won't need to apply for individual endorsements or reciprocity, which saves both money and time by avoiding lengthy application processing. Another advantage to the public is that cosmetologists practicing in Virginia under a multistate license will be held to the same standards of conduct as Virginia licensees, ensuring the board continues to protect public health, safety, and welfare. This action also reduces the burden on cosmetologists with a multistate license in their home state, as they will no longer need to endorse into Virginia or pay associated endorsement fees. This also may reduce unlicensed activity. Finally, an advantage to businesses in the Commonwealth is that by reducing licensing barriers, the compact makes it easier for cosmetologists to move and practice in Virginia, or for Virginia-licensed cosmetologists to work in other compact states. This can lead to a larger pool of available professionals, especially in areas with shortages, improving public access to cosmetology services. There are no identified disadvantages to the public.

One advantage to the Commonwealth is that by reducing licensing barriers, the compact makes it easier for cosmetologists to move and practice in Virginia. This can lead to a larger pool of available professionals, especially in areas with shortages, improving public access to cosmetology services and increasing revenue for the Commonwealth. There are no particular advantages to the agency; however, one disadvantage is that the board may experience a reduction in revenue from applicants for licensure from other states, though it will have revenue from cosmetologists who want to have a multistate license in Virginia. Any resulting decrease in revenue can be absorbed in the existing budget without any anticipated impact on current licensees or the operation of the board.

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.[1]

Summary of the Proposed Amendments to Regulation. As a result of a 2024 legislative mandate, the Board for Barbers and Cosmetology (board) proposes to amend the Barbering and Cosmetology Regulations (18VAC41-20) to facilitate the Commonwealth's membership in the Cosmetology Licensure Compact (compact).

Background. Chapter 281 of the 2024 Acts of the Assembly[2] entered the Commonwealth into the Compact. The compact is structured to create a multistate cosmetology license that functions similarly to a driver's license. It allows cosmetologists who hold an active, unencumbered single-state cosmetology license in a compact member state (which is the licensee's primary state of residence) to apply for a multistate license. A multistate license provides authorizations to practice in all compact member states without having to go through the licensure processes of each compact member state. Also, the compact explicitly states that "Active military members, or the spouses thereof, shall designate a home state where the individual has a current license to practice cosmetology in good standing. The individual may retain the home state designation during any period of service when that individual is on active duty assignment." To maintain public health and safety standards, each state must require a competency exam and completion of an education or training program to be eligible to join the compact. However, the compact preserves each compact member state's sovereignty by allowing each state to determine the number of education or training hours and competency exams required for licensure. The Cosmetology Compact Commission (commission) is the governing body comprised of the participating states who have joined the compact. The commission is responsible for creating bylaws and rules to administer and govern the compact. The commission's delegates are representatives from each state's licensing authority. The following states are current participants in the compact: Alabama, Arizona, Colorado, Kansas, Kentucky, Maryland, Ohio, Tennessee, Virginia, and Washington.[3] The commission has not yet adopted bylaws and rules. The commission's website states it hopes to activate the compact for licensees in early 2026. The board's proposed amendments to the regulation (i) add a definition for compact,[4] and add multistate license to the definitions of licensee, reinstatement, and renewal (ii) insert a Virginia multistate license section that states, "After the compact begins issuing multistate licenses, an applicant must hold an active and unencumbered cosmetology license in Virginia and shall meet the requirements for a multistate license under the compact in effect at the time of the application. To renew a multistate cosmetology license in Virginia, a licensee must comply with rules adopted by the commission in effect at the time of renewal."; (iii) add to the

qualifications for the cosmetology instructor certificate that the applicant could hold either a current Virginia cosmetology license or a multistate cosmetology license. Under the current regulation only the Virginia cosmetology license is accepted; (iv) establish a $50 fee for the initial multistate license application, a $50 fee for two-year renewal of the multistate license, and a $100 fee for reinstatement of the multistate license; (v) state that the expiration date for a multistate license will run concurrently with the Virginia cosmetology license; (vi) add references to multistate licenses and licensees in describing who shall receive renewal notices in describing what happens when an individual fails to renew a license within 30 days following the expiration date; into the procedures that apply for individuals seeking reinstatement if their license has been expired for more than two years; to the statements about having been regarded as continually licensed without interruption and therefore subject to the board's authority for actions performed prior to reinstatement; in the list of current display requirements for other license types; to comply with the existing sanitation and safety standards for shops, salons, and schools; (vii) allow the board to fine, suspend, revoke, refuse to renew or reinstate a multistate license that was issued in Virginia, as well as an authorization to practice cosmetology through a multistate license; (viii) provide the board with the discretion to deny an application for a multistate license; and (ix) allow the board to take disciplinary action against multistate licensees or applicants who have: attempted to obtain, obtained, renewed, or reinstated a multistate license issued in Virginia by false or fraudulent representation. failed to notify the board in writing within 30 days of the suspension, revocation, or surrender of the authorization to practice in a remote state, or if the authorization to practice in a remote state was the subject of disciplinary action in any jurisdiction.

Estimated Benefits and Costs. Currently, cosmetologists must have a regular license in each state in which they practice. If the licensure requirements in a cosmetologist's home state differ from the licensure requirements in an additional state where the cosmetologist wishes to work, then the individual may face substantial costs in time and money to meet the different requirements. Such different requirements would typically include education or training, and sometimes examination. The compact may save costs for cosmetologists who wish to work in a compact state other than their home state in three ways. Cosmetologists would only have to meet the licensure requirements in their home state. The potentially high costs in time and money of meeting the different requirements in the additional state would be saved. The time and hassle of applying, supplying qualifying documents, and waiting for responses would be saved. Also, if the multistate license fee is lower in the home state versus the regular license in the additional state, that fee difference would be saved. Cosmetology licensure fees for two years are as follows for the 10 current compact states:

State	Fee for Two Years of Regular Licensure
Alabama	$100
Arizona	$120
Colorado	$40
Kansas	$50
Kentucky	$100
Maryland	$28
Ohio	$65
Tennessee	$60
Virginia	$120
Washington	$66

Thus, as the Virginia multistate license would cost $50 for two years, Virginia cosmetologists seeking licensure in another compact state would save on fees in Alabama, Arizona, Kentucky, Ohio, Tennessee, and Washington. There would be no difference in fee for Virginia cosmetologists seeking licensure in Kansas, and the fees would be moderately higher for those seeking licensure in Colorado or Maryland. The other potential sources of savings would likely be greater than the moderately higher fees for Virginia cosmetologists seeking licensure in Colorado or Maryland. Cosmetologists in other compact states seeking licensure in the Commonwealth would save fees if their multistate license fee is lower than $120 for two years. The lower costs may help Virginia cosmetologists who live near the border states of Kentucky, Maryland, or Tennessee gain employment. The lower costs can also help military spouses who are licensed cosmetologists in the Commonwealth gain employment when their spouse is reassigned in or near a different compact state. Other Virginia cosmetologists who move to or near another compact state temporarily could similarly benefit. The lower costs may also make it easier for Virginia employers of cosmetologists to hire when there is a local shortage of cosmetologists. On the other hand, for Virginia-licensed cosmetologists the lower costs may effectively result in a moderate increase in competition within Virginia from cosmetologists from bordering compact states such as Kentucky, Maryland, or Tennessee. The lower costs may also result in some Virginia cosmetology salons (or other cosmetology employers) near Kentucky, Maryland, or Tennessee encountering greater competition in hiring if some instate cosmetologists newly consider working across the border. Overall, the compact likely would be a net positive in that it would help reduce geographic mismatch. There are likely some areas where there are more qualified cosmetologists than employment opportunities, and other areas where there are more available cosmetologist positions than qualified cosmetologists. By reducing the costs of working in another state, the compact would potentially overall help reduce unemployment and underemployment for cosmetologists and help reduce unfilled cosmetologist positions for employers.

Businesses and Other Entities Affected. The 40,146 cosmetologists and the 4,742 cosmetology salons licensed in the Commonwealth as well as other employers of cosmetologists would be potentially affected by the compact.[5] The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[6] 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. Participation in the compact enables cosmetologists licensed in Virginia to practice in other states. It would also likely increase the supply of cosmetologists who can practice in the Commonwealth, which brings more competition for jobs within Virginia. The increased competition resulting from the Compact may make it more difficult for some cosmetologists to find employment or preferred employment within the state. So, some cosmetologists may be worse off. Participation in the compact results from the legislation, and not the proposed amendments to the regulation. Thus, no adverse impact is indicated for the proposed amendments to the regulation.

Small Businesses[7] Affected.[8] Types and Estimated Number of Small Businesses Affected: According to the Department of Professional and Occupational Regulation, all 4,742 cosmetology salons meet the definition of small business. Costs and Other Effects: Some of the salons would potentially benefit from a greater supply of qualified cosmetologists from which to hire, while other salons could be worse off in they would face greater competition in hiring due to some qualified cosmetologists having additional realistic options as to where to work. Alternative Method that Minimizes Adverse Impact: As the compact is required by statute, there is no alternative method that reduces adverse impact.

Localities[9] Affected.[10] Localities that border other states or are near the border with other states may be particularly affected, as cosmetology is conducted in person and there would be shorter commute times between such localities and out-of-state locations. The proposed amendments do not affect costs for local governments.

Projected Impact on Employment. Joining the Compact may increase practical employment opportunities for Virginia licensed cosmetologists.

Effects on the Use and Value of Private Property. To the extent that the supply of cosmetologists increases in the Commonwealth, hiring costs for employers may decrease. This would commensurately increase the value of the employing firms. The proposed amendments do not affect real estate development costs.

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

[2] See https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+CHAP0242.

[3] See https://cosmetologycompact.org/compact-map/.

[4] Compact is defined as the Cosmetology Compact (§ 54.1-700.1 of the Code of Virginia).

[5] Data source: Department of Professional and Occupational Regulation.

[6] 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.

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

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

[9] "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

[10] Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

Summary:

Pursuant to Chapter 281 of the 2024 Acts of Assembly, the proposed amendments allow a cosmetologist who has obtained a multistate license through the Compact Commission the privilege to practice in the Commonwealth. The proposed amendments add provisions (i) for the issuance of multistate cosmetology licenses to Virginia applicants; (ii) for the renewal and reinstatement of multistate cosmetology licenses issued by the Board for Barbers and Cosmetology, including establishment of application fees; and (iii) to allow multistate cosmetology license holders to qualify for certification as an instructor. Proposed amendments also revise standards of practice to make these provisions applicable to holders of multistate cosmetology license holders.

18VAC41-20-10. Definitions.

A. The following words and terms when used in this chapter have the meanings ascribed to them in § 54.1-700 of the Code of Virginia:

"Barber"

"Barbering"

"Barber instructor"

"Barbershop"

"Board"

"Cosmetologist"

"Cosmetology"

"Cosmetology instructor"

"Cosmetology salon"

"Master barber"

"Nail care"

"Nail salon"

"Nail school"

"Nail technician"

"Nail technician instructor"

"Physical (wax) depilatory"

"School of cosmetology"

"Wax technician"

"Waxing"

"Waxing salon"

"Waxing school"

B. The following words and terms when used in this chapter have the meanings ascribed to them in § 54.1-700.1 of the Code of Virginia:

"Authorization to practice"

"Commission"

"Encumbered license"

"Member state"

"Multistate license"

"Remote state"

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

"Apprenticeship program" means an approved cosmetology, barber, nail technician, or wax technician training program conducted by an approved registered apprenticeship sponsor.

"Barber school" means a place or establishment licensed by the board to accept and train students and that offers a barber, master barber, or dual barber/master barber curriculum approved by the board.

"Business entity" means a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any other form of organization permitted by law.

"Compact" means the Cosmetology Compact (§ 54.1-700.1 of the Code of Virginia).

"Clock hour" means a minimum of 50 minutes of supervised or directed instruction and appropriate breaks.

"Credit hour" means a combination of the number of hours in class each week and the number of hours per week in a laboratory by which a school may measure coursework. One unit of credit equals one hour of classroom or online study, two hours of laboratory experience, or three hours of internship or practicum or a combination of the three times the number of weeks in the term.

"Direct supervision" means that (i) a Virginia licensed barber, cosmetologist, nail technician, or wax technician is present in the barbershop, cosmetology salon, nail salon, or waxing salon at all times when services are being performed by a temporary license holder or registered apprentice or (ii) a Virginia licensed and certified barber, cosmetologist, nail technician, or wax technician instructor or a student instructor temporary license holder is present in the barber, cosmetology, nail technician, or wax technician school at all times when services are being performed by a student, student instructor, or temporary license holder.

"Each and every location" means, for the purposes of schools with multiple suites or classrooms, a single location is one that is enclosed under one roof and all classrooms or suites are within 500 feet of the main office.

"Firm" means any business entity recognized under the laws of the Commonwealth of Virginia.

"Licensee" means any individual or firm holding a license or multistate license issued by the board.

"Post-secondary educational level" means an accredited college or university that is approved or accredited by an accrediting agency that is recognized by the U.S. Secretary of Education.

"Reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee is generally not substantially open to the public during the same hours, "reasonable hours" means the business hours when the licensee is open to the public.

"Reinstatement" means having a license, multistate license, or certificate restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license, multistate license, or certificate for another period of time.

"Responsible management" 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;

5. The managers of a limited liability company;

6. The officers or directors of an association; and

7. Individuals in other business entities recognized under the laws of the Commonwealth as having a fiduciary responsibility to the firm.

"Sole proprietor" means any individual, not a corporation, who is trading under that individual's own name or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Substantially equivalent exam" means an examination administered by the licensing entity that covers Virginia's scope of practice for that profession.

"Substantially equivalent training" means at least 80% of the required hours in Virginia and curriculum content covering Virginia's scope of practice for that profession.

"Virginia state institution" means any institution approved by the Virginia Department of Education or the Virginia Department of Corrections.

"Wet disinfection unit" is a container large enough to hold an Environmental Protection Agency (EPA) registered disinfectant that is a bactericidal, virucidal, and fungicidal solution in which the objects to be disinfected are completely immersed.

18VAC41-20-35. Virginia multistate license.

After the compact begins issuing multistate licenses, an applicant must hold an active and unencumbered cosmetology license in Virginia and must meet the requirements for a multistate license under the compact in effect at the time of the application. To renew a multistate cosmetology license in Virginia, a licensee must comply with rules adopted by the commission in effect at the time of renewal. The applicant must also meet the requirements set forth in 18VAC41-20-20 A.

18VAC41-20-100. General requirements for an instructor certificate.

A. Any individual wishing to engage in instruction in barbering, master barbering, cosmetology, nail care, or waxing must meet the following qualifications:

1. The applicant must be in good standing as a licensed barber, master barber, cosmetologist, nail technician, or wax technician and instructor, respectively, in every jurisdiction where licensed, certified, or registered. The applicant must provide a copy to the board of any disciplinary action taken in Virginia and all other jurisdictions at the time of application for certification since being previously licensed as a barber, master barber, cosmetologist, nail technician, or wax technician. This includes monetary penalties, fines, probation, suspensions, revocations, surrender of a license or certification in connection with a disciplinary action, or voluntary termination of a license or certification.

Upon review of the applicant's prior disciplinary action, the board, in its discretion, may deny certification to any applicant that the board deems unfit or unsuited to engage in the instruction of barbering, cosmetology, nail care, or waxing;

2. The applicant must hold and maintain a current Virginia cosmetology license, multistate cosmetology license, a current Virginia barber, master barber, ~~cosmetology,~~ nail technician, or wax technician license, respectively;

3. The applicant must complete one of the following qualifications:

a. Pass a course in teaching techniques at the post-secondary educational level; or

b. Pass an instructor examination administered by the board or by a testing service acting on behalf of the board; and

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant must disclose all felony convictions in Virginia and all other jurisdictions since being previously licensed as a barber, master barber, cosmetologist, wax technician, or nail technician within 10 years of the date of application.

The board, in its discretion, may deny certification to any applicant in accordance with § 54.1-204 of the Code of Virginia.

B. Certified instructors may teach in any profession in which they hold the underlying license.

18VAC41-20-140. Fees.

The following fees apply. All fees are nonrefundable and will not be prorated.

FEE TYPE	AMOUNT DUE	WHEN DUE
Individuals:		
Application	$120	With application
License by Endorsement	$120	With application
Multistate License	$50	With application
Renewal:		
Barber	$120	With renewal card prior to expiration date
Master Barber	$120	With renewal card prior to expiration date

Cosmetologist	$120	With renewal card prior to expiration date
Nail Technician	$120	With renewal card prior to expiration date
Wax Technician	$120	With renewal card prior to expiration date
Multistate License	$50	With renewal card prior to expiration date *Licensees with a cosmetology and a multistate license must complete separate renewal processes for each license.
Reinstatement	$240* *includes $120 renewal fee and $120 reinstatement fee	With reinstatement application
Multistate License	$100* *includes $50 renewal fee and $50 reinstatement fee	With reinstatement application *Licensees with a cosmetology and a multistate license must complete separate reinstatement processes for each license.
Instructor Certificate:		
Application	$140	With application
License by Endorsement	$140	With application
Renewal	$45	With renewal card prior to expiration date
Reinstatement	$90* *includes $45 renewal fee and $45 reinstatement fee	With reinstatement application
Facilities:		
Application	$220	With application
Renewal	$220	With renewal card prior to expiration date
Reinstatement	$440* *includes $220 renewal fee and $220 reinstatement fee	With reinstatement application
Schools:		
Application	$250	With application
Add Program	$120	With application
Renewal	$250	With renewal card prior to expiration date
Reinstatement	$500* *includes $250 renewal fee and $250 reinstatement fee	With reinstatement application

18VAC41-20-160. Renewal required.

A license or certificate issued under this chapter expires two years from the last day of the month in which it was issued. A multistate license expiration date will run concurrently with the Virginia license.

18VAC41-20-170. Notice of renewal.

The Department of Professional and Occupational Regulation will send a renewal notice to the licensee, Virginia multistate licensee, or certificate holder outlining the procedures for renewal. Failure to receive this notice, however, does not relieve the licensee, Virginia multistate licensee, or certificate holder of the obligation to renew.

18VAC41-20-180. Failure to renew.

A. When an individual who holds a license, Virginia multistate license, or certificate or a business entity fails to renew a license or certificate within 30 days following the expiration date, the licensee, multistate licensee, or certificate holder who intends to remain licensed or certified must pay the reinstatement fee.

B. When an individual who holds a license, multistate license issued by Virginia, or certificate or a business entity fails to renew a license or certification within two years following the expiration date, reinstatement is no longer possible. To resume practice:

1. The former licensee, Virginia multistate licensee, or certificate holder must apply for licensure, Virginia multistate licensure, or certification as a new applicant and must meet all current entry requirements for each respective license or certificate. An individual who holds an active multistate license in a member state is exempt from this requirement.

2. An individual previously licensed in Virginia for a minimum of three years must submit a new application and pass the required examination.

C. When a licensed school fails to renew its license within 30 days following the expiration date, the licensee must pay the reinstatement fee.

1. After 180 days, the school must submit a reinstatement application and provide (i) the reasons for failing to renew prior to the expiration date and (ii) a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license has expired. All of these materials shall be called the application package. Reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school. Pursuant to 18VAC41-20-130, upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license or require requalification.

2. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the examination. Such notification will be sent to the school and must be displayed in a conspicuous manner by the school in an area that is accessible to the public. No student will be disqualified from taking the examination because the school was not licensed for a portion of the time the student attended if the school license is reinstated by the board.

D. The date a renewal fee is received by the Department of Professional and Occupational Regulation~~,~~ or its agent~~,~~ will be used to determine whether the requirement for reinstatement of a license, Virginia multistate license, or certificate is applicable.

E. When a license or certificate is reinstated, the licensee or certificate holder will be assigned an expiration date two years from the date of the last day of the month of reinstatement.

F. When a Virginia multistate license is reinstated, the multistate license will be assigned an expiration date concurrent with the expiration date of the Virginia cosmetology license.

G. A licensee, Virginia multistate licensee, or certificate holder that reinstates a license, Virginia multistate license, or certificate will be regarded as having been continuously licensed or certified without interruption. Therefore, a licensee, Virginia multistate licensee, or certificate holder will be subject to the authority of the board for activities performed prior to reinstatement.

~~G.~~ H. A licensee or certificate holder that fails to reinstate a license or certificate will be regarded as unlicensed or uncertified from the expiration date of the license or certificate forward. Nothing in this chapter divests the board of its authority to discipline a licensee, multistate licensee, or certificate holder for a violation of the law or regulations during the period of time for which the individual was licensed or certified.

18VAC41-20-260. Display of license.

A. The responsible management for each shop, salon, or school must ensure that all current licenses, multistate licenses, and certificates issued by the board are displayed in plain view of the public either in the reception area or at individual work stations of the shop, salon, or school. Duplicate licenses, multistate licenses, and certificates must be posted in a similar manner in every shop, salon, or school location where the regulant provides services.

B. The responsible management for each shop, salon, or school must ensure that no employee, licensee, student, or apprentice performs any service beyond the scope of practice for the applicable license.

C. All licensees, multistate licenses, certificate holders, and temporary license holders must operate under the name in which the license, certificate, or permit is issued.

D. Unless also licensed as a cosmetologist, a barber or master barber is required to hold a separate nail technician or wax technician license if performing nail care or waxing.

E. Proof of apprenticeship registration issued by the applicable agency of the Virginia Department of Workforce Development and Advancement (VDWDA) must be displayed in plain view of the public either in the reception area or at individual work stations of the shop or salon. The apprentice sponsor must require each apprentice to wear a badge clearly indicating status as a VDWDA registered apprentice.

18VAC41-20-270. Sanitation and safety standards for shops, salons, and schools.

A. Sanitation and safety standards.

1. Any shop, salon, or school where barber, master barber, cosmetology, or nail or wax services are delivered to the public must be clean and sanitary at all times.

2. Mobile shops and salons must be stationary while providing services, and may not operate where prohibited by local ordinance.

3. Compliance with these rules does not confer compliance with other requirements set forth by federal, state, and local laws, codes, ordinances, and regulations as they apply to business operation, physical construction and maintenance, safety, and public health.

4. Licensees and multistate licensees must take sufficient measures to prevent the transmission of communicable and infectious diseases and comply with the sanitation standards identified in this section and must ensure that all employees likewise comply.

B. Disinfection and storage of implements.

1. Each barber, master barber, cosmetologist, nail technician, and wax technician must have a wet disinfection unit at the individual's station and must meet the standards in the definition of wet disinfection requirements. A wet disinfection unit must have a cover to prevent contamination and any disinfection solutions must be used according to manufacturer's directions.

2. Disinfection of multiuse implements constructed of hard, nonporous materials, such as metal, glass, or plastic, that the manufacturer designed for use on more than one client, including clippers, scissors, combs, and nippers, is to be carried out in the following manner prior to servicing a client:

a. Remove all foreign matter from the object, utilizing a brush if needed. Drill bits are to be soaked in acetone and scrubbed with a wire brush to remove all foreign matter;

b. Wash thoroughly with hot water and soap;

c. Rinse thoroughly with clean water and dry thoroughly with a clean paper towel;

d. Fully immerse implements into wet disinfectant solution for a minimum of 10 minutes; and

e. After immersion, rinse articles, dry thoroughly with a clean paper towel, and store in a clean, predisinfected, and dry cabinet, drawer, or sealed covered container, or leave instruments in a wet disinfection unit used according to manufacturer's directions.

3. Single-use items designed by the manufacturer for use on no more than one client should be discarded immediately after use on each individual client, including powder puffs, lip color, cheek color, sponges, styptic pencils, nail care implements, or disposable razors. The disinfection and reuse of these items is not permitted and the use of single-use items on more than one client is prohibited.

4. For the purpose of recharging, rechargeable clippers may be stored in an area other than in a closed cabinet or container. This area must be clean and the cutting edges of any clippers are to be disinfected.

5. Electrical clipper blades must be disinfected before and after each use. If the clipper blade cannot be removed, the use of a spray or foam used according to the manufacturer's instructions will be acceptable, provided that the disinfectant is an EPA-registered disinfectant that is bactericidal, virucidal, and fungicidal, and that the entire handle is also disinfected by wiping with the disinfectant solution.

6. All wax pots must be cleaned and disinfected with an EPA-registered disinfectant that is bactericidal, virucidal, and fungicidal and with no sticks left standing in the wax at any time. The area immediately surrounding the wax pot must be clean and free of clutter, waste materials, spills, and any other items that may pose a hazard.

7. Foot tubs, whirlpool units, air-jetted basins, pipe-less units, and non-whirlpool basins used in the performance of nail care must be maintained in accordance with manufacturer's recommendations. They must be cleaned and disinfected immediately after each client in the following manner:

a. Drain all water and remove all debris;

b. Clean the surfaces and walls with soap or detergent to remove all visible debris, oils, and product residue and then rinse with water;

c. Disinfect with an EPA-registered disinfectant that is bactericidal, virucidal, and fungicidal in accordance with manufacturer directions for pedicure units; and

d. Wipe dry with a clean towel.

C. General sanitation and safety requirements.

1. Service chairs, wash basins, sinks, bowls, workstations and workstands, and back bars as necessitated by the services performed, must be clean;

2. The floor surface in all work areas must be of a washable surface other than carpet;

3. All furniture, fixtures, walls, floors, windows, and ceilings must be clean and in good repair and free of water seepage and dirt. Any mats must be secured or must lie flat;

4. A fully functional bathroom in the same building with a working toilet and sink must be available for clients. There must be hot and cold running water. Fixtures must be in good condition. The bathroom must be lighted and sufficiently ventilated. There must be soap and clean single-use towels or hand air-drying device for the client's use. Laundering of towels is allowed, space permitting. The bathroom must not be used as a work area or for the open storage of chemicals. For facilities newly occupied after January 1, 2017, the

bathroom must be available for client use and must adhere to all sanitation requirements of this chapter;

5. Electrical cords must be placed to prevent entanglement by the client or licensee, and electrical outlets must be covered by plates;

6. All sharp tools, implements, and heat-producing appliances must be in safe working order at all times, safely stored, and placed so as to prevent any accidental injury to the client or licensee;

7. The salon area must be sufficiently ventilated to exhaust hazardous or objectionable airborne chemicals, and to allow the free flow of air; and

8. Adequate lighting must be provided.

D. Articles, tools, and products.

1. Clean towels, robes, or other linens must be used for each patron. Clean towels, robes, or other linens must be stored in a clean, predisinfected, and dry cabinet, drawer, or nonairtight covered container. Soiled towels, robes, or other linens must be stored in a container enclosed on all sides including the top, except if stored in a separate laundry room;

2. Whenever a haircloth is used, a clean towel or neck strip must be placed around the neck of the patron to prevent the haircloth from touching the skin;

3. Soiled implements must be removed from the tops of work stations immediately after use;

4. Any multiuse article, tool, or product that cannot be disinfected by full immersion as specified in subdivision B 2 of this section or cleaned according to manufacturer's recommendation, including natural hairbrushes or neck dusters, is prohibited from use;

5. Lotions, ointments, creams, and powders must be accurately labeled and kept in closed containers. A clean spatula, other clean tools, or clean disposable gloves must be used to remove bulk substances such as creams or ointments from jars. Sterile cotton or sponges must be used to apply creams, lotions, and powders. Cosmetic containers must be covered after each use;

6. For nail care, if a sanitary container is provided for a client, the sanitary container must be labeled and implements must be used solely for that specific client. Disinfection must be carried out in accordance with subdivisions B 1 and B 2 of this section;

7. No substance other than a sterile styptic powder or sterile liquid astringent approved for homeostasis and applied with a sterile single-use applicator must be used to check bleeding; and

8. Any disposable material making contact with blood or other body fluid must be double-bagged, labeled as a biohazard, and disposed of in a closed receptacle.

E. Chemical storage and emergency information.

1. Shops, salons, schools, and facilities must have in the immediate working area a binder with all Safety Data Sheets (SDS) provided by manufacturers for any chemical products used;

2. Shop, salons, schools, and facilities must have a blood spill clean-up kit in the work area that contains at minimum latex gloves, two 12-inch by 12-inch towels, one disposable trash bag, bleach, one empty spray bottle, and one mask with face shield or any Occupational Safety and Health Administration (OSHA) approved blood spill clean-up kit;

3. Flammable chemicals must be labeled and stored in a nonflammable storage cabinet or a properly ventilated room; and

4. Chemicals that could interact in a hazardous manner (e.g., oxidizers, catalysts, and solvents) must be labeled and separated in storage.

F. Client health guidelines.

1. All employees providing client services must cleanse their hands with a soap product prior to providing services to each client. Licensees shall require that clients for nail care services must cleanse their hands immediately prior to the requested nail care service;

2. An artificial nail must only be applied to a healthy natural nail;

3. A nail drill or motorized instrument must be used on the artificial nail surface only;

4. No shop, salon, school, or facility providing cosmetology or nail care services will have on the premises cosmetic products containing hazardous substances that have been banned by the U.S. Food and Drug Administration (FDA) for use in cosmetic products;

5. No product will be used in a manner that is disapproved by the FDA; and

6. All regulated services must be performed in a facility that is in compliance with current local building and zoning codes.

G. In addition to any requirements set forth in this section, all licensees and temporary license holders must adhere to regulations and guidelines established by the Virginia Department of Health and the Occupational Safety and Health Compliance Division of the Virginia Department of Labor and Industry.

H. All shops, salons, schools, and facilities must immediately report the results of any inspection of the shop, salon, or school

by the Virginia Department of Health as required by § 54.1-705 of the Code of Virginia.

I. All shops, salons, schools, and facilities must maintain a self-inspection form on file to be updated on an annual basis, and kept for five years, so that it may be requested and reviewed by the board at its discretion.

18VAC41-20-280. Grounds for license or certificate revocation, suspension, or probation; denial of application, renewal, or reinstatement; or imposition of a monetary penalty.

The board may, in considering the totality of the circumstances, refuse to issue, renew, or reinstate any license, multistate license issued in Virginia, or certificate, or authorization to practice cosmetology through a multistate license; impose a monetary penalty; place a license or certificate on probation with such terms and conditions and for such time as the board may designate; suspend a license or certificate for a stated period of time; or revoke a license or certificate issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and this chapter if it finds that the licensee, multistate licensee, certificate holder, temporary license holder, or applicant:

1. Is incompetent or negligent in practice or unable, as a result of any mental or physical condition, as those terms are generally understood in the profession, to skillfully and safely (i) practice as a barber, master barber, cosmetologist, nail technician, or wax technician~~,~~ or (ii) operate a shop, salon, or school;

2. Is convicted of fraud or deceit in the practice or teaching of barbering, master barbering, cosmetology, nail care, or waxing, fails to teach the board-approved curriculum as provided for in this chapter, or fails to comply with 18VAC41-20-210 H when making an assessment of credit hours awarded;

3. Attempts to obtain, or has obtained, renewed, or reinstated a license, certificate, ~~or~~ temporary license, or multistate license issued in Virginia by false or fraudulent representation;

4. Violates, induces others to violate, or cooperates with others in violating~~,~~ any of the provisions of this chapter or Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which any barber, master barber, cosmetologist, nail technician, or wax technician may practice or offer to practice;

5. Offers, gives, or promises anything of value or benefit to any federal, state, or local employee for the purpose of influencing that employee to circumvent, in the performance of his duties, any federal, state, or local law, regulation, or ordinance governing barbering, master barbering, cosmetology, nail care, or waxing as defined in § 54.1-700 of the Code of Virginia;

6. Fails to respond to the board or any of ~~its~~ the board's agents or provides false, misleading, or incomplete information to an inquiry by the board or any of ~~its~~ the board's agents;

7. Fails or refuses to allow the board or any of ~~its~~ the board's agents to inspect during reasonable hours any licensed shop, salon, or school for compliance with provisions of Chapter 7 (§ 54.1-700 et seq.) or this chapter;

8. Fails to produce upon request or demand of the board or any of ~~its~~ the board's agents any document, book, record, or copy thereof in a licensee's, certificate holder's, temporary license holder's, applicant's, or responsible management's possession or maintained in accordance with this chapter;

9. Fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license, certificate, or temporary license;

10. Makes any misrepresentation or publishes or causes to be published any advertisement that is false, deceptive, or misleading;

11. Fails to notify the board in writing within 30 days of a final action or disciplinary action taken against any license, registration, certificate ~~or~~, temporary license, or authorization to practice cosmetology in a remote state in any jurisdiction by a local, state or national regulatory body;

12. Has been convicted or found guilty, regardless of the manner of adjudication in Virginia or any other jurisdiction of the United States, of any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of convictions ~~shall~~ will be subject to the requirements of § 54.1-204 of the Code of Virginia;

13. Fails to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty regardless of adjudication of any convictions as stated in subdivision 12 of this section;

14. Allows, as responsible management of a shop or salon, a person who has not obtained a license, multistate license, or a temporary license to practice as a barber, master barber, cosmetologist, nail technician, or wax technician unless the person is duly enrolled as a registered apprentice;

15. Allows, as responsible management of a school, a person who has not obtained an instructor certificate or a student instructor temporary license to practice as a barber, master barber, cosmetologist, nail technician, or wax technician instructor;

16. Fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with sanitary requirements provided for in this chapter or any local, state, or federal law or regulation governing the

standards of health and sanitation for the practices of barbering, master barbering, cosmetology, nail care, or waxing, or the operation of barbershops, cosmetology salons, nail salons, or waxing salons; or

17. Fails to comply with all procedures established by the board and the testing service with regard to conduct at any board examination.

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 (18VAC41-20)

Barber or Master Barber Instructor Examination and License Application, A450-1301_EXLIC-v22 (rev. 12/2025)

Nail Technician Instructor Examination and License Application, A450-1206_07EXLIC-v23 (rev. 12/2025)

Wax Technician Instructor Examination and License Application, A450-1214_15EXLIC-v22 (rev. 12/2025)

Cosmetology Instructor Examination and License Application, A450-1201_04EXLIC-v25 (rev. 12/2025)

Temporary Permit Application, A450-1213TEMP-v3 (rev. 12/2021)

License by Endorsement Application, A450-1213END-v21 (rev. 12/2025)

Individuals – Reinstatement Application, A450-1213REI-v16 (rev. 8/2025)

Salon, Shop, Spa, and Parlor License and Reinstatement Application, A450-1213BUS-v20 (rev. 12/2025)

Salon, Shop, and Spa Self-Inspection Form, A450-1213_SSS_INSP-v2 (eff. 5/2016)

Instructor Certification Application, A450-1213INST-v22 (rev. 12/2025)

Student Instructor Temporary Permit Application, A450-1213ST_TEMP-v5 (rev. 12/2025)

School License Application, A450-1213SCHL-v24 (rev. 12/2025)

School Reinstatement Application, A450-1213SCHL-REIN-v13 (rev. 12/2025)

School Self-Inspection Form, A450-1213_SCH_INSP-v5 (eff. 1/2022)

Licensure Fee Notice, A450-1213FEE-v13 (rev. 8/2025)

Change of Responsible Management Application, A450-1213CRM-v6 (rev. 12/2021)

Training Substitution Form, A450-1213TR_SUB-v1 (rev. 10/2021)

Training Verification Form, A450-1213TR-vs1 (eff. 5/2022)

Experience Verification Form, A450-1213EXP-v2 (eff. 7/2022)

Barber-Cosmetology Universal License Application, A450-1213ULR-v3 (rev. 8/2025)

Change of Instructor Application, A450-1213SCI-v1 (eff. 12/2025)

Multistate Cosmetology Compact License Application

VA.R. Doc. No. R25-8183; Filed November 19, 2025, 9:36 a.m.

BOARD OF DENTISTRY

Proposed Regulation

Title of Regulation: **18VAC60-21. Regulations Governing the Practice of Dentistry (amending 18VAC60-21-350; adding 18VAC60-21-55).**

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

Public Hearing Information:

January 29, 2026 - 10 a.m. - Department of Health Professions, 9960 Mayland Drive, Hearing Room One, Henrico, VA 23233.

Public Comment Deadline: February 13, 2026.

Agency Contact: Jamie Sacksteder, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4581, fax (804) 698-4266, or email jamie.sacksteder@dhp.virginia.gov.

Basis: Regulations of the Board of Dentistry are promulgated under the general authority of § 54.1-2400 of the Code of Virginia, which specifically states that the general powers and duties of health regulatory boards shall be to promulgate regulations that are reasonable and necessary to administer effectively the regulatory system. Section 54.1-2711.2 of the Code of Virginia requires the board to determine training requirements for the administration of botulinum toxin injections for cosmetic purposes.

Purpose: The board has been directed to determine training requirements for dentists to administer botulinum toxin injections for cosmetic purposes. To state such requirements, the board must promulgate regulations. A workgroup of stakeholders and the board felt that the training delineated in the proposed regulatory language constituted the minimum requirements necessary to ensure safety of patients and the public. The only goals of the regulatory change are to comply with legislative directive while ensuring safety of the public by requiring minimum training standards.

Substance: A new section, 18VAC60-21-55, lists the training requirements for dentists to administer botulinum toxin injections for cosmetic purposes, and 18VAC60-21-350 is amended as required by Chapter 413 of the 2023 Acts of Assembly.

Issues: The primary advantages to the public are ensuring that dentists administering botulinum toxin injections are appropriately trained. 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.[1]

Summary of the Proposed Amendments to Regulation. Pursuant to Chapter 413 of the 2023 Acts of Assembly,[2] the Board of Dentistry (board) proposes to make an emergency regulation permanent establishing training requirements for dentists to administer botulinum toxin injections (Botox) for cosmetic purposes.

Background. Prior to 2023, dentists were allowed to administer Botox for dental purposes, such as assisting with treating temporomandibular joint issues. In 2023, Chapter 413 required the board (in consultation with the Board of Medicine) to amend its regulations to establish training and continuing education requirements for dentists related to the administration of Botox for cosmetic purposes. In essence, the legislation broadened dentist scope of Botox practice from oral conditions to broader cosmetic purposes (generally understood as facial and head applications). In addition, Item 301.C of the amended budget bill passed in 2023 Special Session I[3] required that the regulation to implement Chapter 413 be promulgated within 280 days of its enactment. As a result, the board established an emergency regulation effective May 6, 2024.[4] In the emergency stage, the board established a 12-hour training requirement in certain subjects for dentists to administer Botox for cosmetic purposes. Training must include a minimum of four hours of clinical in-person training on at least two live patients, and this must include post-procedure patient follow-ups. Eight of the 12-hours of training may be didactic and may be obtained online or in person. The training must be provided by a dental program or advanced dental education program accredited by the Commission on Dental Accreditation, the American Dental Association or its constituent or branch associations, or the Academy of General Dentistry. The pre-emergency regulation also allowed oral and maxillofacial surgeons to administer Botox for aesthetic or cosmetic procedures if they had a certificate to perform such procedures. Given the enactment of Chapter 413, the board also removed that certification requirement for oral and maxillofacial surgeons in the emergency regulation as under the proposal they can administer Botox with appropriate training without the need to obtain certification. Although the legislation requires initial training, it allowed but did not require the board to establish continuing education for dentists to administer Botox for cosmetic purposes; in response, the board chose not to require any continuing education. In this action, the Board proposes to make the emergency regulation permanent, without any changes from the emergency text.

Estimated Benefits and Costs. The legislation mandated that the board establish training requirements for dentists to administer Botox for cosmetic purposes, but it did not specify any aspects of such training. The board established a 12-hour training requirement at its discretion, but states that the training hours required under the emergency regulation are a minimum to ensure the health and safety of patients. Since the board is mandated to establish training and it adopted a minimal amount of training, it can be concluded that the 12-hours of training is legislatively mandated rather than being a requirement at board discretion. In that sense, any potential economic impact of the proposal is a creature of legislation rather than regulation. Also, Chapter 413 allows dentists to administer Botox for cosmetic purposes but does not require them to do so. Thus, we can reliably assume dentists who choose to obtain training would anticipate greater benefits than the training would cost. There is no concrete information on potential demand or price of such cosmetic procedures or on the cost of the training. However, the Department of Health Professions (DHP) believes that there would be little consumer demand for dentists to perform such procedures either from the dental community or their patients, though the agency is aware that at least one dentist in southwestern Virginia was interested in providing these services. However small the demand may be, allowing dentists to administer Botox for cosmetic procedures may add to the competition for the physicians that offer such procedures. Additionally, oral and maxillofacial surgeons would now be allowed to perform Botox for cosmetic purposes with the required training and without the need to obtain certification. The training is believed to be less onerous than obtaining certification for these surgeons, but there is no concrete information on the cost differences either. In summary, any potential impact should be considered stemming from legislation rather than regulation (including the potential for increased competition for physicians administering such procedures); and because the legislation allows for but does not mandate dentists to administer Botox for cosmetic purposes, we can conclude that anticipated benefits to dentists who choose to obtain training for cosmetic Botox procedures must exceed the expected costs of the training.

Businesses and Other Entities Affected. According to reports by DHP,[5] as of June 2024, there were 7,972 dentists licensed by the Board and there are 275 oral and maxillofacial surgeons registered. No regulated entity appears to be disproportionately affected. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[6] 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.[7] The proposal stems from the legislation and offers an option to dentists to administer Botox, but does not mandate it. Thus, no adverse impact on account of this regulatory proposal is indicated.

Small Businesses[8] Affected.[9] The proposed regulatory changes conform to the 2023 legislation and do not adversely affect small businesses.

Localities[10] Affected.[11] The proposal does not introduce costs for localities.

Projected Impact on Employment. The proposed regulatory amendments do not affect total employment as they simply conform to the mandate of the legislation.

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 from this regulatory action.

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

[2] https://legacylis.virginia.gov/cgi-bin/legp604.exe?231+ful+CHAP0413.

[3] https://budget.lis.virginia.gov/item/2023/2/HB6001/Chapter/1/301/.

[4] https://townhall.virginia.gov/L/ViewStage.cfm?stageid=10203.

[5] https://www.dhp.virginia.gov/about/stats/2024Q4/04CurrentLicenseCountQ4FY2024.pdf.

[6] 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.

[7] 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.

[8] 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."

[9] 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.

[10] "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.

[11] Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

Summary:

Pursuant to Chapter 413 of the 2023 Acts of Assembly, the proposed amendments (i) create training requirements for dentists to administer botulinum toxin injections for cosmetic purposes and (ii) provide for oral and maxillofacial surgeons to administer dermal filler.

18VAC60-21-55. Training requirements for administration of botulinum toxin injections for cosmetic purposes.

A. A dentist may possess and administer botulinum toxin injections for cosmetic purposes provided that the dentist has completed 12 hours of training in the subjects listed in subsection C of this section. Training must include a minimum of four hours of clinical, in-person training on at least two live patients, which shall include patient follow-up post-procedure. Eight of the 12 hours of training may be didactic and may be obtained online or in person.

B. To satisfy the requirements of this section, training must be provided by a dental program or advanced dental education program accredited by CODA, the ADA or its constituent or branch associations, or the Academy of General Dentistry.

C. Training to possess and administer botulinum toxin injections for cosmetic purposes shall include the following subjects:

1. Assessing patients for use of botulinum toxin injections;

2. Screening of patient expectations and psychological motivations;

3. Diagnosis, planning, and treatment;

4. Informed consent, including off-label use of botulinum toxins;

5. Anatomy and neurophysiology of the head and neck;

6. Indications and contraindications for the use of botulinum toxin injections, including off-label and approved product uses;

7. Pharmacology of neurotoxins and botulinum toxins;

8. Safety and risks associated with use of botulinum toxins, including the recognition and management of adverse reactions and complications;

9. Preparation and administration of botulinum toxins; and

10. Evaluation of patient outcomes.

18VAC60-21-350. Certification to perform cosmetic procedures; applicability.

A. In order for an oral and maxillofacial surgeon to perform aesthetic or cosmetic procedures, ~~he~~ the oral and maxillofacial

surgeon shall be certified by the board pursuant to § 54.1-2709.1 of the Code. Such certification shall only entitle the licensee to perform procedures above the clavicle or within the head and neck region of the body.

B. Based on the applicant's education, training, and experience, certification may be granted to perform the following procedures for cosmetic treatment:

1. Rhinoplasty and other treatment of the nose;

2. Blepharoplasty and other treatment of the eyelid;

3. Rhytidectomy and other treatment of facial skin wrinkles and sagging;

4. Submental liposuction and other procedures to remove fat;

5. Laser resurfacing or dermabrasion and other procedures to remove facial skin irregularities;

6. Browlift (either open or endoscopic technique) and other procedures to remove furrows and sagging skin on the upper eyelid or forehead;

7. Platysmal muscle plication and other procedures to correct the angle between the chin and neck;

8. Otoplasty and other procedures to change the appearance of the ear; and

9. ~~Application of injectable medication or material for the purpose of treating extra-oral cosmetic conditions.~~ Administration of dermal filler.

VA.R. Doc. No. R24-7739; Filed November 20, 2025, 1:20 p.m.

FAIR HOUSING BOARD

Final Regulation

Title of Regulation: **18VAC62-20. Fair Housing Certification Regulations (amending 18VAC62-20-10 through 18VAC62-20-80, 18VAC62-20-110, 18VAC62-20-120, 18VAC62-20-140, 18VAC62-20-150, 18VAC62-20-180; repealing 18VAC62-20-90, 18VAC62-20-100, 18VAC62-20-130, 18VAC62-20-160, 18VAC62-20-170).**

Statutory Authority: § 54.1-2344 of the Code of Virginia.

Effective Date: January 14, 2026.

Agency Contact: Anika Coleman, Executive Director, Fair Housing Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, fax (866) 826-8863, or email fairhousing@dpor.virginia.gov.

Summary:

The amendments (i) update definitions, (ii) remove a requirement that a proprietary school obtain board approval to teach fair housing courses, (iii) eliminate two additional hours of required training for certain individuals, (iv) consolidate fee schedules, (v) remove a requirement that the board physically mail renewal applications to regulants, (vi) allow regulants to use a post office box as an address, and (vii) allow more time to report a change of address.

Changes to the proposed regulation include (i) removing references to proprietary schools, which will no longer be required to obtain approval from the board; (ii) requiring applicants for certification to provide the board with an email address, and requiring certificate holders to report a change in email address to allow for a paperless application and renewal process; (iii) incorporating an existing requirement for course instructor approval that an applicant has taught a minimum of eight hours of fair housing courses, including at least two hours in the previous 12 months; and (iv) removing unnecessary provisions related to renewal of courses and instructor approvals.

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

18VAC62-20-10. Applicability.

This chapter is applicable to persons subject to the Virginia Fair Housing Law (§ 36-96.1 et seq. of the Code of Virginia) who are in the business or activity of selling or renting dwellings as defined in this chapter, except those individuals who hold a valid license issued by the Real Estate Board.

18VAC62-20-20. Definitions.

The following words and terms when used in this chapter~~, unless a different meaning is provided or is plainly required by the context, shall~~ have the following meanings unless a different meaning is provided or is plainly required by the context:

"Board" means the Fair Housing Board.

"Certificate holder" means any person in the business of selling or renting dwellings ~~holding~~ who holds a valid certificate issued by the board.

"Certification" means the process by which the board issues a certificate to a person certifying completion of the entry requirements established by this chapter.

"Hour" means 50 minutes.

"Person in the business or activity of selling or renting dwellings" means any person who ~~(i) within the preceding 12 months has participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein or (ii)~~ is the owner of any combination of residential dwelling ~~designed or intended for occupancy by or~~ units occupied by five or more families. "Person in the business or activity of selling or renting dwellings" does not include any person involved in the sale of a dwelling or interest therein pursuant to a deed of trust or in full or partial satisfaction of a debt that was secured by such dwelling or interest therein or other lien on such property.

[~~"Proprietary school" means (i) a privately owned school~~]~~;~~ [~~, (ii) a real estate professional association~~]~~;~~ [~~, or (iii) other entities~~]~~,~~ [~~not under the authority of the Department of Education~~] ~~but approved by the Fair Housing Board to teach fair housing courses~~ [~~.~~]

"Provider" means an accredited university, college, community college, or high school offering adult distributive education courses~~,~~ or a school offering fair housing related courses.

["School" means (i) a privately owned school, (ii) a real estate professional association, or (iii) other entities not under the authority of the Department of Education.]

18VAC62-20-30. Qualifications for certification.

A. Every applicant for fair housing certification ~~shall~~ must have the following qualifications:

1. The applicant ~~shall~~ must complete two hours of fair housing training approved by the board or the Real Estate Board.

2. The applicant ~~shall~~ must have taken the two-hour fair housing training within two years of the date of application.

3. If the applicant has in the last five years been found in a court or an administrative body ~~of competent jurisdiction~~ to have violated the Virginia Fair Housing Act (§ 36-96.1 et seq. of the Code of Virginia), the fair housing laws of any jurisdiction of the United States, including ~~without limitation~~ Title VIII of the Civil Rights Act of 1968 (82 Stat. 73)~~,~~ or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal therefrom or the time for appeal having elapsed, then the applicant [~~shall~~ must] disclose ~~said~~ those violations ~~and complete an additional two hours of training in other applicable federal and state discrimination laws and regulations~~.

B. Applicants must provide an address [~~that will serve as the address of record~~ and email address].

18VAC62-20-40. ~~Application fees~~ Fees.

A. All application fees are nonrefundable and the date of actual receipt by the board or its agent is the date that will be used to determine whether ~~it~~ the fee is timely received.

B. The application fee for certification ~~shall~~ will be $25.

C. All fees for renewal are nonrefundable, and the date of actual receipt by the board or its agent is the date that will be used to determine whether the fee is timely received.

D. Renewal fees are as follows:

Renewal fee	$25
Late renewal fee	$25

E. The application fee for approval as an instructor will be $100.

F. The renewal fee for an instructor will be $100.

G. The reinstatement fee for an instructor will be $50.

18VAC62-20-50. Renewal required.

Certificates 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 certificate.

18VAC62-20-60. Qualification for renewal.

A. As a condition of renewal, all certificate holders ~~shall~~ will be required to satisfactorily complete two hours of fair housing training approved by the board or the Real Estate Board within the preceding two years.

~~B. As a condition of renewal, all certificate holders shall have taken the two-hour fair housing training within two years of the date of renewal application.~~

~~C.~~ B. Each certificate holder desiring to renew the certificate ~~shall~~ must return ~~to the board the renewal application form and~~ the appropriate fee as outlined in ~~18VAC62-20-90~~ 18VAC62-20-40.

~~D.~~ C. If the certificate holder has in the last two years been found in a court or an administrative body ~~of competent jurisdiction~~ to have violated the Virginia Fair Housing Act (§ 36-96.1 et seq. of the Code of Virginia), the fair housing laws of any jurisdiction of the United States, including ~~without limitation~~ Title VIII of the Civil Rights Act of 1968 (82 Stat. 73)~~,~~ or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal therefrom or the time for appeal having elapsed, then the certificate holder ~~shall~~ must disclose ~~said~~ those violations ~~and complete an additional two hours of training in other applicable federal and state discrimination laws and regulations~~.

18VAC62-20-70. Procedures for renewal.

The board will ~~mail~~ send a renewal notice to the certificate holder ~~at the last known address~~. ~~Failure of the certificate holder to receive these notices does not relieve the certificate holder of the obligation to renew.~~

18VAC62-20-80. Failure to renew.

A. If the requirements for renewal of a certificate, including receipt of the fee by the board, are not completed by the certificate holder within 30 days of the expiration date noted on the certificate, a late renewal fee ~~shall~~ will be required in addition to the renewal fee.

B. If the requirements for renewal of a certificate, including receipt of the fee by the board, are not completed by the certificate holder within six months of the expiration date noted on the certificate, the certificate holder ~~shall~~ must apply as a new applicant.

18VAC62-20-90. ~~Fees for renewal.~~ (Repealed.)

~~A. All fees for renewal are nonrefundable, and the date of actual receipt by the board or its agent is the date that will be used to determine whether it is timely received.~~

~~B. Renewal fees are as follows:~~

~~Renewal fee~~	~~$25~~
~~Late renewal fee~~	~~$25~~

18VAC62-20-100. ~~Board discretion to deny renewal.~~ (Repealed.)

~~The board may deny renewal of a certificate for the same reasons as it may refuse initial certification.~~

18VAC62-20-110. Maintenance of certificates.

A. ~~A certificate holder shall keep the board informed of his current address at all times.~~ Changes of address ~~shall~~ [or email address] must be reported to the board in writing within ~~30~~ 60 calendar days after such change. ~~A physical~~ [~~An address is required~~]~~; a post office box is not acceptable~~. The board ~~shall~~ will not be responsible for the certificate holder's failure to receive notices, communications, and correspondence caused by the certificate holder's failure to promptly notify the board of any change of address [or email address].

B. A certificate holder ~~shall~~ must notify the board in writing of a name change within ~~30~~ 60 calendar days of any change in the certificate holder's legal name. Such notification ~~shall~~ must be accompanied by a copy of a marriage certificate, divorce decree, or court order ~~or other documentation~~ that verifies the name change.

~~C. Proof of certification shall be accessible in the place of business.~~

18VAC62-20-120. ~~Proprietary school standards; course~~ Course requirements; instructor requirements.

A. ~~Every applicant to the board for a proprietary school approval shall submit evidence of financial responsibility to ensure that these schools protect the public health, safety and welfare.~~

~~B.~~ Every applicant to the board for approval as an instructor ~~shall~~ must have the following qualifications:

1. The applicant ~~shall~~ must be a qualified expert in a field related to fair housing who will teach only in the area of ~~his~~ the applicant's expertise. Each applicant will be required to state ~~his~~ the applicant's area of expertise and furnish proof of ~~his~~ expertise, including~~, but not limited to,~~ educational transcripts, professional certificates, and letters of reference that will verify the applicant's expertise. The applicant must have completed at least eight hours of fair housing courses, including two hours within the last 12 months. [An applicant must have taught a minimum of eight hours of fair housing courses, at least two hours of which must have been taught within the last 12 months.]

2. The applicant ~~shall~~ must disclose whether in the last five years ~~he~~ the applicant has been found in a court or an administrative body ~~of competent jurisdiction~~ to have violated the Virginia Fair Housing Act (§ 36-96.1 et seq. of the Code of Virginia), the fair housing laws of any jurisdiction of the United States, including ~~without limitation~~ Title VIII of the Civil Rights Act of 1968 (82 Stat. 73)~~,~~ or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal therefrom or the time for appeal having elapsed.

~~C.~~ B. Providers of fair housing courses ~~shall~~ must submit all subjects to the board for approval prior to initially offering the course. The board ~~shall~~ will approve each course based on the relevance of the subject to fair housing. ~~Those providers that propose to offer courses~~ A provider seeking approval of a course must submit ~~the~~ an application for course ~~along with any required documentation~~ approval on ~~an application~~ a form provided by the board. [~~In addition to the appropriate fee provided in 18VAC62-20-40, the~~ The] application must include:

1. A course syllabus listing the main points of the course;

2. A copy of current Fair Housing Board Instructor Certification from each instructor;

3. A comprehensive, timed course outline indicating course subjects and the number of minutes of instruction for each subject;

4. A copy of the course materials used or distributed, including books, handouts, pamphlets, overhead slides, and detailed lecture notes; and

5. A copy of the proposed course completion certificate, which includes:

a. Course name;

b. Course number;

c. Course date;

d. Student name;

e. [~~Proprietary school~~ Provider] name; and

f. A statement that the course is approved for Fair Housing Certification by the Virginia Fair Housing Board.

~~D.~~ C. All ~~instructors shall~~ providers must provide each student with a document that the student may use as proof of course completion. ~~The document shall contain the number of hours completed.~~

18VAC62-20-130. ~~School renewal procedures.~~ (Repealed.)

~~A. Approval of a proprietary school shall expire two years from the last day of the month in which it was issued, as indicated on the proprietary school approval.~~

~~B. The board will mail a renewal notice to the proprietary school at the last known address. Failure of the proprietary school to receive the notice does not relieve the proprietary school of the obligation to renew.~~

~~C. If the renewal requirements are not completed within 30 days of the expiration date noted on the proprietary school approval, the proprietary school shall no longer offer board approved courses.~~

18VAC62-20-140. Course renewal procedures.

A. Approval of a course ~~shall~~ will expire two years from the last day of the month in which it was issued, as indicated on the approval document.

B. The board will ~~mail~~ send a renewal notice to the course provider ~~at the last known address~~. [~~Failure of the course provider to receive the notice does not relieve the course provider of the obligation to renew.~~]

C. If the renewal requirements are not completed within 30 days of the expiration date noted on the course approval, the course ~~shall~~ will no longer be ~~offered as a board approved course~~ eligible for renewal.

18VAC62-20-150. Instructor renewal procedures.

A. Approval of an instructor ~~shall~~ will expire two years from the last day of the month in which it was issued, as indicated on the approval document.

B. The board will ~~mail~~ send a renewal notice to the instructor ~~at the last known address~~. [~~Failure of the instructor to receive the notice does not relieve the instructor of the obligation to renew.~~]

C. If the requirements for renewal of an approved instructor, including receipt of the fee by the board, are not completed within 30 days of the expiration date on the approval document, a reinstatement fee ~~shall~~ will be required. Approval as an instructor may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the approval as an instructor ~~shall~~ will not be reinstated under any circumstances and the instructor must meet all current requirements and apply as a new applicant.

18VAC62-20-160. ~~Fees.~~ (Repealed.)

~~A. The application fee for approval of a proprietary school shall be $100.~~

~~B. The renewal fee for proprietary school approval shall be $100.~~

~~C. The application for approval as an instructor shall be $100.~~

~~D. The renewal fee for an instructor shall be $100.~~

~~E. The reinstatement fee for an instructor shall be $50.~~

18VAC62-20-170. ~~Posting of instructor approval.~~ (Repealed.)

~~Copies of the instructor approval shall be available at the location where a course is taught.~~

18VAC62-20-180. Withdrawal of approval.

The board may withdraw approval of any ~~proprietary school, approved~~ instructor or course for the following reasons:

1. The ~~proprietary school,~~ instructor or course no longer meets the standards established by the board.

2. Where the instructor has been found to have violated or cooperated with others in violating any provision of Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of Virginia, the fair housing laws of any jurisdiction of the United States, including ~~without limitation~~ Title VIII of the Civil Rights Act of 1968 (82 Stat. 73)~~,~~ or the Civil Rights Act of 1866 (14 Stat. 27).

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 (18VAC62-20)

~~Certification Application, 0232CERT (eff. 7/04).~~

~~Proprietary School Certification Application, 0234SCHL (eff. 4/04).~~

~~Fair Housing Course Approval Application, 0233CRS (eff. 4/05).~~

~~Instructor Application, 0231INST (eff. 4/05).~~

Fair Housing Certification Application, A463-0632CERT-v3 (eff. 01/2026)

Fair Housing Course Approval Application, A463-0214FHCRS-v3 (eff. 01/2026)

Fair Housing Instructor Application, A463-0631INST-v3 (eff. 01/2026)]

VA.R. Doc. No. R24-7820; Filed November 17, 2025, 8:47 a.m.

BOARD OF MEDICINE

Fast-Track Regulation

Title of Regulation: **18VAC85-80. Regulations Governing the Practice of Occupational Therapy (amending 18VAC85-80-72, 18VAC85-80-80).**

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

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 14, 2025.

Effective Date: January 29, 2026.

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.

Basis: Section 54.1-2400 authorizes the Board of Medicine to promulgate regulations that are reasonable and necessary to effectively administer the regulatory system.

Purpose: This action is essential to protect the health, safety, and welfare of citizens because the board is responsible for promulgating regulations to ensure the safety of the public. The goal is to reduce barriers to returning to practice in Virginia and resolve a limited and potentially burdensome pathway to returning to practice as an occupational therapist (OT) or occupational therapy assistant (OTA) in Virginia.

Rationale for Using Fast-Track Rulemaking Process: This regulatory change is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process because it expands options and reduces the time for someone with a lapsed or inactive license in Virginia to obtain a full and unrestricted license.

Substance: The amendments (i) expand the list of evidence an applicant may provide for reinstatement or reactivation; (ii) require two forms of evidence for OT licensees who have been inactive for six or more years and OTA licensees who have been inactive for four or more years; and (ii) eliminate obsolete references to an active practice requirement.

Issues: The primary advantages to the public are a possible increase of OTs and OTAs practicing in the Commonwealth. There are no disadvantages to the public. There are no 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.[1]

Summary of the Proposed Amendments to Regulation. In response to stakeholder feedback, the Board of Medicine (board) proposes to create new options to reactive and reinstate certain occupational therapist (OT) and occupational therapy assistant (OTA) licenses.

Background. Under this regulation, an OT or an OTA can request (on the renewal application) to inactivate their license and submit an inactive license fee for as many renewal cycles as he/she chooses (e.g. for raising an infant, taking a break from profession, etc.). The reactivation of an inactive license that has been inactive for fewer than six years requires an application; payment of the difference between the renewal and inactive licensure fee; and evidence of completed continued competency hours equal to the requirement for the number of years, not to exceed six years, in which the license has been inactive. If a license has been inactive for more than six years, the reactivation is subject to additional requirements such as evidence of either a current certification by the National Board for Certification in Occupational Therapy (NBCOT) or that the applicant has retaken and passed the national examination for initial licensure. Similarly, licenses that are lapsed for a period of two years or more can be reinstated with an application; information on any practice and licensure or certification in other jurisdictions during the period in which the license was lapsed; payment of the reinstatement fee; evidence of completed continued competency hours equal to the requirement for the number of years, not to exceed six years, in which the license has been lapsed; and evidence of either a current certification by NBCOT or that the applicant has retaken and passed the national examination for initial licensure. However, according to the Department of Health Professions (DHP), the Virginia Occupational Therapy Association (VOTA) communicated their concerns that the current license reactivation and reinstatement options for OTs and OTAs are limited and act as a barrier to reentry into the profession. According to VOTA, license reinstatement is of particular concern for OTs and OTAs, because some of these licensees are military spouses who move frequently. These licensees often obtain active licenses to practice in their new states and either obtain an inactive license in Virginia or allow their Virginia license to lapse. When they return, the reinstatement and reactivation processes, specifically the NBCOT certification or retaking and passing the examination for initial licensure, are time-consuming and costly. In response to these concerns, the board proposes to expand options for reactivation and reinstatement for the license categories noted below. For a license that has been inactive for more than six years, two of the following would suffice to reactivate: 1. Evidence of a current, active, and unrestricted license in another U.S. jurisdiction; 2. Documentation of completed continued competency hours equal to the requirement for six years; 3. Evidence of current certification by NBCOT; or 4. A passing score on the national examination obtained within two years preceding application for reactivation.

This change would expand the reactivation options in various ways. For example, OTs and OTAs in this category would be able to reactive their license by using a recent national exam, rather than retaking the exam and meeting one of the other three options. Applicants in this category could also reactive their license by using option 1 and 2, thereby eliminating the need to either obtain the NBCOT certification or retake the national exam. For a license that has lapsed for more than two, but less than four years, one of the following would suffice to reinstate: 1. Evidence of a current, active, and unrestricted license in another U.S. jurisdiction; 2. Documentation of completed continued competency hours equal to the requirement for the number of years in which the license has been lapsed; 3. Evidence of current certification by NBCOT; or 4. A passing score on the national examination obtained within the two years preceding application for reinstatement.

This change would expand the reinstatement options beyond current options of either having the NBCOT certification or

retaking the national exam. Finally, for a license that has lapsed for four years or more, two of the following would suffice to reinstate: 1. Evidence of a current, active, and unrestricted license in another U.S. jurisdiction; 2. Documentation of completed continued competency hours equal to the requirement for the number of years in which the license has been lapsed, not to exceed six years; 3. Evidence of current certification by NBCOT; or 4. A passing score on the national examination obtained within two years preceding application for reinstatement. Again, under the proposal, applicants in this category would have additional options to reinstate, including the options that do not rely on the NBCOT certification or the national exam.

Estimated Benefits and Costs. The proposal to provide additional or in lieu options for the NBCOT certification or the national exam may reduce the reactivation and reinstatement costs; speed up the timeline to regain licensure; or make it possible to regain Virginia licensure if the current requirements for the NBCOT certification or retaking the national exam could not be met. Thus, depending on the circumstances of an applicant, the proposal may reduce administrative costs associated with reactivation or reinstatement; make it possible to earn wages earlier; or allow participation in the workforce as an OT or OTA, potentially making it possible to earn higher wages. The proposal would also reduce reliance on the NBCOT certification or the national examination by providing options to bypass these two current activation or reinstatement requirements for certain license categories.

Businesses and Other Entities Affected. According to DHP, there are currently 5,517 OTs and 1,801 OTAs licensed in the Commonwealth. However, the proposed amendments would only affect those professionals whose license has been inactivated or has lapsed for a certain period. There is no estimate on the number of regulants that may benefit from the expanded options. 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.[2] 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.[3] As noted above, the proposal would expand reactivation and reinstatement options for OTs and OTAs without increasing net costs or reducing net benefits. Thus, no adverse impact is indicated.

Small Businesses[4] Affected.[5] The proposed amendments do not adversely affect small businesses.

Localities[6] Affected.[7] The proposed amendments do not introduce costs for localities.

Projected Impact on Employment. The proposed amendments would make it easier for OTs and OTAs with inactive or lapsed licenses to regain licensure. This should have a positive impact on the supply of OTs and OTAs, but whether the expected impact is significant and whether it would affect total employment is not known. Effects on the Use and Value of Private Property. The proposed new options to regain licensure should not have a direct impact on the use and value of private property unless the applicant owns an occupational therapy practice. No impact on real estate development costs is expected.

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

[2] 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.

[3] 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.

[4] 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."

[5] 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.

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

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

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

Summary:

In response to stakeholder concerns regarding cost and barriers to practice, the amendments ensure rapid return to practice in Virginia for those holding out-of-state licenses and inactive licenses in Virginia or those who have allowed a Virginia license to lapse. Specifically, the amendments (i) expand acceptable documentation for reinstatement and a reactivation of an inactive license to include a license in another jurisdiction and completing continuing competency hours and (ii) remove references to active practice.

18VAC85-80-72. Inactive licensure.

A. A licensed occupational therapist or an occupational therapy assistant who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be required to ~~maintain hours of active practice or~~ meet the continued competency requirements of 18VAC85-80-71 and shall not be entitled to perform any act requiring a license to practice occupational therapy in Virginia.

B. An inactive licensee may reactivate his license upon submission of the following:

1. An application as required by the board; and

2. A payment of the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure~~; and 3. Documentation~~.

C. Individuals whose license has been inactive for less than six years shall submit documentation of completed continued competency hours equal to the requirement for the number of years, not to exceed six years, in which the license has been inactive.

~~C.~~ D. An occupational therapist or occupational therapy assistant who has had an inactive license for six years or more ~~and who has not engaged in active practice, as defined in 18VAC85-80-10,~~ shall provide ~~evidence of current certification by NBCOT or retake and pass the national examination~~ two of the following:

1. Evidence of a current, active, and unrestricted license in another United States jurisdiction;

2. Documentation of completed continued competency hours equal to the requirement for six years;

3. Evidence of current certification by NBCOT; or

4. A passing score on the national examination obtained within two years preceding application for reactivation.

~~D.~~ E. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of § 54.1-2915 of the Code of Virginia or any provisions of this chapter.

18VAC85-80-80. Reinstatement.

A. An occupational therapist or an occupational therapy assistant who allows a license to lapse for a period of two years or more and chooses to resume practice shall submit a reinstatement application to the board and information on any practice and licensure or certification in other jurisdictions during the period in which the license was lapsed and shall pay the fee for reinstatement of licensure as prescribed in 18VAC85-80-26.

B. An occupational therapist or occupational therapy assistant who has allowed a license to lapse for two years ~~or more~~ but less than four years shall provide ~~evidence of current certification by NBCOT or retake and pass the national examination.~~ one of the following:

1. Evidence of a current, active, and unrestricted license in another United States jurisdiction;

2. Documentation of completed continued competency hours equal to the requirement for the number of years in which the license has been lapsed;

3. Evidence of current certification by NBCOT; or

4. A passing score on the national examination obtained within the two years preceding application for reinstatement.

C. An ~~applicant for reinstatement shall meet the continuing competency requirements of 18VAC85-80-71 for the number of years the license has been lapsed, not to exceed six years.~~ occupational therapist or occupational therapy assistant who has allowed a license to lapse for four years or more shall provide two of the following:

1. Evidence of a current, active, and unrestricted license in another United States jurisdiction;

2. Documentation of completed continued competency hours equal to the requirement for the number of years in which the license has been lapsed, not to exceed six years;

3. Evidence of current certification by NBCOT; or

4. A passing score on the national examination obtained within two years preceding application for reinstatement.

D. An occupational therapist or an occupational therapy assistant whose license has been revoked by the board and who wishes to be reinstated shall make a new application to the board and payment of the fee for reinstatement of the license as prescribed in 18VAC85-80-26 pursuant to § 54.1-2408.2 of the Code of Virginia.

VA.R. Doc. No. R26-8314; Filed November 7, 2025, 2:00 p.m.

BOARD OF OPTOMETRY

Action Withdrawn

Title of Regulation: **18VAC105-20. Regulations Governing the Practice of Optometry.**

Statutory Authority: §§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

The Board of Optometry has WITHDRAWN the regulatory action for **18VAC105-20, Regulations of the Virginia Board of Optometry**, which was published as a Notice of Intended Regulatory Action in 31:19 VA.R. 2040 May 5, 2025. The purpose of the proposed action was to add the requirement that each licensure by endorsement application include a National Practitioner Data Bank (DPDB) report. The action has been

withdrawn because another regulatory action amending licensure by endorsement has superseded it. The board voted to withdraw this action at its November 12, 2025, meeting.

Agency Contact: Kelli Moss, Executive Director, Board of Optometry, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 597-4077, fax (804) 793-9145, or email kelli.moss@dhp.virginia.gov.

VA.R. Doc. No. R25-8047; Filed November 20, 2025, 9:56 a.m.

BOARD OF PHARMACY

Final Regulation

Title of Regulation: **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-10, 18VAC110-20-505, 18VAC110-20-690, 18VAC110-20-710, 18VAC110-20-720; adding 18VAC110-20-591, 18VAC110-20-721; repealing 18VAC110-20-500).**

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

Effective Date: January 14, 2026.

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

Summary:

The amendments align the regulation with new federal requirements of the Drug Supply Chain Security Act (21 USC § 351 et seq.) and the Protecting Patient Access to Emergency Medications Act (21 USC § 823) that ensure emergency medical services (EMS) providers can provide drugs to patients as needed. The amendments (i) allow EMS agencies and regional EMS councils to apply for a controlled substance registration (CSR) and use a hub-and-spoke model to service designated locations of the entity holding the CSR and U.S. Drug Enforcement Administration registration; (ii) establish requirements for health care practitioners who are needed to maintain, audit, and dispense drug stock and requirements for prescribers connected to the CSR holder; (iii) provide certain allowances for EMS agencies and regional EMS councils regarding drug storage, alarm systems, and audits of drugs; and (iv) permit transfer of drugs between locations controlled by a hub CSR and between CSR holders.

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

18VAC110-20-10. Definitions.

In addition to words and terms defined in §§ 54.1-3300 and 54.1-3401 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Acquisition" of an existing entity permitted, registered, or licensed by the board means (i) the purchase or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor or change in partnership composition; (iii) the acquiring of 50% or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; or (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity with another business or corporation.

"Actively reports" means reporting all dispensing errors and analyses of such errors to a patient safety organization as soon as practical or at least within 30 days of identifying the error.

"Alternate delivery site" means a location authorized in 18VAC110-20-275 to receive dispensed prescriptions on behalf of and for further delivery or administration to a patient.

"Analysis" means a review of the findings collected and documented on each dispensing error, assessment of the cause, and any factors contributing to the dispensing error, and any recommendation for remedial action to improve pharmacy systems and workflow processes to prevent or reduce future errors.

"Authorized collector" means a narcotic treatment program, hospital or clinic with an on-site pharmacy, or pharmacy that is authorized by the U.S. Drug Enforcement Administration to receive drugs for the purpose of destruction.

"Beyond-use date" means the date beyond which the integrity of a compounded, repackaged, or dispensed drug can no longer be ~~assured~~ ensured and as such is deemed to be adulterated or misbranded as defined in §§ 54.1-3461 and 54.1-3462 of the Code of Virginia.

"Board" means the Virginia Board of Pharmacy.

"Chart order" means a lawful order for a drug or device entered on the chart or in a medical record of a patient by a prescriber or the prescriber's designated agent.

"Compliance packaging" means packaging for dispensed drugs that is comprised of a series of containers for solid oral dosage forms and designed to assist the user in administering or self-administering the drugs in accordance with directions for use.

"Correctional facility" means any prison, penitentiary, penal facility, jail, detention unit, or other facility in which persons are incarcerated by government officials.

"DEA" means the U.S. Drug Enforcement Administration.

"Designated location" means a station, EMS agency substation or satellite location, or other location approved by

the DEA, if applicable, and designated by an EMS agency or regional EMS council.

"Dispensing error" means one or more of the following discovered after the final verification by the pharmacist, regardless of whether the patient received the drug:

1. Variation from the prescriber's prescription drug order, including:

a. Incorrect drug;

b. Incorrect drug strength;

c. Incorrect dosage form;

d. Incorrect patient; or

e. Inadequate or incorrect packaging, labeling, or directions.

2. Failure to exercise professional judgment in identifying and managing:

a. Known therapeutic duplication;

b. Known drug-disease contraindications;

c. Known drug-drug interactions;

d. Incorrect drug dosage or duration of drug treatment;

e. Known drug-allergy interactions;

f. A clinically significant, avoidable delay in therapy; or

g. Any other significant, actual, or potential problem with a patient's drug therapy.

3. Delivery of a drug to the incorrect patient.

4. Variation in bulk repackaging or filling of automated devices, including:

a. Incorrect drug;

b. Incorrect drug strength;

c. Incorrect dosage form; or

d. Inadequate or incorrect packaging or labeling.

"Drug donation site" means a permitted pharmacy that specifically registers with the board for the purpose of receiving or redispensing eligible donated prescription drugs pursuant to § 54.1-3411.1 of the Code of Virginia.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedules II through V prescriptions shall be transmitted in accordance with 21 CFR Part 1300.

"Emergency medical services provider" or "EMS provider" means the same as defined in 12VAC5-31-10.

"Emergency medical services vehicle" or "EMS vehicle" has the same meaning prescribed in § 32.1-111.1 of the Code of Virginia.

"EMS agency" ~~means emergency medical services~~ has the same meaning as prescribed in § 32.1-111.1 of the Code of Virginia.

"Expiration date" means that date placed on a drug package by the manufacturer or repacker beyond which the product may not be dispensed or used.

"Faxed prescription" means a written prescription or order that is transmitted by an electronic device that sends over telephone lines the exact image to the receiver (pharmacy) in a hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Floor stock" means a supply of drugs that have been distributed for the purpose of general administration by a prescriber or other authorized person pursuant to a valid order of a prescriber.

"Forgery" means a prescription that was falsely created, falsely signed, or altered.

"Generic drug name" means the nonproprietary name listed in the United States Pharmacopeia-National Formulary (USP-NF) or in the United States Adopted Names (USAN) and the USP Dictionary of Drug Names.

"Hospital" or "nursing home" means those facilities as defined in Title 32.1 of the Code of Virginia or as defined in regulations by the Virginia Department of Health.

"Hospital-owned" means, with respect to an EMS agency, owned by a hospital.

"Initials" means the first letters of a person's name or other unique personal identifier.

"Long-term care facility" means a nursing home, retirement care, mental care, or other facility or institution that provides extended health care to resident patients.

"NABP" means the National Association of Boards of Pharmacy.

"Nuclear pharmacy" means a pharmacy providing radiopharmaceutical services.

"On duty" means that a pharmacist is on the premises at the address of the permitted pharmacy and is available as needed.

"On-hold prescription" means a valid prescription that is received and maintained at the pharmacy for initial dispensing on a future date.

"Other EMS vehicle" means a vehicle used by the EMS agency or regional EMS council for the purpose of providing or facilitating emergency medical care or transporting controlled substances to and from the registered and designated

locations. Such vehicles must be either owned by or registered to an EMS agency, regional EMS council, or jurisdiction and operated by an EMS agency or regional EMS council.

"Patient safety organization" means an organization that has as its primary mission continuous quality improvement under the Patient Safety and Quality Improvement Act of 2005 (P.L. 109-41) and is credentialed by the Agency for Healthcare Research and Quality.

"Permitted physician" means a physician who is licensed pursuant to § 54.1-3304 of the Code of Virginia to dispense drugs to persons to whom or for whom pharmacy services are not reasonably available.

"Perpetual inventory" means an ongoing system for recording quantities of drugs received, dispensed, or otherwise distributed by a pharmacy.

"Personal supervision" means the pharmacist must be physically present and render direct, personal control over the entire service being rendered or act being performed. Neither prior nor future instructions shall be sufficient nor shall supervision rendered by telephone, written instructions, or by any mechanical or electronic methods be sufficient.

"Pharmacy closing" means that the permitted pharmacy ceases pharmacy services or fails to provide for continuity of pharmacy services or lawful access to patient prescription records or other required patient records for the purpose of continued pharmacy services to patients.

"PIC" means the pharmacist-in-charge of a permitted pharmacy.

"Practice location" means any location in which a prescriber evaluates or treats a patient.

"Prescription department" means any contiguous or noncontiguous areas used for the compounding, dispensing, and storage of all Schedules II through VI drugs and devices and any Schedule I investigational drug.

"Quality assurance plan" means a plan approved by the board for ongoing monitoring, measuring, evaluating, and, if necessary, improving the performance of a pharmacy function or system.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Regional EMS council" means an organization designated by the State Board of Health pursuant to § 32.1-111.4:2 of the Code of Virginia.

"Registered EMS agency headquarters" means the principal office and primary business location of an EMS agency that maintains a controlled substances registration issued by the board or a hospital-owned EMS agency that is covered by the registration of a hospital.

"Registered location" means, for the purposes of emergency medical services, a location that appears on a DEA certificate of registration or controlled substances registration issued to an EMS agency or regional EMS council, which shall be the location at which the agency or council receives Schedules II through VI controlled substances from those entities authorized to distribute controlled substances.

"Repackaged drug" means any drug removed from the manufacturer's original package and placed in different packaging.

"Robotic pharmacy system" means a mechanical system controlled by a computer that performs operations or activities relative to the storage, packaging, compounding, labeling, dispensing, or distribution of medications and collects, controls, and maintains all transaction information.

"Safety closure container" means a container that meets the requirements of the federal Poison Prevention Packaging Act of 1970 (15 USC §§ 1471-1476), that is, in testing such containers, that 85% of a test group of 200 children of ages 41-52 months are unable to open the container in a five-minute period and that 80% fail in another five minutes after a demonstration of how to open it and that 90% of a test group of 100 adults must be able to open and close the container.

"Satellite pharmacy" means a pharmacy that is noncontiguous to the centrally permitted pharmacy of a hospital but at the location designated on the pharmacy permit.

"Special packaging" means packaging that is designed or constructed to be significantly difficult for children younger than five years of age to open to obtain a toxic or harmful amount of the drug contained therein within a reasonable time and not difficult for normal adults to use properly but does not mean packaging that all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

"Special use permit" means a permit issued to conduct a pharmacy of a special scope of service that varies in any way from the provisions of any board regulation.

"Station" means an enclosed structure that houses one or more EMS vehicles or other EMS vehicles in the state in which the EMS agency is registered that is actively and primarily being used for emergency response by the EMS agency.

"Storage temperature" means those specific directions stated in some monographs with respect to the temperatures at which

pharmaceutical articles shall be stored, where it is considered that storage at a lower or higher temperature may produce undesirable results. The conditions are defined by the following terms:

1. "Cold" means any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which temperature is maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is controlled between -25° and -10°C (-13° and 14°F). In those instances in which articles may have a recommended storage condition below -20°C (-4°F), the temperature of the storage location should be controlled to plus or minus 10 degrees.

2. "Room temperature" means the temperature prevailing in a working area.

3. "Controlled room temperature" means a temperature maintained thermostatically that encompasses the usual and customary working environment of 20° to 25°C (68° to 77°F); that results in a mean kinetic temperature calculated to be not more than 25°C (77°F); and that allows for excursions between 15° and 30°C (59° and 86°F) that are experienced in pharmacies, hospitals, and warehouses.

4. "Warm" means any temperature between 30° and 40°C (86° and 104°F).

5. "Excessive heat" means any temperature above 40°C (104°F).

6. "Protection from freezing" means where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency or to the destructive alteration of its characteristics, the container label bears an appropriate instruction to protect the product from freezing.

7. "Cool" means any temperature between 8° and 15°C (46° and 59°F).

"Terminally ill" means a patient with a terminal condition as defined in § 54.1-2982 of the Code of Virginia.

"Ultimate user" means a person who has lawfully obtained, and who possesses, a controlled substance for ~~his~~ that person's own use or for the use of a member of ~~his~~ that person's household or for an animal owned by ~~him~~ that person or a member of ~~his~~ that person's household.

"Unit dose container" means a container that is a single-unit container, as defined in United States Pharmacopeia-National Formulary, for articles intended for administration by other than the parenteral route as a single dose, direct from the container.

"Unit dose package" means a container that contains a particular dose ordered for a patient.

"Unit dose system" means a system in which multiple drugs in unit dose packaging are dispensed in a single container, such as a medication drawer or bin, labeled only with patient name and location. Directions for administration are not provided by the pharmacy on the drug packaging or container but are obtained by the person administering directly from a prescriber's order or medication administration record.

"USP-NF" means the United States Pharmacopeia-National Formulary.

"Well-closed container" means a container that protects the contents from extraneous solids and from loss of the drug under the ordinary or customary conditions of handling, shipment, storage, and distribution.

18VAC110-20-500. ~~Licensed emergency medical services (EMS) agencies.~~ (Repealed.)

~~A. The pharmacy may prepare a kit for a licensed EMS agency provided:~~

~~1. The PIC of the hospital pharmacy shall be responsible for all prescription drugs and Schedule VI controlled devices contained in this kit. Except as authorized in 18VAC110-20-505, a pharmacist shall check each kit after filling and initial the filling record certifying the accuracy and integrity of the contents of the kit.~~

~~2. The kit is sealed, secured, and stored in such a manner that it will deter theft or loss of drugs and devices and aid in detection of theft or loss.~~

~~a. The hospital pharmacy shall have a method of sealing the kits such that once the seal is broken, it cannot be reasonably resealed without the breach being detected.~~

~~b. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication or resealing. The pharmacy shall maintain a record of the seal identifiers when placed on a kit and maintain the record for a period of one year.~~

~~c. In lieu of a seal, a kit with a built-in mechanism preventing resealing or relocking once opened except by the provider pharmacy may be used.~~

~~3. Drugs and devices may be administered by an EMS provider upon an oral or written order or standing protocol of an authorized medical practitioner in accordance with § 54.1-3408 of the Code of Virginia. Oral orders shall be reduced to writing by the EMS provider and shall be signed by a medical practitioner. Written standing protocols shall be signed by the operational medical director for the EMS agency. A current copy of the signed standing protocol shall be maintained by the pharmacy participating in the kit exchange. The EMS provider shall make a record of all drugs and devices administered to a patient.~~

~~4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. The record of the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year. A pharmacist, pharmacy technician,~~

~~or nurse shall reconcile the Schedule II, III, IV, or V drugs in the kit at the time the opened kit is returned. A record of the reconciliation, to include any noted discrepancies, shall be maintained by the pharmacy for a period of two years from the time of exchange. The theft or any other unusual loss of any Schedule II, III, IV, or V controlled substance shall be reported in accordance with § 54.1-3404 of the Code of Virginia.~~

~~5. Accurate records of the following shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year:~~

~~a. The record of filling and verifying the kit to include the drug contents of the kit, the initials of the pharmacist verifying the contents, the date of verification, a record of an identifier if a seal is used, and the assigned expiration date for the kit, which shall be no later than the expiration date associated with the first drug or device scheduled to expire.~~

~~b. The record of the exchange of the kit to include the date of exchange and the name of EMS agency and EMS provider receiving the kit.~~

~~6. Destruction of partially used Schedules II, III, IV, and V drugs shall be accomplished by two persons, one of whom shall be the EMS provider and the other shall be a pharmacist, nurse, prescriber, pharmacy technician, or a second EMS provider. Documentation shall be maintained in the pharmacy for a period of two years from the date of destruction.~~

~~7. The record of the drugs and devices administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations for a period of not less than two years.~~

~~8. Intravenous and irrigation solutions provided by a hospital pharmacy to an emergency medical services agency may be stored separately outside the kit.~~

~~9. Any drug or device showing evidence of damage or tampering shall be immediately removed from the kit and replaced.~~

~~10. In lieu of exchange by the hospital pharmacy, the PIC of the hospital pharmacy may authorize the exchange of the kit by the emergency department. Exchange of the kit in the emergency department shall only be performed by a pharmacist, nurse, or prescriber if the kit contents include Schedule II, III, IV, or V drugs.~~

~~B. A licensed EMS agency may obtain a controlled substances registration pursuant to § 54.1-3423 D of the Code of Virginia for the purpose of performing a one-to-one exchange of Schedule VI drugs or devices.~~

~~1. The controlled substances registration may be issued to a single agency or to multiple agencies within a single jurisdiction.~~

~~2. The controlled substances registration issued solely for this intended purpose does not authorize the storage of drugs within the agency facility.~~

~~3. Pursuant to § 54.1-3434.02 of the Code of Virginia, the EMS provider may directly obtain Schedule VI drugs and devices from an automated drug dispensing device.~~

~~4. If such drugs or devices are obtained from a nurse, pharmacist, or prescriber, it shall be in accordance with the procedures established by the pharmacist in charge, which shall include a requirement to record the date of exchange, name of licensed person providing drug or device, name of the EMS agency and provider receiving the drug or device, and assigned expiration date. Such record shall be maintained by the pharmacy for one year from the date of exchange.~~

~~5. If an EMS agency is performing a one-to-one exchange of Schedule VI drugs or devices, Schedule II, III, IV, or V drugs shall remain in a separate, sealed container and shall only be exchanged in accordance with provisions of subsection A of this section.~~

18VAC110-20-505. Use of radio-frequency identification.

A. A hospital pharmacy may use radio-frequency identification (RFID) to verify the accuracy of drugs placed into a kit for ~~licensed~~ emergency medical services pursuant to ~~18VAC110-20-500~~ 18VAC110-20-591 or other kits used as floor stock throughout the hospital under the following conditions:

1. A pharmacist shall be responsible for performing and verifying the accuracy of the following tasks:

a. The addition, modification, or deletion of drug information into the RFID database for assignment of ~~a~~ an RFID tag to an individual drug; and

b. The development of the contents of the kit in the RFID database and the associated drug-specific RFID tags.

2. A pharmacy technician may place the RFID tag on the drugs, and a pharmacist shall verify that all drugs have been accurately tagged prior to storing the drugs in the pharmacy's inventory.

3. A pharmacy technician may remove RFID-tagged drugs from the pharmacy's inventory whose RFID tags have been previously verified for accuracy by a pharmacist and place the drugs into the kit's container. A pharmacy technician may then place the container into the pharmacy's device that reads the RFID tags to verify if the correct drugs have been placed into the container as compared to the list of the kit's contents in the RFID database.

4. A pharmacist shall perform a daily random check for verification of the accuracy of 5.0% of all kits prepared that day utilizing the RFID technology. A manual or electronic

record from which information can be readily retrieved, shall be maintained that includes:

a. The date of verification;

b. A description of all discrepancies identified, if any; and

c. The initials of pharmacist, verifying the accuracy of the process.

5. Pharmacies engaged in RFID tagging of drugs shall be exempt from the requirements in ~~subsection C of 18VAC110-20-490, subsection A of 18VAC110-20-460, and subsection A of~~ 18VAC110-20-355 A, 18VAC110-20-460 A, and 18VAC110-20-490 C.

6. All records required by this subsection shall be maintained for a period of one year from the date of verification by the pharmacist.

B. A registered EMS agency headquarters, regional EMS council, or designated location of the EMS agency or regional EMS council may use RFID to verify the accuracy of drugs placed into a kit for emergency medical services under the following conditions:

1. An EMS supervising practitioner or responsible party shall be responsible for performing and verifying the accuracy of the following tasks:

a. The addition, modification, or deletion of drug information into the RFID database for assignment of an RFID tag to an individual drug; and

b. The development of the contents of the kit in the RFID database and the associated drug-specific RFID tags.

2. A person authorized to administer drugs or a pharmacy technician may place the RFID tag on the drugs, and the EMS responsible party or designee authorized to administer drugs shall verify that all drugs have been accurately tagged prior to storing the drugs in the [~~pharmacy's~~] inventory.

3. A person authorized to administer drugs or a pharmacy technician may remove RFID-tagged drugs from the EMS inventory whose RFID tags have been previously verified for accuracy by the EMS responsible party or designee authorized to administer drugs and place the drugs into the kit's container. A person authorized to administer drugs may then place the container into the device that reads the RFID tags to verify if the correct drugs have been placed into the container as compared to the list of the kit's contents in the RFID database.

4. An EMS responsible party or designee authorized to administer drugs shall perform a weekly random check for verification of the accuracy of 5.0% of all kits prepared that week utilizing RFID technology. A manual or electronic record from which information can be readily retrieved shall be maintained that includes:

a. The date of verification;

b. A description of all discrepancies identified, if any; and

c. The initials of the EMS responsible party or designee authorized to administer drugs verifying the accuracy of the process.

5. All records required by this subsection shall be maintained for a period of one year from the date of verification by the EMS responsible party or designee authorized to administer drugs.

18VAC110-20-591. Allowances for emergency medical services agencies to obtain drugs.

A. This section contains specific provisions by which an EMS agency may obtain drugs for administration.

B. Unless prohibited by federal law, a pharmacy may prepare a kit for an EMS agency, provided:

1. The PIC of the pharmacy shall be responsible for all prescription drugs contained in this kit. Except as authorized in 18VAC110-20-505, a pharmacist shall (i) check each kit after filling and (ii) initial the filling record certifying the accuracy and integrity of the contents of the kit.

2. The kit containing drugs in Schedules II through V is sealed, secured, and stored in such a manner that will deter theft or loss of drugs and aid in detection of theft or loss. Kits containing only drugs in Schedule VI are not required to be sealed but must be secured in a manner to deter theft or loss.

a. The pharmacy shall have a method of sealing the kits such that once the seal is broken, it cannot be reasonably resealed without the breach being detected.

b. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication or resealing. The pharmacy shall maintain a record of the seal identifiers when placed on a kit and maintain the record for a period of one year.

c. In lieu of a seal, a kit with a built-in mechanism preventing resealing or relocking once opened except by the provider pharmacy may be used.

3. A current copy of the signed standing protocol shall be maintained by the pharmacy participating in the kit exchange. The EMS provider shall make a record of all drugs administered to a patient.

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. The record of the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year. A pharmacist, pharmacy technician, or nurse shall reconcile the Schedule II, III, IV, or V drugs in the kit at the time the opened kit is returned. A record of the reconciliation, to include any noted discrepancies, shall be maintained by the pharmacy for a period of two years from the time of exchange. The theft or any other unusual loss of any Schedule II, III, IV, or V controlled substance

shall be reported in accordance with § 54.1-3404 of the Code of Virginia.

5. Accurate records of the following shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year:

a. The record of filling and verifying the kit, to include the drug contents of the kit, the initials of the pharmacist verifying the contents, the date of verification, a record of an identifier if a seal is used, and the assigned expiration date for the kit, which shall be no later than the expiration date associated with the first drug scheduled to expire.

b. The record of the exchange of the kit, to include the date of exchange and the name of EMS agency and EMS provider receiving the kit.

6. Destruction of partially used Schedules II, III, IV, and V drugs shall be accomplished by two persons, one of whom shall be the EMS provider and the other shall be a pharmacist, nurse, prescriber, pharmacy technician, or a second EMS provider. Documentation shall be maintained in the pharmacy for a period of two years from the date of destruction.

7. The record of the drugs administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations for a period of not less than two years.

8. Intravenous and irrigation solutions provided by a pharmacy to an emergency medical services agency may be stored separately outside the kit.

9. Any drug showing evidence of damage or tampering shall be immediately removed from the kit and replaced.

10. In lieu of exchange by a hospital pharmacy, the PIC of the hospital pharmacy may authorize the exchange of the kit by the emergency department. Exchange of the kit in the emergency department shall only be performed by a pharmacist, nurse, prescriber, or pharmacy technician if the kit contents include Schedule II, III, IV, or V drugs.

11. Drug kits shall be secured on the EMS vehicle or other EMS vehicle at all times, unless the vehicle is incapable of maintaining appropriate drug storage temperature or is out of service. The EMS agency is not required to obtain a controlled substances registration pursuant to § 54.1-3423 D of the Code of Virginia to participate in a pharmacy kit exchange in accordance with this section unless the EMS agency needs to temporarily store a secured drug kit within the EMS building when a vehicle is incapable of maintaining appropriate drug storage temperature or is out of service and the EMS agency does not otherwise serve as a designated location of a current, active controlled substances registration. An alarm system consistent with requirements in 18VAC110-20-710 is not required under these conditions.

C. An EMS agency or regional EMS council that has been issued a controlled substances registration pursuant to 18VAC110-20-690 G and a registration from DEA in accordance with federal law may receive drugs in Schedules II through VI and deliver or transfer the drugs to any designated location of the registered EMS agency headquarters or regional EMS council. Delivery of the drugs shall not constitute wholesale distribution.

D. For sites that are not designated locations of the entity providing the drug, nothing shall preclude a hospital, EMS agency, or regional EMS council from transferring or distributing drugs in Schedule VI to another EMS agency, regional EMS council, or a designated location of either entity during a shortage of drugs or in an emergency.

E. A hospital, EMS agency, regional EMS council, and designated locations may deliver drugs in Schedules II through V to each other consistent with federal law in the event of shortages of such drugs, a public health emergency, or a mass casualty event. All entities transferring, delivering, and receiving drugs shall comply with recordkeeping requirements listed in 18VAC110-20-721.

F. In compliance with federal law, a hospital pharmacy may provide drugs to a hospital-owned EMS agency operating as an extension of the hospital pharmacy's DEA registration.

G. If an EMS agency that is not hospital owned has obtained a controlled substances registration and a DEA registration in accordance with federal law, a pharmacy may provide that EMS agency drugs for restocking an EMS vehicle or other EMS vehicle, provided all of the following criteria are met:

1. The registered or designated location of the agency operating the EMS vehicle or other EMS vehicle maintains the record of receipt of drugs in accordance with state and federal law.

2. The pharmacy maintains a record of the delivery to the EMS agency in accordance with state and federal law.

3. If the EMS vehicle or other EMS vehicle is primarily situated at a designated location of an EMS agency, the designated location notifies the registered location of the agency within 72 hours of the EMS vehicle or other EMS vehicle receiving drugs in Schedules II through V.

4. Pursuant to § 54.1-3434.02 of the Code of Virginia, the EMS provider may directly obtain Schedule VI drugs from an automated drug dispensing device.

5. If such drugs are obtained from a nurse, pharmacist, or prescriber, it shall be in accordance with the procedures established by the pharmacist-in-charge, which shall include a requirement to record the date of exchange, name of licensed person providing the drug, name of the EMS agency and provider receiving the drug, and assigned expiration date. Such record shall be maintained by the pharmacy for one year from the date of exchange.

6. If an EMS agency is performing a one-to-one exchange of Schedule VI drugs, such Schedule VI drugs shall remain in a separate container.

H. Schedule VI drugs stored on an EMS vehicle or other EMS vehicle are not required to be stored in a sealed kit, but must be stored in a manner to deter theft or loss. Drugs in Schedules II through V stored on a ground EMS vehicle, other EMS vehicle, or EMS vehicle that is a licensed fixed-wing aircraft shall be stored in a sealed, secured kit or device within a locked cabinet that is accessible from the patient compartment of the vehicle. Drugs in Schedules II through V stored on an EMS vehicle that is a licensed rotary aircraft shall be stored in a sealed, secured kit or device to deter theft or loss.

1. The method of sealing the kits shall ensure that once the seal is broken, it cannot be reasonably resealed without the breach being detected.

2. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication or resealing. The EMS registered agency headquarters, regional EMS council, or designated location sealing and resealing the kit shall maintain a record of the seal identifiers when placed on a kit and maintain the record for a period of one year.

3. In lieu of a seal, a kit with a built-in mechanism preventing resealing or relocking once opened except by EMS personnel may be used.

I. Registered EMS agency headquarters, regional EMS councils, and designated locations of the registered EMS agency headquarters or regional EMS councils shall implement a process to review expiration dates no less often than every three months to ensure drugs are not administered beyond the expiration date.

J. Registered EMS agency headquarters, regional EMS councils, and designated locations of the registered EMS agency headquarters or regional EMS councils shall perform drug inventories and report drug theft or unusual loss to the board in accordance with § 54.1-3404 of the Code of Virginia.

K. Registered EMS agency headquarters and regional EMS councils shall audit the security of the drug storage location and perform a random audit of Schedules II through V drugs and required recordkeeping for accuracy at least every six months at each designated location under the controlled substances registration. Documentation verifying the completion of the audit for each designated location shall be maintained at the registered EMS agency headquarters or regional EMS council for two years from the date performed.

18VAC110-20-690. Persons or entities authorized or required to obtain a controlled substances registration.

A. A person or entity that maintains or intends to maintain a supply of Schedules II through ~~Schedule~~ VI controlled substances, other than ~~manufacturers'~~ manufacturer samples, in accordance with provisions of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) may apply for a controlled substances registration on forms approved by the board.

B. Persons or entities that may be registered by the board shall include hospitals without in-house pharmacies, nursing homes without in-house pharmacies that use automated drug dispensing systems, ambulatory surgery centers, outpatient clinics, alternate delivery sites, crisis stabilization units, persons authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone and to dispense naloxone for opioid overdose reversal, ~~and~~ emergency medical services agencies, and regional EMS councils, provided such persons or entities are otherwise authorized by law and hold required licenses or appropriate credentials to administer the drugs for which the registration is being sought.

C. In determining whether to register an applicant, the board shall consider factors listed in subsections A and D of § 54.1-3423 of the Code of Virginia and compliance with applicable requirements of this chapter.

1. The proposed location shall be inspected by an authorized agent of the board prior to issuance of a controlled substances registration.

2. Controlled substances registration applications that indicate a requested inspection date or requests that are received after the application is filed shall be honored provided a 14-day notice is allowed prior to the requested inspection date.

3. Requested inspection dates that do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.

4. Any person wishing to change an approved location of the drug stock, make structural changes to an existing approved drug storage location, or make changes to a previously approved security system shall file an application with the board and be inspected.

5. Drugs shall not be stocked within the proposed drug storage location or moved to a new location until approval is granted by the board.

D. The application shall be signed by a person who will act as a responsible party for the controlled substances. The responsible party may be a prescriber, nurse, pharmacist, pharmacy technician for alternate delivery sites, a person authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone and to dispense naloxone for opioid overdose reversal, or other person approved by the board who is authorized to administer the controlled substances.

E. The board may require a person or entity to obtain a controlled substances registration upon a determination that Schedules II through VI controlled substances have been obtained and are being used as common stock by multiple

practitioners and that one or more of the following factors exist:

1. A federal, state, or local government agency has reported that the person or entity has made large purchases of controlled substances in comparison with other persons or entities in the same classification or category.

2. The person or entity has experienced a diversion, theft, or other unusual loss of controlled substances which requires reporting pursuant to § 54.1-3404 of the Drug Control Act.

3. The person or entity has failed to comply with recordkeeping requirements for controlled substances.

4. The person or entity or any other person with access to the common stock has violated any provision of federal, state, or local law or regulation relating to controlled substances.

F. The board may issue a controlled substance registration to an entity at which a patient is being treated by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically for the purpose of establishing a bona fide practitioner-patient relationship and is being prescribed Schedules II through VI controlled substances when such prescribing is in compliance with federal requirements for the practice of telemedicine and the patient is not in the physical presence of a practitioner registered with the U.S. Drug Enforcement Administration provided:

1. There is a documented need for such registration, and issuance of the registration of the entity is consistent with the public interest;

2. The entity is under the general supervision of a licensed pharmacist or a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine; and

3. The application is signed by a person who will act as the responsible party for the entity for the purpose of compliance with provisions of this subsection. The responsible party shall be a prescriber, nurse, pharmacist, or other person who is authorized by provisions of § 54.1-3408 of the Code of Virginia to administer controlled substances.

G. The board may issue a controlled substances registration to an EMS agency or regional EMS council to receive controlled substances in Schedules II through VI from a wholesale distributor, manufacturer, third-party logistics provider, warehouser, or pharmacy. The EMS agency or regional EMS council shall identify to the board any designated location to which the EMS agency or regional EMS council may deliver controlled substances. The EMS agency or regional EMS council shall also obtain a registration from DEA in accordance with federal law prior to delivery of Schedules II through V drugs. The EMS agency or regional EMS council shall identify on the controlled substances registration application the name and physical address of the designated locations and attest that each designated location of the EMS agency or regional EMS council complies with the storage and security requirements of 18VAC110-20-710. Any changes to the designated locations shall be submitted to the board in advance of delivering or ceasing to deliver controlled substances to that location and the designated locations must be approved sites under federal law.

H. An EMS agency receiving only Schedule VI drugs from a wholesale distributor, manufacturer, third-party logistics provider, warehouser, or pharmacy or temporarily storing a secured drug kit within the EMS building when the vehicle is incapable of maintaining appropriate drug storage temperature or is out of service shall obtain a controlled substance registration or operate as a designated location of a registered EMS agency headquarters.

18VAC110-20-710. Requirements for storage and security for controlled substances registrants.

A. Drugs shall be stored under conditions that meet USP-NF specifications or ~~manufacturers'~~ manufacturer's suggested storage for each drug.

B. Any drug that has exceeded the expiration date shall not be administered; it shall be separated from the stock used for administration and maintained in a separate, locked area until properly disposed.

C. If a controlled substances registrant wishes to dispose of unwanted or expired Schedules II through VI drugs, ~~he~~ the controlled substances registrant shall transfer the drugs to another person or entity authorized to possess and to provide for proper disposal of such drugs.

D. Drugs shall be maintained in a lockable cabinet, cart, device, or other area that shall be locked at all times when not in use. The keys or access code shall be restricted to the supervising practitioner and persons designated access in accordance with 18VAC110-20-700 C.

E. A registered EMS agency headquarters or regional EMS council may store controlled substances in an automated dispensing device that is located at a secured site at the registered location or designated location of the EMS agency or regional EMS council that is (i) installed and operated by the EMS agency or regional EMS council, (ii) not used to directly dispense controlled substances to an ultimate user, and (iii) is in compliance with the requirements of state law.

F. In a facility not staffed 24 hours a day, the drugs shall be stored in a fixed and secured room, cabinet, or area that has a security device for the detection of breaking that meets the following conditions:

1. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.

2. The installation and device shall be based on accepted alarm industry standards.

3. The device shall be maintained in operating order, have an auxiliary source of power, be monitored in accordance with accepted industry standards, be maintained in operating order; and shall be capable of sending an alarm signal to the monitoring entity if breached and the communication line is not operational.

4. The device shall fully protect all areas where prescription drugs are stored and shall be capable of detecting breaking by any means when activated.

5. Access to the alarm system shall be restricted to only designated and necessary persons, and the system shall be activated whenever the drug storage areas are closed for business.

6. An alarm system is not required for researchers~~,~~; animal control officers~~,~~; humane societies~~,~~; alternate delivery sites as provided in 18VAC110-20-275~~, emergency medical services agencies~~; registered EMS agencies or regional EMS councils, or designated locations of registered EMS agency headquarters or regional EMS councils stocking only ~~intravenous fluids with no added drug,~~ Schedule VI drugs or temporarily securing a secured drug kit that may contain Schedules II through VI drugs when the EMS vehicle or other EMS vehicle cannot maintain appropriate drug storage temperature or is out of service; persons authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone and to dispense naloxone for opioid overdose reversal~~,~~; and teaching institutions possessing only Schedule VI drugs.

G. A registered EMS agency headquarters or regional EMS council may store controlled substances at any of the following secured locations:

1. A registered location of the EMS agency or regional EMS council;

2. A designated location of the EMS agency or regional EMS council of which the board has been notified and DEA has granted approval if stocking drugs in Schedules II through V;

3. In an EMS vehicle or other EMS vehicle situated at a registered location or designated location of the EMS agency or regional EMS council or other location where an EMS agency approves an EMS vehicle to be stored; or

4. In an EMS vehicle or other EMS vehicle used by the EMS agency that is traveling from or returning to a registered location or designated location of the EMS agency or EMS council or other location where an EMS agency approves an EMS vehicle to be stored in the course of responding to an emergency or otherwise actively in use by the EMS agency.

H. Drugs secured in an EMS agency, regional EMS council, EMS vehicle, or other EMS vehicle shall be stored at an appropriate temperature pursuant to manufacturer's directions at all times. If the EMS vehicle or other EMS vehicle cannot maintain appropriate temperature or is out of service, the drug kit may be temporarily maintained within the building of the EMS agency. The drug kit shall be stored in compliance with this section.

18VAC110-20-720. Requirements for recordkeeping.

The person named as the responsible party on the controlled substances registration shall be responsible for recordkeeping for ~~Schedule~~ Schedules II through VI drugs in accordance with provisions of § 54.1-3404 of the Code of Virginia to include the reporting of any drug theft or unusual loss and the following:

1. Inventories and administration records of Schedule II drugs shall be maintained separately from all other records and shall be kept in chronological order by date of administration.

2. ~~All~~ Except as provided in subdivision 9 of this section, all records shall be maintained at the same location as listed on the controlled substances registration or, if maintained in an off-site database, retrieved and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.

3. In the event that an inventory is taken as the result of a theft of drugs, the inventory shall be used as the opening inventory within the current biennial period. Such an inventory does not preclude the taking of the required inventory on the required biennial inventory date. All inventories required by § 54.1-3404 of the Code of Virginia shall be signed and dated by the person taking the inventory and shall indicate whether the inventory was taken prior to the opening or after the close of business on that date. An entity ~~which~~ that is open 24 hours a day shall clearly document whether the receipt or distribution of drugs on the inventory date occurred before or after the inventory was taken.

4. Any computerized system used to maintain records shall also provide retrieval via computer monitor display or printout of the history for drugs administered during the past two years. It shall also have the capacity of producing a printout of any data ~~which~~ that the registrant is responsible for maintaining under the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

5. The Department of Forensic Science may exclude from any inventory quantities of controlled substances used to conduct chemical analyses and controlled substances received for analyses as evidentiary material as provided in § 54.1-3404 G of the Code of Virginia.

6. Documents that describe the conditions and extent of the responsible party's authorization to dispense controlled substances for each EMS provider employed by or practicing at an EMS agency holding a controlled substances

registration. Such documents shall be maintained in a readily retrievable manner and be available for inspection and copying by authorized agents of the board. Examples of such documentation include protocols, practice guidelines, or practice agreements.

7. Records of all controlled substances that are received, administered, or otherwise disposed of, records of deliveries of controlled substances between all locations of an EMS agency or regional EMS council pursuant to the controlled substance registration, and record of the standing or verbal orders issued or adopted.

8. Documentation verifying the completion of audit for each designated location pursuant to 18VAC110-20-591 K.

9. Records required to be maintained by an EMS agency or regional EMS council shall be maintained, whether electronically or otherwise, pursuant to subdivision 2 of this section or at each registered location, designated location of the EMS agency, or regional EMS council where the controlled substances involved are received, administered, or otherwise disposed of for two years from the date of execution of the record.

18VAC110-20-721. Additional recordkeeping requirements for EMS agencies.

A. Each EMS agency holding a controlled substances registration or serving as a designated location of an EMS agency or regional EMS council, including a hospital-owned EMS agency operating under a hospital registration, responsible for administering a drug must maintain written standing protocols signed by the operational medical director for the EMS agency that authorize the administration. Oral orders authorizing the administration shall be reduced to writing by the EMS provider and shall be signed by a medical practitioner and maintained by the EMS entity responsible for administering the drug.

B. A record for each dose of drug in Schedules II through VI administered and destruction of partially administered drug in the course of providing emergency medical services must also be maintained. Destruction of partially used Schedules II, III, IV, and V drugs shall be accomplished by two persons, one of whom shall be the EMS provider and the other shall be a pharmacist, nurse, prescriber, pharmacy technician, or a second EMS provider. Except as indicated in 18VAC110-20-591 for emergency drug kits provided by a pharmacy, documentation shall be maintained in the EMS agency or the designated location of an EMS agency or regional EMS council for a period of two years from the date of destruction.

C. The following records shall be maintained for each acquisition of a drug in Schedules II through VI from another registrant of the board or each distribution of a drug in Schedules II through VI to another registrant of the board:

1. For each acquisition of a drug from another registrant:

a. Name of the drug;

b. Finished form of the drug (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter);

c. Number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or three-milliliter vial);

d. Number of commercial containers acquired;

e. Date of the acquisition;

f. Name, address, and registration number of the person from whom the substance was acquired; and

g. Name and title of the person acquiring the drug.

2. For each distribution of drug in Schedules II through VI to another registrant:

a. Name of the drug;

b. Finished form of the drug (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter);

c. Number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or three-milliliter vial);

d. Number of commercial containers distributed;

e. Date of the distribution;

f. Name, address, and registration number of the person to whom the substance was distributed; and

g. Name and title of the person in receipt of the distributed drugs.

3. For each delivery of drug in Schedules II through VI between a designated location and a registered location:

a. Name of the drug;

b. Finished form of the drug (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter);

c. Number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or three-milliliter vial);

d. Number of units or volume of finished form in each commercial container and number of commercial containers delivered (e.g., 100-tablet bottle or three-milliliter vial);

e. Date of the delivery;

f. Name and address of the designated location to which the substance was delivered; and

g. Name and title of the person in receipt of the controlled substances.

4. For destruction of a drug in Schedules II through VI, unless otherwise authorized under federal law, expired or unwanted drugs shall be transferred to another person or entity authorized to possess or provide for proper disposal of such drugs.

D. A designated location of an EMS agency that receives drugs in Schedules II through V must notify the EMS agency's registered location within 72 hours of receipt of the drugs in the following circumstances:

1. An EMS vehicle or other EMS vehicle primarily situated at a designated location of the EMS agency acquires drug from a hospital while restocking following a response; or

2. The designated location of the EMS agency receives drugs from another designated location of the same agency.

E. To the extent permitted by federal law, registered EMS agency headquarters, regional EMS councils, or designated locations of the EMS agency or regional EMS council in which the repackaging or prepackaging of over-the-counter drugs is performed shall maintain adequate control records for a period of one year or until the expiration of the drugs, whichever is greater.

1. The records shall show the name of the drugs used; strength, if any; date repackaged; quantity prepared; initials of the pharmacist, EMS responsible party, or designee authorized to administer drugs verifying the process; the assigned lot or control number; the manufacturer or distributor name and lot or control number; and an expiration date.

2. Any subsequently repackaged units shall show the name of the drug; strength, if any; the assigned lot or control number or the manufacturer or distributor name and lot or control number; and an appropriate expiration date determined by the pharmacist, EMS responsible party, or designee authorized to administer drugs in accordance with USP guidelines.

3. Repackaging of drugs shall be performed in compliance with USP-NF standards.

VA.R. Doc. No. R25-7873; Filed November 20, 2025, 8:42 a.m.

Notice of Extension of Emergency Regulation

Title of Regulation: **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-200, 18VAC110-20-275, 18VAC110-20-490, 18VAC110-20-555, 18VAC110-20-700, 18VAC110-20-728).**

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

The Governor has approved the request of the Board of Pharmacy to extend the expiration date of the emergency regulation for 18VAC110-20 for six months as provided for in § 2.2-4011 D of the Code of Virginia. Therefore, the emergency regulation is continued in effect through August 10, 2026. This extension is required to ensure crisis stabilization services can continue to use automated dispensing devices. The board votes to adopt the final regulation at its meeting December 10, 2025. The emergency regulation was published in 41:1 VA.R. 214-221 August 26, 2024.

Effective Date Extended Through: August 10, 2026.

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

VA.R. Doc. No. R25-7883; Filed November 19, 2025, 3:26 p.m.

Forms

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

Titles of Regulations: **18VAC110-20. Regulations Governing the Practice of Pharmacy.**

18VAC110-21. Regulations Governing the Licensure of Pharmacists and Registration of Pharmacy Technicians.

18VAC110-30. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 750-3912, or email erin.barrett@dhp.virginia.gov.

FORMS (18VAC110-20)

Application for a Pharmacy Permit (rev. 1/2024)

Application for a Nonresident Pharmacy Registration (rev. 1/2024)

~~Application for a Nonresident Wholesale Distributor Registration (rev. 4/2024)~~

~~Application for Registration as Nonresident Manufacturer (rev. 10/2020)~~

~~Application for a Nonresident Third-Party Logistics Provider Registration (rev. 4/2024)~~

~~Application for Registration as a Nonresident Warehouser (rev. 10/2020)~~

Application for a Nonresident Outsourcing Facility Registration (rev. 10/2020)

Application for an Outsourcing Facility Permit (rev. 10/2020)

Application for a Medical Equipment Supplier Permit (rev. 10/2020)

~~Application for a Permit as a Restricted Manufacturer (rev. 10/2020)~~

~~Application for a Permit as a Nonrestricted Manufacturer (rev. 10/2020)~~

~~Application for a Wholesale Distributor Permit (rev. 4/2024)~~

~~Application for a Permit as a Warehouser (rev. 10/2020)~~

~~Application for a Permit as a Third-Party Logistics Provider (rev. 4/2024)~~

Application for Registration as a Nonresident Medical Equipment Supplier (rev. 10/2020)

Application for a Controlled Substances Registration Certificate (rev. 8/2024)

Closing of a Pharmacy (rev. 9/2025)

Application for Approval of an Innovative (Pilot) Program (rev. 8/2023)

Registration for a Pharmacy to be a Collection Site for Donated Drugs (rev. 5/2018)

Application for Approval of a Repackaging Training Program (rev. 10/2020)

Registration for a Facility to be an Authorized Collector for Drug Disposal (rev. 5/2018)

Application for Reinspection of a Facility (rev. 3/2023)

Notification of Distribution Cessation due to Suspicious Orders (rev. 5/2018)

Staffing Requests or Concerns Form (eff. 9/2023)

FORMS (18VAC110-21)

Application for Licensure as a Pharmacist by Examination (rev. 3/2023)

Application for Licensure as a Pharmacist by Endorsement (rev. 3/2023)

Instructions for Reinstating or Reactivating a Pharmacist License (rev. 3/2023)

Instructions for Reinstating a Pharmacy Technician Registration (rev. 4/2023)

Application for Registration as a Pharmacy Technician (rev. 7/2025)

Application for Registration as a Limited-Use Pharmacy Technician (rev. 7/2025)

Affidavit for Limited-Use Pharmacy Technician (rev. 5/2018)

Application for Registration as a Pharmacy Technician Trainee (rev. 7/2025)

Application for Registration as a Pharmacy Intern (rev. 3/2023)

Application for Registration as a Pharmacy Intern for Graduates of a Foreign College of Pharmacy (rev. 3/2023)

Affidavit of Practical Experience as a Pharmacy Intern (rev. 3/2019)

Name Change Form for Individuals (rev. 3/2018)

Application for Approval of a Continuing Education Program (rev. 10/2020)

~~Application for Approval of an Innovative (PILOT) Program (rev. 6/2021)~~

Application for Approval of a Repackaging Training Program (rev. 10/2020)

Continuing Education (CE) Credit Form for Preceptors (rev. 7/2020)

Application for Approval of ACPE Accredited Pharmacy School Courses for Continuing Education Credit (rev. 6/2020)

Sponsor Certification for Volunteer Registration (rev. 4/2018)

Application for Volunteer Practice by a Pharmacist (rev. 4/2018)

Continuing Education (CE) Credit Form for Volunteer Practice (rev. 4/2018)

FORMS (18VAC110-30)

~~Application for a Controlled Substances Registration Certificate (rev. 10/2020)~~

~~Controlled Substances Registration Inspection Report (rev. 1/2020)~~

Application for a License to Sell Controlled Substances by a Practitioner of the Healing Arts (rev. 3/2023)

Application for Facility Permit for Practitioners of the Healing Arts (rev. 10/2020)

Application for ~~Limited Use~~ Limited-Use Facility Dispensing Permit for Nonprofit (rev. 8/2023)

Application for ~~Limited Use~~ Limited-Use Practitioner Dispensing License for Nonprofit (rev. 8/2023)

VA.R. Doc. No. R26-8530; Filed November 12, 2025, 3:53 p.m.

BOARD OF PSYCHOLOGY

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.

Titles of Regulations: **18VAC125-20. Regulations Governing the Practice of Psychology.**

18VAC125-30. Regulations Governing the Certification of Sex Offender Treatment Providers.

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Board of Psychology, 9960 Mayland

Drive, Suite 300, Henrico, VA 23233, telephone (804) 750-3912, or email erin.barrett@dhp.virginia.gov.

FORMS (18VAC125-20)

~~Application Instructions For Clinical Psychology (LCP), School Psychology, or Applied Psychology Licensure by Examination (rev. 4/2018)~~

~~Endorsement Application Instructions for Licensure as a Clinical, School, or Applied Psychologist (rev. 12/2018)~~

~~Application Instructions for Licensure as a School Psychologist Limited (rev. 5/2018)~~

~~Employment Verification (rev. 5/2018)~~

~~Registration of Residency in Clinical or School Psychology (Post Graduate Degree Supervised Experience) (rev. 5/2018)~~

~~Psychologist Application for Reinstatement of a Lapsed License (rev. 5/2018)~~

~~School Psychologist Limited Application for Reinstatement of a Lapsed License (rev. 5/2018)~~

~~Psychologist/CSOTP Application for Reinstatement Following Disciplinary Action (rev. 5/2018)~~

~~Verification of Post-Degree Supervision (rev. 5/2018)~~

~~Internship Verification (rev. 5/2018)~~

~~Licensure/Certification Verification (rev. 5/2018)~~

~~Areas of Graduate Study (rev. 5/2018)~~

~~Continuing Education Summary Form (rev. 12/11)~~

~~Verification of Pre Doctoral Supervised Practicum Hours (eff. 5/2018)~~

~~Verification of Post Licensure Active Practice (rev. 8/2018)~~

~~Licensure Verification of Out of State Supervisor (rev. 5/2018)~~

~~Form for Reporting Psychology Grand Rounds Attendance (rev. 10/2011)~~

~~Continuing Education/Course Approval Request (rev. 4/2018)~~

~~Request for Board Approval of Evaluator (rev. 10/2017)~~

~~Request for Board Approval of Practice Supervisor (rev. 10/2017)~~

~~Request for Board Approval of Therapist (rev. 10/2017)~~

~~Psychology Name/Address Change Form (rev. 3/2016)~~

~~Request for Verification of Virginia Psychology License (rev. 7/2017)~~

~~Request for Change in Status of Virginia Clinical, School or Applied Psychologist License and School Psychologist Limited License (Current Active to Current Inactive) (rev. 5/2020)~~

~~Request for Change in Status of Virginia Psychology License (Current Inactive to Current Active) (rev. 5/2020)~~

~~Request for Change in Status of Virginia Psychology License (Current Inactive to Current Active at Annual Renewal Time) (rev. 5/2020)~~

Initial Licensure by Examination for School Psychology (rev. 10/2024)

Licensure by Endorsement for School Psychology (rev. 10/2024)

Initial Licensure by Examination for Applied Psychology (rev. 10/2024)

Licensure by Endorsement for Applied Psychology (rev. 10/2024)

Initial Licensure for School Psychologist-Limited (rev. 10/2024)

Initial Licensure by Examination for Psychological Practitioner (eff. 9/2025)

Initial Licensure by Examination for Autonomous Psychological Practitioner (eff. 9/2025)

Verification of Post-Degree Supervision for Psychological Practitioner Autonomous Practice (eff. 9/2025)

Change of Status Request Active to Inactive (rev. 8/2024)

Change of Status Request Inactive to Active at Renewal (rev. 8/2024)

Change of Status Request Inactive to Active (rev. 8/2024)

Reinstatement Application for Clinical, School, Applied, and Psychological Practitioner (rev. 10/2025)

Reinstatement Following Disciplinary Action for Clinical, School, and Applied (rev. 10/2024)

Reinstatement for School Psychology-Limited (rev. 10/2024)

School Psychologist-Limited Employment Verification (rev. 8/2024)

Initial Registration of Residency for Clinical Psychology (rev. 10/2024)

Add/Change Residency for Clinical Psychology (rev. 10/2024)

Termination of Supervision Form - Clinical Psychology (rev. 8/2024)

Resident in Clinical Psychology Supervisor Contract (rev. 9/2023)

Initial Registration of Residency for School Psychology (rev. 10/2024)

Add/Change Residency for School Psychology (rev. 10/2024)

Termination of Supervision - Resident in School Psychology (rev. 8/2024)

Resident in School Psychology Supervisor Contract (rev. 8/2023)

Verification of Post-Degree Supervision for Clinical Psychology (rev. 8/2024)

Internship Equivalency Form (rev. 3/2025)

Verification of Active Practice - Clinical Psychology (rev. 8/2024)

Verification of Internship - Clinical Psychology (rev. 8/2024)

Verification of Pre-Doctoral Supervised Practicum Hours - Clinical Psychology (rev. 8/2024)

Verification of Post-Degree Supervision for School Psychology (rev. 8/2024)

Verification of Internship - School Psychology (rev. 8/2024)

Verification of Post-Licensure Active Practice - School Psychology (rev. 8/2024)

Areas of Graduate Study - Verification of Required Coursework for Clinical Psychologists (rev. 8/2024)

Areas of Graduate Study - Verification of Required Coursework for School Psychologists (rev. 8/2023)

Areas of Graduate Study - Verification of Required Coursework for Applied Psychologists (rev. 8/2024)

Areas of Graduate Study - Verification of Required Coursework for Psychological Practitioners (eff. 9/2025)

Continuing Education Summary Form (rev. 11/2025)

Request for Virginia Licensure Verification (rev. 8/2024)

Supervisor Out-of-State Verification Form (rev. 8/2024)

Verification of Active Practice for Applied Psychologists (rev. 8/2024)

Request for Board Approval of Practice Supervisor (rev. 9/2024)

Authorization to Disclose for Practice Supervisor (rev. 11/2025)

Practice Supervisor Report (rev. 9/2024)

Initial Therapy Report for Compliance (rev. 9/2024)

Therapy Quarterly Report for Compliance (rev. 9/2024)

Licensee Self Report (rev. 9/2024)

Request for Board Approval of Therapist (rev. 9/2024)

Group Attendance Log (rev. 9/2024)

Prescription Report (rev. 9/2024)

Initial Contact Form for Compliance (rev. 9/2024)

Employer Notification of Board Order (rev. 9/2024)

Name or Address Change Form (rev. 8/2024)

Continuing Education or Course Approval Request for Compliance Monitoring (rev. 9/2024)

Request for Board Approval of Evaluator (rev. 9/2024)

Initial Licensure by Examination for Clinical Psychology (rev. 10/2024)

Licensure by Endorsement for Clinical Psychology (rev. 10/2024)

FORMS (18VAC125-30)

~~Application Instructions for Certification as a Sex Offender Treatment Provider (rev. 12/2020)~~

~~Applicant Out-of-State Licensure Verification (rev. 12/2020)~~

~~Verification of Post-Degree Supervision (rev. 12/2020)~~

~~Verification of Training (rev. 12/2020)~~

~~Applicant Out-of-State Supervisor Licensure Verification (rev. 12/2020)~~

~~Application Instructions for Initial Registration of Supervision for Sex Offender Treatment Providers (rev. 12/2020)~~

~~Application Instructions for Add/Change Registration of Supervision for Sex Offender Treatment Providers (rev. 12/2020)~~

~~Reinstatement Instructions for Certification of Sex Offender Treatment Providers (rev. 12/2020)~~

Application for Certification as a Sex Offender Treatment Provider (rev. 10/2024)

Verification of Post-Degree Supervision (rev. 8/2024)

Verification of Training Certified Sex Offender Treatment Provider (rev. 8/2024)

Applicant Out-of-State Verification Form (rev. 8/2024)

Supervisor Out-of-State Verification Form (rev. 8/2024)

Application for Initial Residency as Sex Offender Treatment Provider Trainee (rev. 10/2024)

Request for Termination of Supervision (rev. 8/2024)

Sex Offender Treatment Provider Add/Change Residency (rev. 10/2024)

Reinstatement Application for Sex Offender Treatment Providers (rev. 10/2024)

Reinstatement Application for Sex Offender Treatment Providers Following Disciplinary Action (rev. 10/2024)

Sex Offender Treatment Trainee Supervisor Contract (rev. 3/2023)

Continuing Education Summary Form (rev. 11/2025)

Employer Notification of Board Order (rev. 9/2024)

Name or Address Change Form (rev. 8/2024)

Continuing Education or Course Approval Request for Compliance Monitoring (rev. 9/2024)

Request for Board Approval of Evaluator (rev. 9/2024)

VA.R. Doc. No. R26-8509; Filed November 12, 2025, 1:28 p.m.

REAL ESTATE APPRAISER BOARD

Final Regulation

Title of Regulation: **18VAC130-20. Real Estate Appraiser Board Rules and Regulations (amending 18VAC130-20-10, 18VAC130-20-20 through 18VAC130-20-120, 18VAC130-20-130, 18VAC130-20-160 through 18VAC130-20-230, 18VAC130-20-250; adding 18VAC130-20-15; repealing 18VAC130-20-140).**

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

Effective Date: January 14, 2026.

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.

Summary:

The amendments (i) update documents incorporated by reference; (ii) update entry requirements for appraiser licensure; (iii) update qualifications for licensure by reciprocity, temporary licensure, and prelicensure instructors; (iv) extend the reinstatement period to two years; (v) reduce notification and recordkeeping requirements; and (vi) reduce requirements for registration of a business entity.

Changes to the proposed regulation (i) require real estate appraiser applicants on or after January 1, 2026, to have successfully completed the standards established by the Appraiser Qualifications Board in its January 2026 Real Property Appraiser Qualification Criteria; (ii) replace references to "moral turpitude" with references to "fraudulent or dishonest acts" in response to Chapter 505 of the 2025 Acts of Assembly, which prohibits a regulatory board from the use of "vague or arbitrary terms" to deny a license, certification, or registration; (iii) allow for a paperless application and renewal process, including requiring applicants for licensure to provide an email address; (iv) restore provisions regarding address changes for individuals and firms; and (v) remove expired provisions related to temporary fees.

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

18VAC130-20-10. Definitions.

A. Section 54.1-2009 of the Code of Virginia provides definitions for the following terms and phrases used in this chapter:

"Appraisal"

"Appraisal report"

"Board"

"Certified general real estate appraiser"

"Certified residential real estate appraiser"

"Department"

"Director"

"Evaluation"

"Federal financial institutions regulatory agencies"

"Federally related transaction"

"Licensed residential real estate appraiser"

"Real estate"

"Real estate-related financial transaction"

"Real property"

"Regulation"

"Residential real estate appraiser"

B. The following words and terms when used in this chapter, unless a different meaning is provided or is plainly required by the context, ~~shall~~ will have the following meanings:

"Accredited colleges, universities, junior and community colleges" means those accredited institutions of higher learning approved by the State Council of Higher Education for Virginia or ~~listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers~~ accredited by an accrediting agency recognized by the U.S. Department of Education or a recognized international equivalent.

"Adult distributive or marketing education programs" means those programs offered at schools approved by the Virginia Department of Education or any other local, state, or federal government agency, board, or commission to teach adult education or marketing courses.

"Analysis" means a study of real estate or real property other than the estimation of value.

"Appraisal bias" means bias based on race, ethnicity, or national origin in the opinion of value rendered by an appraiser.

"Appraisal Foundation" means the ~~foundation incorporated as an Illinois Not for Profit Corporation on November 30, 1987,~~ organization authorized by the U.S. Congress to establish ~~and improve~~ uniform appraisal standards by defining, issuing, and promoting such standards through the Appraiser Qualifications Board, Appraisal Standards Board, and other councils, panels, and subcommittees.

"Appraisal subcommittee" means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 USC § 3301 et seq.), as amended.

"Appraiser" means an individual who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.

~~"Appraiser classification" means any category of appraiser, which the board creates by designating criteria for qualification for such category and by designating the scope of practice permitted for such category.~~

~~"Appraiser Qualifications Board" means the board created by the Appraisal Foundation to establish appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing, and promoting such qualification criteria; to disseminate such qualification criteria to states, governmental entities, and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.~~

"Appraiser trainee" means an individual who is licensed as an appraiser trainee to appraise those properties that the supervising appraiser is permitted to appraise.

~~"Board" means the Real Estate Appraiser Board.~~

"Business entity" means any corporation, partnership, association, or other business entity under which appraisal services are performed.

~~"Certified general real estate appraiser" means an individual who meets the requirements for licensure that relate to the appraisal of all types of real estate and real property and is licensed as a certified general real estate appraiser.~~

"Certified instructor" means an individual holding an instructor certificate issued by the ~~Real Estate Appraiser Board~~ board to act as an instructor.

~~"Certified residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of or the review appraisal of any residential real estate or real property of one to four residential units regardless of transaction value or complexity. Certified residential real estate appraisers may also appraise or provide a review appraisal of nonresidential properties with a transaction value or market value as defined by the Uniform Standards of Professional Appraisal Practice up to $250,000, whichever is the lesser.~~

"Classroom hour" means 50 minutes out of each 60-minute segment. The prescribed number of classroom hours includes time devoted to tests, which are considered to be part of the course.

"Distance education" means an educational process based on the geographical separation of provider and student ~~(i.e., CD-ROM, online learning, correspondence courses, etc.)~~.

"Experience" as used in this chapter includes experience gained in the performance of ~~traditional appraisal assignments, or in the performance of the following:~~ fee ~~and~~ or staff ~~appraisals~~ appraisal assignment, ad valorem tax appraisal, review appraisal, appraisal analysis, real estate consulting, highest and best use analysis, ~~and~~ feasibility analysis or study, and other appraisal training authorized under state law.

For the purpose of this chapter, experience has been divided into four major categories: (i) fee and staff appraisal, (ii) ad valorem tax appraisal, (iii) review appraisal, and (iv) real estate consulting.

1. "Fee and staff appraiser experience" means experience acquired as a sole appraiser, as a cosigner, or through disclosure of assistance in the certification in accordance with the Uniform Standards of Professional Appraisal Practice.

~~Sole appraiser experience is experience obtained by an individual who makes personal inspections of real estate, assembles and analyzes the relevant facts, and by the use of reason and the exercise of judgment forms objective opinions and prepares reports as to the market value or other properly defined value of identified interests in said real estate.~~

~~Cosigner appraiser experience is experience obtained by an individual who signs an appraisal report prepared by another, thereby accepting full responsibility for the content and conclusions of the appraisal.~~

~~To qualify for fee and staff appraiser experience, an individual must have prepared written appraisal reports after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standards 1 and 2.~~

2. "Ad valorem tax appraisal experience" means experience obtained by an individual who assembles and analyzes the relevant facts and who correctly employs those recognized methods and techniques that are necessary to produce and communicate credible appraisals within the context of the real property tax laws. ~~Ad valorem tax appraisal experience may be obtained either through individual property~~

~~appraisals or through mass appraisals as long as applicants under this category of experience can demonstrate that they are using techniques to value real property similar to those being used by fee and staff appraisers and that they are effectively utilizing the appraisal process.~~

~~To qualify for ad valorem tax appraisal experience for individual property appraisals, an individual must have prepared written appraisal reports after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.~~

~~To qualify for ad valorem tax appraisal experience for mass appraisals, an individual must have prepared mass appraisals or have documented mass appraisal reports after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standard 6.~~

~~In addition to the preceding, to qualify for ad valorem tax appraisal experience, the applicant's experience log must be attested to by the applicant's supervisor.~~

3. "Reviewer experience" means experience obtained by an individual who examines the reports of appraisers to determine whether their conclusions are consistent with the data reported and other generally known information. An individual acting in the capacity of a reviewer does not necessarily make personal inspection of real estate but does review and analyze relevant facts assembled by fee and staff appraisers and by the use of reason and exercise of judgment forms objective conclusions as to the validity of fee and staff appraisers' opinions. ~~Reviewer experience shall not constitute more than 1,000 hours of total experience claimed, and at least 50% of the review experience claimed must be in field review wherein the individual has personally inspected the real property which is the subject of the review.~~

~~To qualify for reviewer experience, an individual must have prepared written reports after January 30, 1989, recommending the acceptance, revision, or rejection of the fee and staff appraiser's opinions that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standard 3.~~

~~Signing as "Review Appraiser" on an appraisal report prepared by another will not qualify an individual for experience in the reviewer category. Experience gained in this capacity will be considered under the cosigner subcategory of fee and staff appraiser experience.~~

4. "Real estate consulting experience" means experience obtained by an individual who assembles and analyzes the relevant facts and by the use of reason and the exercise of judgment forms objective opinions concerning matters other than value estimates relating to real property. ~~Real estate consulting experience includes the following:~~

~~Absorption Study~~
~~Ad Valorem Tax Study~~
~~Annexation Study~~
~~Assemblage Study~~
~~Assessment Study~~
~~Condominium Conversion Study~~
~~Cost-Benefit Study~~
~~Cross Impact Study~~
~~Depreciation/Cost Study~~
~~Distressed Property Study~~
~~Economic Base Analysis~~
~~Economic Impact Study~~
~~Economic Structure Analysis~~
~~Eminent Domain Study~~
~~Feasibility Study~~
~~Highest and Best Use Study~~
~~Impact Zone Study~~
~~Investment Analysis Study~~
~~Investment Strategy Study~~
~~Land Development Study~~
~~Land Suitability Study~~
~~Land Use Study~~
~~Location Analysis Study~~
~~Market Analysis Study~~
~~Market Strategy Study~~
~~Market Turning Point Analysis~~
~~Marketability Study~~
~~Portfolio Study~~
~~Rehabilitation Study~~
~~Remodeling Study~~
~~Rental Market Study~~
~~Right of Way Study~~
~~Site Analysis Study~~
~~Utilization Study~~
~~Urban Renewal Study~~
~~Zoning Study~~

~~To qualify for real estate consulting experience, an individual must have prepared written reports after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standards 4 and 5. Real estate consulting shall not constitute more than 500 hours of experience for any type of appraisal license.~~

"Inactive license" means a license ~~that has been renewed~~ status in which the licensee may not practice but can renew the license without meeting ~~the~~ continuing education requirements ~~specified in this chapter~~. ~~Inactive licenses do not meet the requirements set forth in § 54.1-2011 of the Code of Virginia.~~

"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of or the review appraisal of any noncomplex, residential real estate or real property of one-to-four residential units, including federally related transactions, where the transaction value or market value as defined by the Uniform

Standards of Professional Appraisal Practice is less than $1 million, and complex one-to-four residential units having a transaction value less than $400,000. Licensed residential real estate appraisers may also appraise or provide a review appraisal of noncomplex, nonresidential properties with a transaction value or market value as defined by the Uniform Standards of Professional Appraisal Practice up to $250,000, whichever is the lesser.

"Licensee" means any individual holding ~~an active~~ a license issued by the ~~Real Estate Appraiser Board~~ board to act as a certified general real estate appraiser, certified residential real estate appraiser, licensed residential real estate appraiser, or appraiser trainee as defined, respectively, in § 54.1-2009 of the Code of Virginia and in this chapter.

~~"Local, state, or federal government agency, board, or commission" means an entity established by any local, federal, or state government to protect or promote the health, safety, and welfare of its citizens.~~

"Proprietary school" means a privately owned school offering appraisal or ~~appraisal related~~ appraisal-related courses approved by the board.

"Provider" means accredited colleges, universities, or junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations.

~~"Real estate appraisal activity" means the act or process of valuation of real property or preparing an appraisal report.~~

~~"Real estate appraisal" or "real estate related organization" means any appraisal or real estate related organization formulated on a national level, where its membership extends to more than one state or territory of the United States.~~

~~"Reciprocity agreement" means a conditional agreement between two or more states that will recognize one another's regulations and laws for equal privileges for mutual benefit.~~

"Registrant" means any corporation, partnership, association, or other business entity that provides appraisal services and that is registered with the ~~Real Estate Appraiser Board~~ board in accordance with § 54.1-2011 E of the Code of Virginia.

"Reinstatement" means having a license or registration restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or registration for another period of time.

"Sole proprietor" means any individual, but not a corporation, partnership, or association, who is trading under the individual's own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Substantially equivalent" means any educational course or seminar, experience, or examination taken in this or another jurisdiction that is equivalent in classroom hours, course content, and subject, ~~and degree of difficulty,~~ respectively, to those requirements outlined in this chapter and Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia for licensure and renewal.

"Supervising appraiser" means any individual holding a license issued by the ~~Real Estate Appraiser Board~~ board to act as a certified general real estate appraiser or certified residential real estate appraiser who supervises any unlicensed individual acting as a real estate appraiser or an appraiser trainee as specified in this chapter.

"Transaction value" means ~~the monetary amount of a transaction that may require the services of a certified or licensed appraiser for completion. The transaction value is not always equal to the market value of the real property interest involved. For loans or other extensions of credit, the transaction value equals the amount of the loan or other extensions of credit. For sales, leases, purchases, and investments in or exchanges of real property, the transaction value is the market value of the real property interest involved. For the pooling of loans or interests in real property for resale or purchase, the transaction value is the amount of the loan or the market value of real property calculated with respect to each such loan or interest in real property~~, for the purpose of this chapter, (i) for appraisal assignments carried out as part of a loan transaction, the amount of the loan, or (ii) for appraisal assignments carried out for other than a loan transaction, the market value of the real property interest.

"Uniform Standards of Professional Appraisal Practice" means the 2020-2021 edition of those standards, effective January 1, 2020, or the 2024 Edition, effective January 1, 2024, of Uniform Standards of Professional Appraisal Practice as incorporated by reference into this chapter, which is promulgated by the Appraisal Standards Board of the Appraisal Foundation for use by all appraisers in the preparation of appraisal reports, and pursuant to the preparation date on the report.

"Valuation" means an estimate or opinion of the value of real property.

~~"Valuation assignment" means an engagement for which an appraiser is employed or retained to give an analysis, opinion, or conclusion that results in an estimate or opinion of the value of an identified parcel of real property as of a specified date.~~

~~"Waiver" means the voluntary, intentional relinquishment of a known right.~~

"Valuation services" means services pertaining to aspects of property value.

18VAC130-20-15. Scope of licensure.

A. Certified general real estate appraisers may perform appraisal of all types of real estate and real property and must be licensed as a certified general real estate appraiser.

B. Certified residential real estate appraisers may perform the appraisal of or the review appraisal of any residential real estate or real property of one-to-four residential units regardless of transaction value or complexity. Certified residential real estate appraisers may also appraise or provide a review appraisal of nonresidential properties with a transaction value or market value as defined by the Uniform Standards of Professional Appraisal Practice up to $250,000, whichever is the lesser.

C. Licensed residential real estate appraisers may perform the appraisal of or the review appraisal of any noncomplex, residential real estate or real property of one-to-four residential units, including federally related transactions, where the transaction value or market value as defined by the Uniform Standards of Professional Appraisal Practice is less than $1 million, and complex one-to-four residential units having a transaction value less than $400,000. Licensed residential real estate appraisers may also appraise or provide a review appraisal of noncomplex, nonresidential properties with a transaction value or market value as defined by the Uniform Standards of Professional Appraisal Practice up to $250,000, whichever is the lesser.

18VAC130-20-20. Requirement for registration for business entities.

A. All business entities~~, both domestic (in-state) and foreign (out-of-state),~~ providing appraisal services ~~shall~~ must register with the board by completing an application furnished by the board ~~describing the location, nature, and operation of their practices, and the name and address of the registered agent, an associate, or a partner of the business entity. Along with a completed application form, domestic corporations and limited liability companies shall provide a copy of the certificate as issued by the State Corporation Commission; foreign (out-of-state) corporations and limited liability companies shall provide a copy of the certificate from the State Corporation Commission; partnerships shall provide a copy of the certified Partnership Certificate; and other business entities trading under a fictitious name shall be authorized to conduct business in accordance with Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia~~.

1. Partnerships, corporations, and limited liability companies must be registered with the State Corporation Commission.

2. Business entities trading under a fictitious name must be authorized to conduct business in accordance with Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia.

3. Applicants must provide a physical address.

B. Every business entity providing appraisal services ~~shall~~ must provide the name and license number of a board licensee who ~~shall~~ must serve as the contact person for the board.

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

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

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

~~2.~~ 1. The applicant ~~shall~~ must meet the current educational and experience requirements and submit a license application to the ~~Department of Professional and Occupational Regulation~~ department or its agent prior to the time the applicant is approved to take the licensing examination. ~~Applications received by the department or the department's agent must be complete within 12 months of the date of the receipt of the license application and fee by the Department of Professional and Occupational Regulation or the department's agent.~~

~~3.~~ 2. The applicant ~~shall~~ must sign, as part of the application, a statement verifying that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the ~~Real Estate Appraiser Board~~ board.

~~4. The applicant shall be in good standing as a real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia~~ 3. The applicant must report any action taken by any board or administrative body in any jurisdiction against a professional or occupational license, certification, or registration issued to the applicant, to include any suspension, revocation, or surrender of a license, certification, or registration, imposition of a monetary penalty, or requirement to take remedial education or other corrective action. The board, in its discretion, may deny licensure to any applicant for any prior action taken by any board or administrative body in any jurisdiction. The applicant has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

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

~~The~~ 4. In accordance with § 54.1-204 of the Code of Virginia, each applicant must disclose the following information:

a. All ~~felony~~ misdemeanor convictions involving [~~moral turpitude~~ fraudulent or dishonest acts], sexual offense, non-marijuana drug distribution, or physical injury within five years of the date of the application; and

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

~~Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for purposes of this subdivision~~ The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

~~6.~~ 5. The applicant ~~shall~~ must be at least 18 years ~~old~~ of age.

~~7. The applicant shall have successfully completed the following education:~~

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

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

~~(1) A bachelor's degree in any field of study;~~

~~(2) An associate's degree in a field of study related to business administration, accounting, finance, economics, or real estate;~~

~~(3) Successful completion of 30 semester hours of college-level courses that cover each of the following specific topic areas and hours: English composition (three hours); microeconomics (three hours); macroeconomics (three hours); finance (three hours); algebra, geometry, or higher math (three hours); statistics (three hours); computer science (three hours); business law or real estate law (three hours); and two elective courses in any of the topics described in this subdivision or in accounting, geography, agricultural economics, business management, or real estate (three hours each);~~

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

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

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

~~c. Certified general classification – 300 hours of approved real estate appraisal courses, including the 15-Hour National Uniform Standards of Professional Appraisal Practice course, from accredited colleges, universities, and junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The~~

~~applicant must complete an advanced level appraisal course of at least 30 classroom hours in the appraisal of nonresidential properties. The classroom hours required for the certified general classification may include the classroom hours required for the appraiser trainee, the licensed residential classification, or the certified residential classification. The required core curriculum is a bachelor's degree or higher from an accredited college or university~~ 6. The applicant must have successfully completed minimum education standards established by the Appraiser Qualifications Board in its January 2022 Real Property Appraiser Qualification Criteria. The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria, effective January 1, 2022, are incorporated by reference. [For applications received on or after January 1, 2026, the applicant must have successfully completed the minimum education standards established by the Appraiser Qualifications Board in its January 2026 Real Property Appraiser Qualification Criteria. The Real Property Appraiser Qualification Criteria, effective January 1, 2026, are incorporated by reference.]

~~8.~~ 7. The applicant ~~shall~~ must, as part of the application for licensure, verify the applicant's experience in the field of real estate appraisal. ~~All applicants must submit, upon application, sample appraisal reports as specified by the board. In addition, all experience must be acquired within the five-year period immediately preceding the date application is made and be supported by adequate written reports or file memoranda, which shall be made available to the board upon request.~~

a. All applicants must submit, upon application, sample appraisal reports as specified by the board.

(1) All experience must be acquired within the five-year period immediately preceding the date application is made and be supported by adequate written reports or file memoranda, which must be made available to the board upon request.

(2) The board, at its discretion, may extend the five-year period for applicants who have suffered serious personal illness or injury, death in the immediate family, obligation of military service or service in the Peace Corps, or for other good cause of similar magnitude approved by the board. Documentation of these circumstances must be provided to the board.

b. Experience requirements.

(1) Fee and staff appraisals. To qualify for fee and staff appraiser experience, an individual must have prepared written appraisal reports that comply with the Uniform Standards of Professional Appraisal Practice and demonstrate competence in the act or process of valuation of real property or preparing an appraisal report.

(2) Ad valorem experience. Ad valorem tax appraisal experience may be obtained either through individual property appraisals or through mass appraisals as long as applicants under this category of experience can demonstrate the use of techniques to value real property similar to those being used by fee and staff appraisers and the effective utilization of the appraisal process.

(a) To qualify for ad valorem tax appraisal experience for individual property appraisals, an individual must have prepared written appraisal reports that comply with the Uniform Standards of Professional Appraisal Practice. An applicant claiming only ad valorem tax appraisal experience must also include a fee and staff appraiser assignment as part of the application.

(b) To qualify for ad valorem tax appraisal experience for mass appraisals, an individual must have prepared mass appraisals or have documented mass appraisal reports that comply with the Uniform Standards of Professional Appraisal Practice, including Standard 6.

(c) To qualify for ad valorem tax appraisal experience, the applicant's experience log must be attested to by the applicant's supervisor.

(3) Reviewer experience. Reviewer experience must not constitute more than 1,000 hours of total experience claimed, and at least 50% of the review experience claimed must be in field review wherein the individual has personally inspected the real property which is the subject of the review.

(a) To qualify for reviewer experience, an individual must have prepared written reports after January 30, 1989, recommending the acceptance, revision, or rejection of the fee and staff appraiser's opinions that comply with the Uniform Standards of Professional Appraisal Practice, including Standard 3.

(b) Signing as "Review Appraiser" on an appraisal report prepared by another will not qualify an individual for experience in the reviewer category. Experience gained in this capacity will be considered under the cosigner subcategory of fee and staff appraiser experience.

(4) Real estate consulting experience. To qualify for real estate consulting experience, an individual must have prepared written reports that comply with the Uniform Standards of Professional Appraisal Practice. Real estate consulting must not constitute more than 500 hours of experience for any type of appraisal license.

c. Experience hours.

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

~~b.~~ (2) The applicant for a certified residential real estate appraiser license ~~shall~~ must have a minimum of 1,500 hours of appraisal experience obtained ~~during~~ in no fewer

than 12 months. Hours may be treated as cumulative in order to achieve the necessary 1,500 hours of appraisal experience.

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

~~d.~~ (4) Applicants completing a Licensed Residential Practical Applications of Real Estate Appraisal (PAREA) Program ~~shall~~ will receive credit for:

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

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

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

~~e.~~ (5) Applicants completing a Certified Residential PAREA Program ~~shall~~ will receive credit for:

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

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

~~9. Within 12 months after being approved by the board to take the examination, the applicant shall have registered for and passed a written examination developed or endorsed by the Appraiser Qualifications Board and provided by the board or by a testing service acting on behalf of the board. Successful completion of the examination is valid for a period of 24 months~~ 8. Applicants must pass the board-approved examination within 24 months of being approved to take the examination.

~~10.~~ 9. Applicants for licensure who do not meet the requirements set forth in subdivisions 3 and 4 ~~and 5~~ of this section may be approved for licensure following consideration of their application by the board.

18VAC130-20-40. Qualifications for licensure by reciprocity.

Every applicant to the ~~Real Estate Appraiser Board~~ board for a license by reciprocity ~~shall have met~~ must meet the following qualifications:

~~1. An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may obtain a Virginia real estate appraiser license by providing documentation that the applicant has met educational, experience and examination requirements that are substantially equivalent to those required in Virginia for the appropriate level of licensure.~~

~~2.~~ 1. The applicant ~~shall~~ must be at least 18 years of age.

~~3.~~ 2. The applicant ~~shall~~ must, as part of the application, verify that the applicant has read and understands ~~the~~ Virginia real estate appraiser license law and the regulations of the ~~Real Estate Appraiser Board~~ board.

~~4. The applicant shall be in good standing as a licensed or certified real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia~~ 3. The applicant must report any action taken by any board or administrative body in any jurisdiction against a professional or occupational license, certification, or registration issued to the applicant, to include any suspension, revocation, or surrender of a license, certification, or registration, imposition of a monetary penalty, or requirement to take remedial education or other corrective action. The board, in its discretion, may deny licensure to any applicant for any prior action taken by any board or administrative body in any jurisdiction. The applicant has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

~~5. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a licensed real estate appraiser in such a manner as to safeguard the interests of the public.~~

~~6. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. A certified copy of a final order, decree, or case decision, by a court with the~~

~~lawful authority to issue such order, decree, or case decision shall be admissible as prima facie evidence of such conviction.~~ 4. In accordance with § 54.1-204 of the Code of Virginia, each applicant must disclose the following information:

a. All misdemeanor convictions involving [~~moral turpitude~~ fraudulent or dishonest acts], sexual offense, non-marijuana drug distribution, or physical injury within five years of the date of the application; and

b. All felony convictions.

The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

~~7.~~ 5. Applicants for licensure who do not meet the requirements set forth in subdivisions 3 and 4 ~~and 6~~ of this section may be approved for licensure following consideration by the board.

18VAC130-20-50. Qualifications for temporary licensure.

[A.] An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may obtain a temporary Virginia real estate appraiser's license as required by ~~Section~~ § 1121 of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989~~,~~ (12 ~~USCS~~ USC § 1811).

[B.] The appraiser's permanent certification or license issued by another state ~~shall~~ will be recognized as equivalent to a Virginia license provided that:

1. The appraiser's business is of a temporary nature~~,~~ and is limited to one specific assignment not to exceed 12 months. A specific assignment may include multiple properties. The temporary assignment must be complete prior to the expiration date of the permanent certification or license issued by another state.

2. The applicant ~~shall~~ must, as part of the application, verify that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the ~~Real Estate Appraiser Board~~ board.

3. ~~The applicant shall be in good standing as a licensed or certified real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action~~ The applicant must report any action taken by any board or administrative body in any jurisdiction against a professional or occupational license, certification, or registration issued to the applicant, to include any suspension, revocation, or surrender of a license, certification, or registration, imposition of a monetary penalty, or requirement to take remedial education or other corrective action. The board, in its discretion, may deny licensure to any applicant for any prior action taken by any board or administrative body in any jurisdiction. The applicant has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

~~4. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a real estate appraiser in such a manner as to safeguard the interest of the public.~~

~~5. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. A certified copy of a final order, decree, or case decision, by a court with the lawful authority to issue such order, decree, or case decision shall be admissible as prima facie evidence of such conviction.~~

~~6.~~ 4. In accordance with § 54.1-204 of the Code of Virginia, each applicant must disclose the following information:

a. All misdemeanor convictions involving [~~moral turpitude~~ fraudulent or dishonest acts], sexual offense, non-marijuana drug distribution, or physical injury within five years of the date of the application; and

b. All felony convictions.

The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

5. Applicants for licensure who do not meet the requirements set forth in subdivisions 3 and ~~5~~ 4 of this section may be approved for licensure following consideration by the board.

[C.] Applicants for temporary licensure ~~shall~~ must verify the [~~above~~] information [described in subsections A and B of this section] on an application form provided by the board. A temporary license cannot be renewed. More than one temporary license may be issued per year.

18VAC130-20-60. Qualifications for licensure as an appraiser trainee.

An applicant for licensure as an appraiser trainee ~~shall~~ must meet the following educational requirements in addition to those set forth in subdivisions 1 through ~~6~~ 5 and ~~10~~ 9 of 18VAC130-20-30.

1. Within the five-year period immediately preceding application for licensure, the applicant ~~shall~~ must have successfully completed 75 hours of approved real estate appraisal courses from accredited colleges, universities, or junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The classroom hours ~~shall~~ must include the

15-Hour National Uniform Standards of Professional Appraisal Practice course.

2. Complete an Appraiser Qualifications Board approved course specifically oriented to the requirements and responsibilities of supervising appraisers and appraiser trainees.

3. There is no experience requirement for the appraiser trainee classification.

4. Responsibilities of supervising appraisers ~~are described in this subdivision~~.

a. The appraiser trainee ~~shall~~ must be subject to direct supervision by a supervising appraiser who completed an Appraiser Qualifications Board approved course specifically oriented to the requirements and responsibilities of supervising appraisers and appraiser trainees, has been state certified for at least three years, is in good standing, and has not been subject to any disciplinary action within the last three years that affects the supervising appraiser's legal eligibility to engage in appraisal practice.

b. The supervising appraiser ~~shall~~ must be responsible for the training and direct supervision of the appraiser trainee by:

(1) Accepting responsibility for the appraisal report by signing and certifying the report is in compliance with the Uniform Standards of Professional Appraisal Practice;

(2) Reviewing the appraiser trainee appraisal ~~report(s)~~ reports; and

(3) Personally inspecting each appraised property with the appraiser trainee until the supervising appraiser determines the appraiser trainee is competent in accordance with the Competency Provision of the Uniform Standards of Professional Appraisal Practice for the property type.

c. The appraiser trainee is permitted to have more than one supervising appraiser, but a supervising appraiser may not supervise more than three trainees~~,~~ at one time, unless a state program in the licensing jurisdiction provides for progress monitoring, supervising certified appraiser qualifications, and supervision and oversight requirements for supervising appraisers.

d. An appraisal experience log ~~shall~~ must be maintained jointly by the supervising appraiser and the appraiser trainee. It is the responsibility of both the supervising appraiser and the appraiser trainee to ensure the appraisal experience log is accurate, current, and complies with the board's requirements. At a minimum, the appraisal log requirements are (i) type of property, (ii) date of report, (iii) address of appraised property, (iv) description of work performed by the appraiser trainee and scope of the review and supervision of the supervising appraiser, (v) number of actual work hours by the appraiser trainee on the assignment, and (vi) the signature and state certification number of the supervising appraiser. Separate appraisal logs ~~shall~~ must be maintained for each supervising appraiser, if applicable.

18VAC130-20-70. Requirement for the certification of appraisal education instructors.

Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989~~,~~ and § 54.1-2013 of the Code of Virginia, instructors teaching prelicense educational offerings who are not employed or contracted by accredited colleges, universities, junior and community colleges, adult distributive, or marketing education programs are required to be certified by the board. ~~Effective January 1, 2003, all~~ All Uniform Standards of Professional Appraisal Practice courses taught for prelicense and continuing education credit must be taught by instructors certified by the Appraiser Qualifications Board. ~~Applications received by the department or its agent must be complete within 12 months of the date of the receipt of the license application and fee by the Department of Professional and Occupational Regulation or its agent.~~

18VAC130-20-80. Qualifications for the certification of pre-licensure instructors.

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

1. A baccalaureate degree in real estate, economics, finance, or business~~,~~ and have satisfied the state appraisal licensing educational requirements for the level being instructed; ~~or~~

2. A ~~baccalaureate degree, an appraisal license which has been in good standing for at least two years, and a~~ current certified residential or certified general appraisal license appropriate for the level being instructed and two years of experience as an instructor or teacher at the secondary or post-secondary level; or

3. Seven years of active experience acquired in the appraisal field in the past 10 years, an appraisal license ~~which~~ that has been in good standing for at least two years, and a current certified residential or certified general appraisal license appropriate for the level being instructed.

18VAC130-20-90. Application and registration fees.

~~There will be no pro rata refund of these fees to licensees who resign or upgrade to a higher license or to licensees whose licenses are revoked or surrendered for other causes.~~ All ~~application~~ fees ~~for licenses and registrations~~ are nonrefundable and will not be prorated.

1. Application fees for registrations, certificates, and licenses are as follows:

Registration of Business Entity	$160
Certified General Real Estate Appraiser	[~~$290~~ $252.50]
Temporary Certified General Real Estate Appraiser	$75
Certified Residential Real Estate Appraiser	[~~$290~~ $252.50]
Temporary Certified Residential Real Estate Appraiser	$75
Licensed Residential Real Estate Appraiser	[~~$290~~ $252.50]
Temporary Licensed Residential Real Estate Appraiser	$75
Appraiser Trainee	[~~$155~~ $117.50]
Upgrade of License	$130
Instructor Certification	$150

~~Application fees for a certified general real estate appraiser, a certified residential real estate appraiser, a licensed residential real estate appraiser and an appraiser trainee include a $37.50 fee for a copy of the Uniform Standards of Professional Appraisal Practice. This fee is subject to the fee charged by the Appraisal Foundation and may be adjusted and charged to the applicant in accordance with the fee charged by the Appraisal Foundation.~~

2. ~~Examination fees.~~ The fee for examination or reexamination is subject to contracted charges to the department by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with this contract.

3. An $80 National Registry fee assessment for all permanent license applicants is to be assessed of each applicant in accordance with § 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 USC §§ ~~3331–3351~~ 3331 through 3351). This fee may be adjusted and charged to the applicant in accordance with the Financial Institutions Reform, Recovery, and Enforcement Act. If the applicant fails to qualify for licensure, then this assessment fee will be refunded.

18VAC130-20-100. Renewal required.

~~Licenses~~ All licenses and certifications issued under this chapter for certified general real estate appraisers, certified residential real estate appraisers and licensed residential real estate appraisers ~~and~~, appraiser trainees, and instructors and registrations issued for business entities ~~shall~~ will expire two years from the last day of the month in which they were issued, as indicated on the license, certificate, or registration. ~~Certifications issued under this chapter for instructors shall expire two years from the last day of the month in which they were issued, as indicated on the certification.~~

18VAC130-20-110. Qualifications for renewal.

A. As a condition of renewal, and under § 54.1-2014 of the Code of Virginia, all active certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers~~, resident or nonresident, shall be~~ are required to complete continuing education courses satisfactorily within each licensing term as follows:

1. All real estate appraisers must satisfactorily complete continuing education courses or seminars offered by ~~accredited colleges, universities, or junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations~~ a provider of not less than 28 ~~classroom~~ hours during each licensing term.

2. All real estate appraisers may also satisfy up to one half of an individual's continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes, including teaching, program development, or authorship of textbooks.

3. Seven of the classroom hours completed to satisfy the continuing education requirements ~~shall~~ must be the National Uniform Standards of Professional Appraisal Practice (USPAP) update course ~~or its equivalent~~.

4. Aside from complying with the requirement to complete the seven-hour National USPAP ~~Update Course, or its equivalent~~ update course, appraisers may not receive credit for completion of the same continuing education course within a licensing term.

5. As part of the required hours, all real estate appraisers must complete a minimum two-hour course on either fair housing or appraisal bias. Such course must be (i) a fair housing or appraisal bias course approved by the Appraiser Qualifications Board; (ii) approved by the Real Estate Board in its fair housing category; or (iii) approved by the board in accordance with Part V (18VAC130-20-200 et seq.) of this chapter.

B. As a condition of renewal, all licensed real estate appraiser trainees ~~shall~~ must meet the continuing education requirements set forth in subsection A of this section.

C. All applicants for renewal of a license ~~shall~~ must meet the standards for entry as set forth in subdivisions ~~1,~~ 2 and 3~~, and 4~~ of 18VAC130-20-30.

D. Applicants for the renewal of a registration ~~shall~~ must meet the requirement for registration as set forth in 18VAC130-20-20.

~~E. Applicants for the renewal of a certificate as an instructor shall meet the standards for entry as set forth in 18VAC130-20-80.~~

~~F.~~ E. Licensees applying to activate an inactive license must complete all ~~required~~ continuing education ~~hours~~ requirements that would have been required in the current license term if the licensee was active prior to application to activate the license.

18VAC130-20-120. Procedures for renewal.

A. The board will send a renewal notice to the licensee and certificate holder. The board will send a renewal notice to the registered firm. Failure to receive the renewal notice does not relieve the licensee, certificate holder, or 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, certificate, or registration must return to the board the appropriate renewal and registry fees as outlined in 18VAC130-20-130.

C. Renewal and reinstatement.

1. The date on which the renewal and registry fees are received by the ~~Department of Professional and Occupational Regulation~~ department or its agent will determine whether the licensee, certificate holder, or registrant is eligible for renewal.

2. If ~~either~~ the renewal ~~application form or renewal fee, including the~~ registry ~~fee, is~~ fees are not received by the ~~Department of Professional and Occupational Regulation~~ department or its agent within 30 days of the expiration date, the licensee, certificate holder, or registrant must reinstate 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~~ 3. Two years 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 must reapply for licensure as a new applicant, meeting current education, examination, and experience requirements.

4. When a license is reinstated, the licensee will continue to have the same license number and will be assigned an expiration date two years from the date of the last day of the month of reinstatement.

5. A licensee that reinstates a license will be regarded as having been continuously licensed without interruption. Therefore, a licensee will be subject to the authority of the board for activities performed prior to reinstatement.

6. A licensee that fails to reinstate a license will be regarded as unlicensed from the expiration date of the license forward. Nothing in this chapter divests the board of its authority to discipline a licensee for a violation of the law or regulations during the period of time for which the individual was licensed.

18VAC130-20-130. Fees for renewal and reinstatement.

A. All fees are nonrefundable and will not be prorated.

B. National Registry fee assessment. In accordance with the requirements of § 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the Act), $80 of the biennial renewal or reinstatement fee assessed for all certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers ~~shall~~ must be submitted to the Appraisal Subcommittee. The registry fee may be adjusted in accordance with the Act and charged to the licensee.

~~Renewal and reinstatement fees for a certified general real estate appraiser, a certified residential real estate appraiser, a licensed residential real estate appraiser, and an appraiser trainee include a $37.50 fee for a copy of the Uniform Standards of Professional Appraisal Practice. This fee is subject to the fee charged by the Appraisal Foundation and may be adjusted and charged to the applicant in accordance with the fee charged by the Appraisal Foundation.~~

C. Renewal fees are as follows:

Certified general real estate appraiser	[~~$205~~ $167.50]
Certified residential real estate appraiser	[~~$205~~ $167.50]
Licensed residential real estate appraiser	[~~$205~~ $167.50]
Appraiser trainee	[~~$125~~ $87.50]
Registered business entity	$120
Certified instructor	$150

[~~For licenses expiring on May 31, 2023, and before May 1, 2025, the renewal fees are as follows:~~

~~Certified general real estate appraiser~~	~~$140~~
~~Certified residential real estate appraiser~~	~~$140~~
~~Licensed residential real estate appraiser~~	~~$140~~
~~Appraiser trainee~~	~~$60~~
~~Registered business entity~~	~~$25~~
~~Certified instructor~~	~~$25~~]

D. Reinstatement fees are as follows:

Certified general real estate appraiser	[~~$385~~ $347.50]
Certified residential real estate appraiser	[~~$385~~ $347.50]
Licensed residential real estate appraiser	[~~$385~~ $347.50]
Appraiser trainee	[~~$250~~ $212.50]
Registered business entity	$280
Certified instructor	$300

[~~For licenses expiring on May 31, 2023, and before May 1, 2025, the reinstatement fees~~] ~~shall be~~ [~~are as follows:~~

~~Certified general real estate appraiser~~	~~$320~~
~~Certified residential real estate appraiser~~	~~$320~~
~~Licensed residential real estate appraiser~~	~~$320~~
~~Appraiser trainee~~	~~$155~~
~~Registered business entity~~	~~$185~~
~~Certified instructor~~	~~$25~~]

18VAC130-20-140. ~~Status of licensee during the period prior to reinstatement.~~ (Repealed.)

~~A. When a license is reinstated, the licensee shall continue to have the same license number and shall be assigned an expiration date two years from the previous expiration date of the license.~~

~~B. A licensee or certificate holder who is reinstated shall be regarded as having been continuously licensed without interruption. Therefore, the licensee or certificate holder shall remain under the disciplinary authority of the board during this entire period and may be held accountable for his activities during this period. A licensee or certificate holder who is not reinstated shall be regarded as unlicensed from the expiration date of the license forward. Nothing in this chapter shall divest the board of its authority to discipline a licensee or certificate holder for a violation of the law or regulations during the period of time for which the appraiser was licensed.~~

18VAC130-20-160. Grounds for disciplinary action.

A. The board has the power to fine any licensee, registrant, or certificate holder~~,~~; to place any licensee, registrant, or certificate holder on probation~~,~~; and to suspend or revoke any license, registration, or certification issued under the provisions of Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board, in accordance with subdivision A 7 of § 54.1-201, § 54.1-202, and the provisions of the Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia, when any licensee, registrant, or certificate holder has been found to have violated or cooperated with others in violating any provision of Chapter 20.1 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.

B. An appraiser trainee ~~shall~~ may be subject to disciplinary action for his actions even if acting under the supervision of a supervising appraiser.

18VAC130-20-170. Standards of ethical conduct.

In obtaining a real estate appraiser license and performing a real estate appraisal, a licensee ~~shall~~ must comply with each provision of the Uniform Standards of Professional Appraisal Practice Ethics Rule and the following standards of ethical conduct:

1. All applicants for licensure ~~shall~~ must follow all rules established by the board with regard to conduct at the examination. Such rules ~~shall~~ include any written instructions communicated prior to the examination date and any instruction communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board or a testing service acting on behalf of the board with regard to conduct at the examination ~~shall~~ may be grounds for denial of a license.

2. A licensee, certificate holder, or registrant ~~shall~~ will not obtain or attempt to obtain a license, certification, or registration by false or fraudulent representation.

3. A licensee, registrant, or certificate holder ~~shall~~ will not make any misrepresentation.

18VAC130-20-180. Standards of professional practice.

A. The provisions of subsections C through L of this section ~~shall~~ will not apply to local, state, and federal employees performing in their official capacity.

B. Maintenance of licenses. The board ~~shall~~ is not ~~be~~ responsible for the failure of a licensee, registrant, or certificate holder to receive notices, communications, and correspondence.

1. Change of address. ~~a.~~ All licensed real estate appraisers, appraiser trainees, [and] certified instructors ~~shall~~ [must at all times keep the board informed in writing of their current home address] ~~and shall~~ [~~, and business entities must report any change of address to the board within 30 days of such change~~].

~~b.~~ [Registered real estate appraisal business entities] ~~shall~~ [must at all times keep the board informed in writing of their current business address] ~~and shall~~ [. Licensees, registrants, and certificate holders must report any change of address to the board within 30 days of such change.]

2. Change of name or business entity.

a. All real estate appraisers, appraiser trainees, and certified instructors ~~shall promptly~~ must notify the board

in writing within 30 days and provide appropriate written legal verification of any change of name.

b. Registered real estate appraisal business entities ~~shall promptly~~ must notify the board of any change of name ~~or change of business structure in writing~~ within 30 days. ~~In addition to written notification, corporations shall provide a copy of the Certificate of Amendment from the State Corporation Commission, partnerships shall provide a copy of a certified Partnership Certificate, and other business entities trading under a fictitious name shall be authorized to conduct business in accordance with Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia.~~

~~3. Upon the change of name or address of the registered agent, associate, or partner, or sole proprietor designated by a real estate appraisal business entity, the business entity shall notify the board in writing of the change within 30 days of such event.~~

~~4.~~ c. Whenever the legal business entity holding the registration is dissolved or altered to form a new business entity, the original registration becomes void and [~~shall~~ must] be returned to the board within 30 days of the change. Additionally, the firm [~~shall~~ must] apply for a new registration within 30 days of the change in the business entity. Such changes include:

(1) Death of a sole proprietor;

(2) Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and

(3) Conversion, formation, or dissolution of a corporation, a limited liability company, an association, or any other business entity recognized under the laws of the Commonwealth of Virginia.

3. No license, certification, or registration issued by the board ~~shall~~ will be assigned or otherwise transferred.

~~5.~~ 4. All licensees, certificate holders, and registrants ~~shall~~ must operate under the name in which the license or registration is issued.

~~6. All certificates of licensure, registration, or certification in any form are the property of the Real Estate Appraiser Board. Upon death of a licensee, dissolution or restructure of a registered business entity, or change of a licensee's, registrant's, or certificate holder's name or address, such licenses, registrations, or certificates must be returned with proper instructions and supplemental material to the board within 30 days of such event.~~

~~7. All appraiser licenses issued by the board shall be visibly displayed.~~

C. Use of signature and ~~electronic~~ transmission of report.

1. The signing or transmission of an appraisal report ~~or the transmittal of a report electronically shall indicate~~ indicates that the licensee has exercised complete direction and control over the appraisal. ~~Therefore, no licensee shall sign or electronically transmit an appraisal that has been prepared by an unlicensed person unless such work was performed under the direction and supervision of the licensee in accordance with § 54.1-2011 C of the Code of Virginia.~~

2. All original appraisal reports ~~shall~~ must be signed by the licensed appraiser and contain the license number of the appraiser. ~~For narrative and letter appraisals, the signature and final value conclusion shall appear on the letter of transmittal and certification page.~~ For form appraisals, the signature ~~shall~~ must appear on the page designated for the appraiser's signature and final estimate of value. All temporary licensed real estate appraisers ~~shall~~ must sign and affix ~~their~~ the temporary license to the appraisal report or letter for which ~~they~~ the appraiser obtained the license to authenticate such report or letter. ~~Appraisal reports may be transmitted electronically. Reports prepared without the use of a seal shall contain the license number of the appraiser. a.~~ An appraiser may provide market analysis studies or consulting reports, which do not constitute appraisals of market value, provided such reports, studies, or evaluations ~~shall~~ must contain a conspicuous statement that such reports, studies, or evaluations are not an appraisal as defined in § 54.1-2009 of the Code of Virginia.

~~b. Application of the seal and signature or electronic transmission of the report indicates acceptance of responsibility for work shown thereon.~~

~~c. The seal shall conform in detail and size to the design illustrated in this subdivision:~~

EDITOR'S NOTE: The figure in subdivision C 2 c is being stricken.

~~*The number on the seal shall be the 10-digit number or the last six digits, or the last significant digits on the license issued by the board.~~

D. ~~Development of appraisal. In developing a real property appraisal, all licensees shall comply with the provisions of the Uniform Standards of Professional Appraisal Practice (USPAP) as defined in this chapter or in the prior edition in effect at the time of the reports' preparation. If the required definition of value uses the word "market," licensees must use~~

~~the definition of market value set forth in USPAP "DEFINITIONS."~~ Report definitions. A report must state the type of value, provide the definition, and cite the source for the definition.

E. Appraisal report requirements. In reporting a real property appraisal, a licensee ~~shall~~ must meet the requirements of the Uniform Standards of Professional Appraisal Practice ~~as defined in this chapter or in the prior edition in effect at the time of the reports' preparation~~.

F. Reviewing an appraisal. In performing a review appraisal, a licensee ~~shall~~ must comply with the requirements of the Uniform Standards of Professional Appraisal Practice ~~as defined in this chapter or in the prior edition in effect at the time of the reports' preparation~~. The reviewer's signature and ~~seal shall~~ license number must appear on the certification page of the report.

G. Mass appraisals. In developing and reporting a mass appraisal for ad valorem tax purposes, a licensee ~~shall~~ must comply with the requirements of the Uniform Standards of Professional Appraisal Practice ~~as defined in this chapter or in the prior edition in effect at the time of the reports'~~ preparation.

H. Recordkeeping requirements.

1. A licensee ~~shall~~ must abide by the Record Keeping Rule as stated in the Uniform Standards of Professional Appraisal Practice ~~as defined in this chapter or in the prior edition in effect at the time of the reports' preparation~~.

2. A licensee or registrant of the ~~Real Estate Appraiser Board shall~~ board must, upon request or demand, promptly produce to the board or any of its agents within 10 ~~working~~ days of the request, any document, book, record, work file, or electronic record in a licensee's possession concerning any appraisal that the licensee performed, or for which the licensee is required to maintain records for inspection by the board or its agents. The board or any of its agents may extend such timeframe upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.

~~3. Upon the completion of an assignment, a licensee or registrant shall return to the rightful owner, upon demand, any document or instrument that the licensee possesses.~~

~~4.~~ 3. The appraiser trainee ~~shall be~~ is entitled to obtain copies of appraisal reports ~~he~~ and work files prepared by the appraiser trainee. The supervising appraiser ~~shall~~ must keep copies of appraisal reports for a period of at least five years or at least two years after final disposition of any judicial proceedings in which testimony was given, whichever period expires last.

I. Disclosure requirements. A licensee appraising property in which ~~he~~ the licensee, any member of ~~his~~ the licensee's family, ~~his~~ the licensee's firm, any member of ~~his~~ the licensee's firm, or any entity in which ~~he~~ the licensee has an ownership interest~~,~~ has any interest ~~shall~~ must disclose, in writing, to any client such interest in the property and ~~his~~ the licensee's status as a real estate appraiser licensed in the Commonwealth of Virginia. As used in the context of this chapter, "any interest" includes an ownership interest in the property to be appraised or in an adjacent property or involvement in the transaction, such as deciding whether to extend credit to be secured by such property.

J. Competency. A licensee ~~shall~~ must abide by the Competency Rule as stated in the Uniform Standards of Professional Appraisal Practice ~~as defined in this chapter or in the prior edition in effect at the time of the reports' preparation~~.

K. Scope of work. A licensee ~~shall~~ must abide by the Scope of Work Rule as stated in the Uniform Standards of Professional Appraisal Practice ~~as defined in this chapter or in the prior edition in effect at the time of the reports' preparation~~.

L. Jurisdictional exception. A licensee ~~shall~~ must abide by the Jurisdictional Exception Rule as stated in the Uniform Standards of Professional Appraisal Practice ~~as defined in this chapter or in the prior edition in effect at the time of the reports' preparation~~.

M. Prohibited acts.

1. A licensee ~~shall~~ must act as a certified general real estate appraiser, certified residential real estate appraiser, or licensed residential real estate appraiser in such a manner as to safeguard the interests of the public~~,~~ and ~~shall~~ must not engage in improper, fraudulent, or dishonest conduct.

2. A licensee may not have been convicted, found guilty, or pled guilty, regardless of adjudication, in any jurisdiction of the United States of a misdemeanor involving [~~moral turpitude~~ fraudulent or dishonest acts] or of 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 the purposes of this subdivision. A certified copy of a final order, decree, or case decision by a court with the lawful authority to issue such order, decree, or case decision shall be admissible as prima facie evidence of such guilt.~~

3. A licensee ~~shall~~ must inform the board in writing within 30 days of ~~pleading guilty or nolo contendere or~~ being convicted ~~or found guilty~~, regardless of adjudication, of any felony or of a misdemeanor involving [~~moral turpitude~~ fraudulent or dishonest acts] in any jurisdiction.

4. A licensee may not have had a license or certification as a real estate appraiser that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction.

5. A licensee ~~shall~~ must inform the board in writing within 30 days of any disciplinary action taken in any jurisdiction against any appraiser license or certification to include the suspension, revocation, or surrender of an appraiser license

or certification ~~in connection with a disciplinary action in any other jurisdiction, and a licensee shall inform the board in writing within 30 days of any appraiser license or certification which has been the subject of discipline in any jurisdiction~~.

6. A licensee ~~shall~~ must perform all appraisals in accordance with Virginia Fair Housing Law (§ 36-96.1 et seq. of the Code of Virginia).

7. A licensee ~~shall~~ must respond to an inquiry by the board or its agents, other than requested under subdivision H 2 of this section, within 21 days.

8. A licensee ~~shall~~ must not provide false, misleading, or incomplete information in the investigation of a complaint filed with the board.

18VAC130-20-190. Standards of conduct for certified appraiser education instructors.

A. Instructors ~~shall~~ must develop a record for each student ~~which shall include~~ that includes the student's name and address, the course name, the course hours and dates given, and the date the course was passed. This record ~~shall~~ must be retained by the course provider.

~~B. The instructor shall not solicit information from any person for the purpose of discovering past licensing examination questions or questions which may be used in future licensing examinations.~~

~~C. The instructor shall not distribute to any person copies of license examination questions, or otherwise communicate to any person license examination questions, without receiving the prior written approval of the copyright owner to distribute or communicate those questions.~~

~~D. The instructor shall not, through an agent or otherwise, advertise its services in a fraudulent, deceptive or misrepresentative manner.~~

~~E. Instructors shall not take any appraiser licensing examination for any purpose other than to obtain a license as a real estate appraiser.~~

~~F.~~ B. Prohibited acts.

1. The instructor ~~shall~~ must act as a certified general real estate appraiser, certified residential real estate appraiser, or licensed residential real estate appraiser in such a manner as to safeguard the interests of the public and ~~shall~~ must not engage in improper, fraudulent, or dishonest conduct.

2. The instructor may not have been convicted, found guilty, or pled guilty, regardless of adjudication, in any jurisdiction of the United States of a misdemeanor involving [~~moral turpitude~~ fraudulent or dishonest acts] or of 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 the purposes of this subdivision. A certified copy of a final order, decree, or case decision by a court with the lawful authority to issue such order, decree, or case decision shall be admissible as prima facie evidence of such guilt.~~

3. The instructor ~~shall~~ must inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication, of any felony or of a misdemeanor involving [~~moral turpitude~~ fraudulent or dishonest acts].

4. The instructor may not have had a license or certification as a real estate appraiser that has been (i) suspended, revoked, or surrendered in connection with a disciplinary action or (ii) the subject of discipline in any jurisdiction.

5. The instructor ~~shall~~ must inform the board in writing within 30 days of any disciplinary action taken in any jurisdiction against any appraiser license or certification to include the suspension, revocation, or surrender of an appraiser license or certification ~~in connection with a disciplinary action in any other jurisdiction, and a licensee shall inform the board in writing within 30 days of any appraiser license or certification that has been the subject of discipline in any jurisdiction~~.

6. The instructor, who is also a licensed appraiser, ~~shall~~ must perform all appraisals in accordance with Virginia Fair Housing Law (§ 36-96.1 et seq. of the Code of Virginia).

7. The instructor ~~shall~~ must respond to an inquiry by the board or its agents within 21 days.

8. The instructor ~~shall~~ must not provide false, misleading, or incomplete information in the investigation of a complaint filed with the board.

18VAC130-20-200. Requirement for the approval of appraisal educational offerings.

Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, § 54.1-2013 of the Code of Virginia, and the qualifications criteria set forth by the Appraisal Qualifications Board of the Appraisal Foundation, all educational offerings submitted for prelicensure and continuing education credit ~~shall~~ must be approved by the board. Educational offerings that have been approved by the Appraiser Qualifications Board ~~shall be~~ are considered to have met the standards for approval set forth in this chapter. Prelicense course applications received by the department or ~~its~~ the department's agent must be complete within 12 months of the date of the receipt of the application and fee by the department or ~~its~~ the department's agent.

18VAC130-20-210. Standards for the approval of appraisal educational offerings for prelicensure credit.

A. Content.

1. Prior to licensure, applicants ~~shall~~ must have successfully completed the ~~15-hour~~ 15-hour National Uniform Standards

of Professional Appraisal Practice course ~~or its equivalent~~.

2. While various appraisal courses may be credited toward the classroom requirement specified for each classification of licensure, all applicants for licensure as an appraiser trainee~~,~~ or a licensed residential, certified residential, or certified general real estate appraiser must demonstrate that ~~their~~ course work included coverage of the required topics listed ~~below~~ in this subdivision.

Basic appraisal principles (30 hours)

Basic appraisal procedures (30 hours)

Residential market analysis and highest and best use (15 hours)

Residential appraiser site valuation and cost approach (15 hours)

Residential sales comparison and income approaches (30 hours)

Residential report writing and case studies (15 hours)

Statistics, modeling and finance (15 hours)

Advanced residential applications and case studies (15 hours)

General appraiser market analysis and highest and best use (30 hours)

General appraiser sales comparison approach (30 hours)

General appraiser site valuation and cost approach (30 hours)

General appraiser income approach (60 hours)

General appraiser report writing and case studies (30 hours)

3. All appraisal and appraisal-related offerings presented for prelicense credit must have a final, written examination. The examination may not be an open book examination.

4. Credit toward the classroom hour requirement to satisfy the educational requirement prior to licensure ~~shall~~ will be granted only where the length of the educational offering is at least 15 classroom hours.

B. Instruction. With the exception of courses taught at accredited colleges, universities, junior and community colleges, or adult distributive or marketing education programs, all other prelicense educational offerings given after January 1, 1993, must be taught by instructors certified by the board. All courses in the Uniform Standards of Professional Appraisal Practice must be instructed by an Appraisal Qualifications Board certified instructor.

18VAC130-20-220. Standards for the approval of appraisal educational offerings for continuing education credit.

A. Content.

1. The content of courses, seminars, workshops, or conferences that may be accepted for continuing education credit includes those topics listed in 18VAC130-20-210 A 2 and ~~listed in~~ this subdivision.

Ad valorem taxation

Appraisal bias

Arbitration, dispute resolution

Courses related to the practice of real estate appraisal or consulting

Development cost estimating

Ethics and standards of professional practice, Uniform Standards of Professional Appraisal Practice

Fair housing

Land use planning, zoning

Management, leasing, timesharing

Property development, partial interests

Real estate financing and investment

Real estate law, easements, and legal interests

Real estate litigation, damages, condemnation

Real estate appraisal related computer applications

Real estate securities and syndication

Developing opinions of real property value in appraisals that also include personal property or business value

Seller concessions and impact on value

Energy efficient items and "green building" appraisals

2. Any course related to appraisal bias designed to meet the requirements of 18VAC130-20-110 A 5 must be directly applicable to rendering of an opinion of value by an appraiser. Acceptable topics should consist of:

a. Awareness and identification of appraisal bias;

b. Effects of appraisal bias on consumers;

c. Assisting consumers who may have been subjected to biased appraisals;

d. Strategies to address appraisal bias; and

e. Laws and regulations applicable to appraisal bias.

3. Courses, seminars, workshops, or conferences submitted for continuing education credit must indicate that the licensee participated in an educational program that maintained and increased the licensee's knowledge, skill, and competency in real estate appraisal.

4. Credit toward the classroom hour requirement to satisfy the continuing education requirements ~~shall~~ will be granted

only where the length of the educational offering is at least two hours and the licensee participated in the full length of the program.

B. Instruction. Although continuing education offerings are not required to be taught by ~~board certified~~ board-certified instructors, the Uniform Standards of Professional Appraisal Practice course must be taught by an Appraiser Qualifications Board certified instructor who is also a state certified appraiser.

18VAC130-20-230. Procedures for awarding prelicense and continuing education credits.

A. Course credits ~~shall~~ will be awarded only once per license cycle for courses having substantially equivalent content.

B. Proof of completion of such course, seminar, workshop, or conference may be in the form of a transcript, certificate, letter of completion, or ~~in~~ any such written form as may be required by the board. All courses, seminars, and workshops submitted for prelicensure and continuing education credit must indicate the number of classroom hours.

C. ~~Information that may be requested by the~~ The board may request additional information in order to ~~further~~ evaluate course content ~~includes, but is not limited to~~, including course descriptions, syllabi, or textbook references.

D. All transcripts, certificates, letters of completion, or similar documents submitted to verify completion of seminars, workshops, or conferences for continuing education credit must indicate successful completion of the course, seminar, workshop, or conference. Applicants must furnish written proof of having received a passing grade in all prelicense education courses submitted.

E. All courses, seminars, workshops, or conferences submitted for satisfaction of continuing education requirements must be satisfactory to the board.

~~F. Prelicense courses. A distance education course may be acceptable to meet the classroom hour requirement or its equivalent provided that the course is approved by the board, the learner successfully completes a written examination proctored by an official approved by the presenting entity, college, or university, the course meets the requirements for qualifying education established by the Appraiser Qualifications Board, the course is equivalent to the minimum of 15 classroom hours and meets one of the following conditions:~~

~~1. The course is presented by an accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines; or~~

~~2. The course has received approval of the International Distance Education Certification Center (IDECC) for the course design and delivery mechanism and either the approval of the Appraisal Qualifications Board through its course approval program or the approval of the board for the content of the course.~~

~~G. Continuing education. Distance education courses may be acceptable to meet the continuing education requirement provided that the course is approved by the board, is a minimum of two classroom hours, meets the requirements for continuing education established by the Appraiser Qualifications Board and meets one of the following conditions:~~ F. Distance education courses may be acceptable to meet prelicense education and continuing education requirements provided the course is approved by the board. Such courses must meet the following standards:

1. The course is presented ~~to an organized group in an instructional setting with a person qualified and available to answer questions, provide information, and monitor student attendance; 2. The course has been presented~~ by an accredited ~~(Commission on Colleges or regional accreditation association)~~ college or university that offers distance education programs in other disciplines ~~and the student successfully completes a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization consistent with the requirements of the course accreditation; or if a written examination is not required for accreditation, the student successfully completes the course mechanisms required for accreditation that demonstrate mastery and fluency (said mechanisms must be present in a course without an exam in order to be acceptable);~~ or ~~3. The~~ [the course] has received approval of the International Distance Education Certification Center (IDECC) for the course design and delivery mechanism [,] and either the approval of the Appraiser Qualifications Board through its course approval program or the approval of the board for the content of the course ~~and the student successfully completes~~.

2. The course meets the requirements for qualifying education or continuing education, as applicable, established by the Appraiser Qualifications Board;

3. The course meets classroom hour requirements.

a. For a prelicense education course, the course must be equivalent to the minimum of 15 classroom hours.

b. For a continuing education course, the course must be a minimum of two classroom hours; and

4. The course provides for a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization consistent with the requirements of the course accreditation~~;~~, or if ~~a~~ no written examination is ~~not~~ required for accreditation, ~~the student successfully completes~~ completion of the course mechanisms required for accreditation ~~that demonstrate~~ demonstrates mastery and fluency ~~(said mechanisms must be present in a course without an exam in order to be acceptable)~~.

18VAC130-20-250. Reapproval of courses required.

Approval letters issued under this chapter for educational offerings ~~shall~~ will expire two years from the last day of the month in which they were issued, as indicated in the approval letter. The reapproval fee ~~shall~~ will be equivalent to the original approval fee specified in 18VAC130-20-240. [~~For courses expiring on May 31, 2023, and before May 1, 2025, the course reapproval fee~~] ~~shall be~~ [~~is $25.~~]

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 (18VAC130-20)

~~Appraiser License Application, A461-4001LIC-v5_01-01-2017 (rev. 1/2017)~~

Appraiser License Application, A461-4001LIC-v10 (eff. 1/2026)

Experience Log, A461-40EXP-v1 (rev. 7/2013)

~~Appraiser Trainee License Application, A461-4004TRLIC-v4 (rev. 8/2015)~~

Appraiser Trainee License Application, A461-4004TRLIC-v5 (eff. 1/2026)

Trainee Supervisor Verification Form, A461-40TRSUP-v2 (rev. 1/2015)

~~Business Registration Application, A461-4008BUS-v2 (rev. 8/2015)~~

~~Pre-License Education Course Application, A461-4006CRS-v2 (rev. 8/2015)~~

~~Pre-License Education Course Renewal Application, A461-4006RENCRS-v2 (rev. 8/2015)~~

~~Instructor Certification Application, A461-4002INSTR-v2 (rev. 8/2015)~~

~~Activate License Application, A461-4001AT-v1 (rev. 7/2013)~~

~~Temporary Appraiser License Application, A461-4005TLIC-v2 (rev. 8/2015)~~

Business Registration Application, A461-4008BUS-v4 (eff. 1/2026)

Pre-License Education Course Application, A461-4006CRS-v4 (eff. 1/2026)

Pre-License Education Course Renewal Application, A461-4006RENCRS-vs8 (eff. 1/2026)

Instructor Certification Application, A461-4002INSTR-v3 (eff. 1/2026)

Activate License Application, A461-4001AT-v2 (eff. 1/2026)

Temporary Appraiser License Application, A461-4005TLIC-v5 (eff. 1/2026)

Continuing Education Course Application, A461-4006CE-v3 (eff. 1/2026)

Supervisory Appraiser and Trainee Appraiser Course Application, A461-4006STA_CRS-v2 (eff. 1/2026)]

DOCUMENTS INCORPORATED BY REFERENCE (18VAC130-20)

Uniform Standards of Professional Appraisal Practice, 2020-2021 Edition, January 1, 2020, Appraisal Standards Board, The Appraisal Foundation

Uniform Standards of Professional Appraisal Practice, 2024 Edition, January 1, 2024, Appraisal Standards Board, The Appraisal Foundation

The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria, January 2022, Appraiser Qualifications Board, The Appraisal Foundation

[The Real Property Appraiser Qualification Criteria, January 2026, Appraiser Qualifications Board, The Appraisal Foundation]

VA.R. Doc. No. R24-7855; Filed November 21, 2025, 12:17 p.m.

Final 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.

Effective Date: January 14, 2026.

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.

Summary:

The 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.

Changes to the proposed regulation include: (i) necessary changes pursuant to Chapter 505 of the 2025 Acts of Assembly replacing "moral turpitude" with "fraudulent or dishonest acts"; (ii) requiring applicants for licensure to provide the board with an email address to allow for a paperless application and renewal process; (iii) removing unnecessary requirements provisions regarding the reporting of changes of address; (iv) proposed procedures for renewal of licenses became effective via an intervening action on July 17, 2025; and (v) replacing a requirement that a licensee return a license to the board upon a change of business entity with a less restrictive requirement that the licensee notify the board of the business entity change.

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

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 [and email address] designated by the regulant to receive notices and correspondence from the board.

"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 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 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.

"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 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 the individual's own name or under an assumed or a fictitious name pursuant to the provisions of Chapter 5 (§ 59.1-69 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~~ fraudulent or dishonest acts], 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	~~With~~ At renewal ~~application~~
Reinstatement - Appraisal Management Company	$490 (includes a $340 reinstatement fee in addition to the regular $150 renewal fee)	~~With~~ At 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 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 send a renewal notice to the regulant. Failure to receive this notice does not relieve the regulant of the obligation to renew. 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.~~

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~~ B] 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~~ [.The firm] must [~~be returned~~ make written notification] 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~~; or

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~~ fraudulent or dishonest acts], 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.

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 (18VAC130-30)

~~Appraisal Management Company License Application, A461-4009LIC (eff. 2/15)~~

~~Owners and Controlling Person(s) Change Application, A461-40CHG (eff. 2/15)~~

~~Responsible Person Change Application, A461-40RPCHG-v2 (eff. 02/15)~~

Appraisal Management Company License Application, A461-4009LIC-v7 (eff. 01/2026)

Owners & Controlling Person(s) Change Application, A461-40CHG-v4 (eff. 01/2026)

Responsible Person Change Application, A461-40RPCHG-v2 (eff. 01/2026)]

VA.R. Doc. No. R24-7821; Filed November 20, 2025, 4:03 p.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Proposed Regulation

Title of Regulation: **22VAC40-73. Standards for Licensed Assisted Living Facilities (amending 22VAC40-73-45, 22VAC40-73-50, 22VAC40-73-390).**

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

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: February 13, 2026.

Agency Contact: Daniella Halbleib, Licensing Consultant, Department of Social Services, 5600 Cox Road, Glen Allen, VA 23060, telephone (804) 718-1184, fax (804) 726-7132, or email daniella.halbleib@dss.virginia.gov.

Basis: Sections 63.2-217, 63.2-1732, and 63.2-1805 of the Code of Virginia authorize the State Board of Social Services to adopt regulations and requirements for licensed assisted living facilities (ALFs), including for the activities, services, and facilities to be employed by persons and agencies required to be licensed, which must be designed to ensure that such activities, services, and facilities are conducive to the well-being of adults who are aged or infirm or who have disabilities residing in ALF.

Purpose: This action is essential to protect the health, safety, and well-being of adults who are aged or infirm or who have disabilities residing in an ALF because it requires a minimum amount of liability insurance to compensate residents or other individuals for injuries and losses from the negligent acts of the facility.

Substance: The amendments (i) remove a requirement that an ALF maintain a minimum amount of liability insurance coverage for the purposes of disclosure; (ii) adds a requirement that all ALFs maintain liability insurance coverage in the amounts based upon the licensed capacity of the facility; and (iii) clarify the requirements of notifying, upon request, residents and prospective residents of the minimum liability insurance coverage maintained by the ALF.

Issues: The primary advantage to the public is that residents of ALFs will have financial recourse in the event of injuries or losses due to a negligent act of the facility. The primary advantage to the ALF is financial coverage in the event of a lawsuit by a resident. There could be a disadvantage to the ALF as this will be an additional expense if the facility has not previously maintained liability insurance. There are no advantages or disadvantages to the agency or 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.[1]

Summary of the Proposed Amendments to Regulation. In response to 2023 legislation (Chapter 580), the State Board of Social Services (board) proposes a permanent regulation to replace an emergency regulation which established minimum liability insurance requirements for Assisted Living Facilities (ALF). The emergency regulation became effective on July 26, 2024, and is scheduled to expire on January 25, 2026.

Background. Prior to Chapter 580, § 63.2-1805 of the Code of Virginia required that ALFs disclose whether they maintain liability insurance, but did not require such insurance be

maintained and also specified that the board establish in regulation the minimum amount of liability insurance coverage to be maintained by an ALF if it chose to disclose that it maintained liability insurance coverage. Accordingly, the current regulation states that the minimum is $500,000 per occurrence to compensate residents or other individuals for injuries and losses from the negligent acts of the facility; and $500,000 aggregate to compensate residents or other individuals for injuries and losses from the negligent acts of the facility. According to the Department of Social Services (DSS), the aggregate limit is the total amount the insurer will pay in any one policy term (one year). So, an ALF could state that it has liability insurance coverage if it purchased a policy that pays out up to $500,000 per legitimate occurrence but that would not pay out more than $500,000 for all occurrences in total per year.[2] Chapter 580 amended § 63.2-1805 of the Code of Virginia so that it now requires that ALFs maintain liability insurance, not just disclose whether they have it. Additionally, Chapter 580 added the following to § 63.2-1805 of the Code of Virginia directing the board to establish tiers in the regulation when establishing the minimum amount of liability insurance coverage: In establishing such minimum amount of liability insurance, the board shall consider the number of residents for which an assisted living facility is licensed and establish a minimum amount of liability insurance for the following tiers: Tier I, which shall govern assisted living facilities with no more than 25 residents; Tier II, which shall govern assisted living facilities with more than 25 residents but no more than 75 residents; Tier III, which shall govern assisted living facilities with more than 75 residents but no more than 150 residents; and Tier IV, which shall govern assisted living facilities with more than 150 residents; In response, the board proposes to remove the current text on minimum liability insurance coverage and add the following to the permanent regulation: Assisted living facilities shall maintain liability insurance coverage per occurrence according to the following licensed capacity tiers: 1. Tier I: A minimum of $250,000 for facilities licensed for 25 residents or fewer; 2. Tier II: A minimum of $400,000 for facilities licensed for more than 25 but no more than 75 residents; 3. Tier III: A minimum of $500,000 for facilities licensed for more than 75 but no more than 150 residents; or 4. Tier IV: A minimum of $1,000,000 for facilities licensed for 151 or more residents. The proposed text does not include an aggregate amount limit to what insurers pay in a year. These changes largely match what is in the emergency regulation now in effect.

Estimated Benefits and Costs. Liability insurance held by ALFs can be substantively beneficial for their residents. It helps enable them to be financially compensated for injuries and losses from the negligent acts of the facility. The legislation mandating liability insurance increases costs for ALFs that did not previously have liability insurance. After the emergency regulation was in effect, DSS sent a survey to all licensed ALFs that asked for their liability insurance costs. According to the agency, controlling for outliers, the average reported annual cost is $18,180.[3] The reported costs were not separated by tiers. The legislation left it to the board to establish in regulation the minimum amount of liability insurance coverage for each tier. Under the current permanent regulation, the minimum coverage that ALFs must have (before they can state that they have liability insurance coverage) includes a cap on the amount that insurers could be required to pay each year (the $500,000 aggregate). In the proposed permanent regulation, the board chose to not have a cap on the amount insurers could be required to pay each year. This may be beneficial for some residents of ALFs in that it eliminates the possibility that residents with legitimate claims lose out on proceeds due to a limit already having been met earlier in the year. Not having a cap would increase the potential payouts and hence costs for insurers. The insurers would likely at least partially pass on the cost to ALFs in higher premiums. When the emergency regulation was being considered, some public comments indicated a concern that some small ALFs would go out of business due to the cost of the required liability insurance. The emergency regulation required that ALFs obtain the required liability insurance by January 23, 2025. DSS reports that 561 of the 569 licensed ALFs have obtained the required insurance, and none have gone out of business. The agency has also stated that if an ALF's only violation is not maintaining the minimum amount of liability insurance, it would not have its license revoked.

Businesses and Other Entities Affected. The proposed amendments affect the 569 ALFs in the Commonwealth, as well as their residents and firms that provide liability insurance.

Tier I (25 residents or fewer):	167
Tier II (more than 25 but no more than 75 residents):	169
Tier III (more than 75 but no more than 150 residents):	195
Tier IV (151 or more residents):	38

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[5] Not including a cap on the potential payouts per year for insurance companies is potentially beneficial for ALF residents, but it would likely result in higher premiums for ALFs Thus, an adverse impact is indicated for ALFs.

Small Businesses[6] Affected.[7] Types and Estimated Number of Small Businesses Affected: DSS estimates that over half of the ALF are small businesses. Small firms that provide liability insurance are also affected. Costs and Other Effects: The legislative mandate for liability insurance with the Board determined specifics on the minimum insurance required increase costs for small ALFs that otherwise would not have chosen to purchase liability insurance or that would have purchased less than the proposed required minimum. These requirements potentially benefit small firms that provide liability insurance through increased demand for their product. Alternative Method that Minimizes Adverse Impact: There are no clear alternative methods that would both reduce adverse impact for those negatively affected without reducing benefit for others.

Localities[8] Affected.[9] The two counties, Chesterfield and Orange, and five local authorities that run ALFs are particularly affected. The local authorities are Mount Rogers Community Services Board (Bland, Carroll, Grayson, Smyth, and Wythe Counties and the City of Galax), Fairfax County Redevelopment Housing Authority, Region 10 Community Services Board (Albemarle,

Fluvanna, Greene, Louisa, and Nelson Counties and the City of Charlottesville), New River Valley Community Services Board (Floyd, Giles, Montgomery, and Pulaski Counties and the City of Radford), and Western Tidewater Community Services Board (Isle of Wight and Southampton Counties, and the Cities of Franklin and Suffolk).

Projected Impact on Employment. There has been public concern that the increased costs associated with the required liability insurance would result in the closing of small ALFs. This would reduce employment. According to DSS, no ALF has closed since the requirement in the emergency regulation has been in effect.

Effects on the Use and Value of Private Property. The legislative mandate for liability insurance with the Board-determined specifics on the minimum insurance required, increase costs for ALFs that otherwise would not have chosen to purchase liability insurance or that would have purchased less than the proposed required minimum. These requirements benefit firms that provide liability insurance through increased demand for their product. Thus, the value of some ALFs would be reduced, while the value of some insurers would increase. The legislation and proposed regulation do not affect real estate development costs.

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

[2] For example, say an ALF has this minimum insurance and in a year three residents each make $250,000 claims. The first two claims (if found valid) would be paid out, but the third would not, because the $500,000 aggregate limit per year was reached after the second claim was paid out.

[3] DSS states that the survey was sent to the 566 ALFs that were licensed at the time, but only 17 reported the dollar amount of their liability insurance premiums..

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

[5] Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

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

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

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

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

Agency Response to Economic Impact Analysis: The Department of Social Services reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comments.

Summary:

Pursuant to Chapter 580 of the 2023 Acts of Assembly, the proposed amendments require every assisted living facility (ALF) to maintain a minimum amount of liability insurance, as determined by the State Board of Social Services on the basis of the number of residents for which the ALF is licensed, and provide notice of such insurance, upon request, to any resident or prospective resident.

22VAC40-73-45. ~~Minimum amount for liability~~ Liability insurance ~~disclosure~~.

A. ~~The minimum amount of liability insurance coverage to be maintained by an assisted living facility for purposes of disclosure in the statement required by 22VAC40-73-50 and the resident agreement required by 22VAC40-73-390 is as follows:~~ Assisted living facilities shall maintain liability insurance coverage per occurrence according to the following licensed capacity tiers:

1. ~~$500,000 per occurrence to compensate residents or other individuals for injuries and losses from the negligent acts of the facility; and~~ Tier I: A minimum of $250,000 for facilities licensed for 25 residents or fewer;

2. ~~$500,000 aggregate to compensate residents or other individuals for injuries and losses from the negligent acts of the facility.~~ Tier II: A minimum of $400,000 for facilities licensed for more than 25 but no more than 75 residents;

3. Tier III: A minimum of $500,000 for facilities licensed for more than 75 but no more than 150 residents; or

4. Tier IV: A minimum of $1,000,000 for facilities licensed for 151 or more residents.

B. ~~No facility shall state that liability insurance is in place unless the insurance provides the minimum amount of coverage established in subsection A of this section.~~ Each facility shall prepare and provide, upon request of the prospective resident or resident and resident's legal representative, if any, a statement that the facility maintains liability insurance in force to compensate residents or other

individuals for injuries and losses from the negligent acts of the facility. The statement shall be made on the liability insurance statement form provided by the department.

22VAC40-73-50. Disclosure.

A. The assisted living facility shall prepare and provide a statement to the prospective resident and ~~his~~ the prospective resident's legal representative, if any, that discloses information about the facility. The statement shall be on a form developed by the department and shall:

1. Disclose information fully and accurately in plain language;

2. Be provided in advance of admission and prior to signing an admission agreement or contract;

3. Be provided upon request; and

4. Disclose the following information, which shall be kept current:

a. Name of the facility;

b. Name of the licensee;

c. Ownership structure of the facility (e.g., individual, partnership, corporation, limited liability company, unincorporated association, or public agency);

d. Description of all accommodations, services, and care that the facility offers;

e. Fees charged for accommodations, services, and care, including clear information about what is included in the base fee and all fees for additional accommodations, services, and care;

f. Criteria for admission to the facility and restrictions on admission;

g. Criteria for transfer to a different living area within the same facility, including transfer to another level or type of care within the same facility or complex;

h. Criteria for discharge;

i. Categories, frequency, and number of activities provided for residents;

j. General number, position types, and qualifications of staff on each shift;

~~k. Whether or not the facility maintains liability insurance that provides at least the minimum amount of coverage established by the board for disclosure purposes set forth in 22VAC40-73-45 to compensate residents or other individuals for injuries and losses from negligent acts of the facility. The facility shall state in the disclosure statement the minimum amount of coverage established by the board in 22VAC40-73-45;~~

~~l.~~ k. Whether ~~or not~~ the facility has an onsite emergency electrical power source for the provision of electricity during an interruption of the normal electric power supply. If the facility does have an onsite emergency electrical power source, the statement must include (i) the items for which the source will supply power and (ii) whether ~~or not~~ staff of the facility have been trained to maintain and operate the power source. For the purposes of this subdivision k, an onsite emergency electrical power supply shall include both permanent emergency electrical power sources and portable emergency electrical power sources, provided that such temporary electrical power supply source remains on the premises of the facility at all times. Written acknowledgment of the disclosure shall be evidenced by the signature or initials of the resident or ~~his~~ the resident's legal representative immediately following the onsite emergency electrical power source disclosure statement;

~~m.~~ l. Notation that additional information about the facility that is included in the resident agreement is available upon request; and

~~n.~~ m. The department's website address, with a note that additional information about the facility may be obtained from the website.

B. Written acknowledgment of the receipt of the disclosure by the resident or ~~his~~ the resident's legal representative shall be retained in the resident's record.

C. The disclosure statement shall also be available to the general public, upon request.

22VAC40-73-390. Resident agreement with facility.

A. At or prior to the time of admission, there shall be a written ~~agreement/acknowledgment~~ agreement or acknowledgment of notification dated and signed by the resident or applicant for admission or the appropriate legal representative~~,~~ and by the licensee or administrator. This document shall include the following:

1. Financial arrangement for accommodations, services, and care that specifies:

a. Listing of specific charges for accommodations, services, and care to be made to the individual resident signing the agreement, the frequency of payment, and any rules relating to nonpayment;

b. Description of all accommodations, services, and care that the facility offers and any related charges;

c. For an auxiliary grant recipient, a list of services included under the auxiliary grant rate;

d. The amount and purpose of an advance payment or deposit payment and the refund policy for such payment, except that recipients of auxiliary grants may not be charged an advance payment or deposit payment;

e. The policy with respect to increases in charges and length of time for advance notice of intent to increase charges;

f. If the ownership of any personal property, real estate, money, or financial investments is to be transferred to the facility at the time of admission or at some future date, it

shall be stipulated in the agreement; and

g. The refund policy to apply when transfer of ownership, closing of facility, or resident transfer or discharge occurs.

2. Requirements or rules to be imposed regarding resident conduct and other restrictions or special conditions.

3. Those actions, circumstances, or conditions that would result or might result in the resident's discharge from the facility.

4. Specific acknowledgments that:

a. Requirements or rules regarding resident conduct, other restrictions, or special conditions have been reviewed by the resident or ~~his~~ the resident's legal representative;

b. The resident or ~~his~~ the resident's legal representative has been informed of the policy regarding the amount of notice required when a resident wishes to move from the facility;

c. The resident has been informed of the policy required by 22VAC40-73-840 regarding pets living in the facility;

d. The resident has been informed of the policy required by 22VAC40-73-860 K regarding weapons;

e. The resident or ~~his~~ the resident's legal representative or responsible individual, as stipulated in 22VAC40-73-550 H, has reviewed § 63.2-1808 of the Code of Virginia, Rights and Responsibilities of Residents of Assisted Living Facilities, and that the provisions of this statute have been explained ~~to him~~;

f. The resident or ~~his~~ the resident's legal representative or responsible individual, as stipulated in 22VAC40-73-550 H, has reviewed ~~and had explained to him~~ the facility's policies and procedures for implementing § 63.2-1808 of the Code of Virginia;

g. The resident has been informed ~~and had explained to him that he~~ that the resident may refuse release of information regarding ~~his~~ the resident's personal affairs and records to any individual outside the facility, except as otherwise provided in law and except in case of ~~his~~ the resident's transfer to another caregiving facility, notwithstanding any requirements of this chapter;

h. The resident has been informed that interested residents may establish and maintain a resident council, that the facility is responsible for providing assistance with the formation and maintenance of the council, whether or not such a council currently exists in the facility, and the general purpose of a resident council (See 22VAC40-73-830);

i. The resident has been informed of the bed hold policy in case of temporary transfer or movement from the facility~~,~~ if the facility has such a policy (See 22VAC40-73-420 B);

j. The resident has been informed of the policy or guidelines regarding visiting in the facility~~,~~ if the facility has such a policy or guidelines (See 22VAC40-73-540 C);

k. The resident has been informed of the rules and restrictions regarding smoking on the premises of the facility, including ~~that which is~~ those required by 22VAC40-73-820;

l. The resident has been informed of the policy regarding the administration and storage of medications and dietary supplements;

m. The resident, upon request, has been notified in writing ~~whether or not~~ that the facility maintains liability insurance that provides ~~at least~~ the minimum amount of coverage ~~established by the board for disclosure purposes~~ set forth in 22VAC40-73-45 to compensate residents or other individuals for injuries and losses from negligent acts of the facility~~. The facility shall state in the notification the minimum amount of coverage established by the board in 22VAC40-73-45. The written notification must be on a form developed by the department~~; and

n. The resident has received written assurance that the facility has the appropriate license to meet ~~his~~ the resident's care needs at the time of admission, as required by 22VAC40-73-310 D.

B. Copies of the signed ~~agreement/acknowledgment~~ agreement or acknowledgment and any updates as noted in subsection C of this section shall be provided to the resident and, as appropriate, ~~his~~ the resident's legal representative and shall be retained in the resident's record.

C. The original ~~agreement/acknowledgment~~ agreement or acknowledgment shall be updated whenever there are changes to any of the policies or information referenced or identified in the ~~agreement/acknowledgment~~ agreement or acknowledgment and dated and signed by the licensee or administrator and the resident or ~~his~~ the resident's legal representative.

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 (22VAC40-73)

~~Report of Tuberculosis Screening (eff. 10/2011)~~

~~Virginia Department of Health Report of Tuberculosis Screening Form (undated)~~

~~Virginia Department of Health TB Control Program Risk Assessment Form, TB 512 (eff. 9/2016)~~

Assisted Living Facility Liability Insurance Statement, 032-05-0600-02-eng (eff. 4/2025)

VA.R. Doc. No. R25-7763; Filed November 14, 2025, 3:29 p.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Final Regulation

REGISTRAR'S NOTICE: Pursuant to 1VAC7-10-60, the Registrar of Regulations is updating certain regulations of the Commonwealth Transportation Board to correct an invalid street address in the Virginia Administrative Code.

Titles of Regulations: **24VAC30-91. Subdivision Street Requirements (amending 24VAC30-91-160).**

24VAC30-92. Secondary Street Acceptance Requirements.

Effective Date: December 15, 2025.

Agency Contact: Steven Jack, Regulatory Manager, Department of Transportation, 1221 East Broad Street, Richmond, VA 23219, telephone (804) 786-3885, or email steven.jack@vdot.virginia.gov.

Summary:

The street address for the Virginia Department of Transportation is changed to 1221 East Broad Street, Richmond, VA 23219.

VA.R. Doc. No. R26-8531; Filed November 14, 2025, 9:12 a.m.

EXECUTIVE ORDER NUMBER FIFTY-FIVE (2025)

REESTABLISHING THE PRESIDENTIAL FITNESS TEST IN THE COMMONWEALTH'S PUBLIC SCHOOLS

By virtue of the authority vested in me as Governor of the Commonwealth of Virginia, I hereby issue this Executive Order to direct executive agencies to take all actions within their statutory authority to reestablish the Presidential Fitness Test in each of the Commonwealth's public school divisions.

Importance of the Initiative

In May 2022, I made a commitment to Virginians to restore excellence in education. This Executive Order reaffirms that commitment, as physical activity is integral to whole-child wellness and academic excellence. We know that physical wellness is essential for our intellectual, social, and emotional well-being. Regular movement improves an individual's attention span and memory, strengthening young people's resilience and adaptability.

Physical activity plays a vital role in helping students build confidence, communication skills, and a sense of belonging. Through standards-based physical education, students learn to collaborate with others, apply strategies for teamwork and leadership, and make responsible decisions in a variety of movement settings. These learning experiences not only promote physical competence and healthy habits but also strengthen social and emotional skills such as goal setting, problem solving, and resilience, all of which support lifelong health and well-being.

Perhaps the most obvious benefits of physical activity are found in its positive impact on the body. Reestablishing the Presidential Fitness Test will help young people build a baseline for long-term health and wellness and reaffirm that physically active students are more likely to perform better academically and experience greater overall well-being.

For years, researchers have explored the link between physical activity, engagement in youth sports, and academic success. The results of these studies reinforce what common sense tells us already; that increased physical activity is positively associated with stronger academic performance, and that consistent physical activity improved academic performance.[1]

As adults, we understand that every challenge we face, whether it be physical, mental, or emotional, is an opportunity to strengthen our resilience and reaffirm our own capabilities. We must provide our students with opportunities to practice these critical skills—strategic thinking, resilience, adaptability, and confidence—so they are equipped and empowered to navigate the challenges of life.

Directive

Accordingly, pursuant to the authority vested in me as Chief Executive Officer of the Commonwealth, and pursuant to Article V of the Constitution and the laws of the Commonwealth, and pursuant to §§ 2.2-103 and 22.1-23 of the Code of Virginia, I hereby direct:

I. The Virginia Department of Education ("the Department") and the Superintendent of Public Instruction to:

a. Reestablish the Presidential Fitness Test in accordance with Executive Order 14327 of July 31, 2025, and provide guidance regarding the Presidential Fitness Test from the President's Council on Sports, Fitness, and Nutrition ("the Council") when issued to all school divisions.

i. Local school divisions should adopt and implement the Presidential Fitness Test by the start of the 2026-27 school year, and the Superintendent and Department shall work with local school divisions to ensure that the Presidential Fitness Test is fully implemented by July 1, 2027, unless earlier directed by federal guidance.

b. Review current wellness-related, criterion-referenced fitness assessments to ensure continued alignment with the 2022 Virginia Physical Education Standards of Learning ("the 2022 Standards") and the forthcoming program and assessment frameworks to be developed by the Council. Upon release of the Council's program and assessment guidance, the Department, in conjunction with the Presidential Fitness Test Task Force, shall review existing practices and materials to ensure consistency and alignment with the established statewide expectations.

c. Establish a Presidential Fitness Test Task Force ("the Task Force") by January 1, 2026, which will inform the development of implementation plans and professional development and instructional resources aligned to the 2022 Standards and Va. Code § 22.1-207. The Task Force shall include geographically diverse stakeholders from across the Commonwealth as well as representatives from the Board of Education and the Board of Health.

i. The Task Force shall provide a report to the Board of Education, the Board of Health, and the Superintendent of Public Instruction by May 1, 2026, regarding recommendations, including reporting mechanisms for local school divisions to report on whether, and how, they have implemented the Presidential Fitness Test.

Effective Date

This Executive Order shall be effective upon its signing and shall remain in full force and effect unless amended or rescinded by further executive order or directive. Given under my hand and under the Seal of the Commonwealth of Virginia, this 4th day of November 2025.

/s/ Glenn Youngkin, Governor

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[1]See, e.g. HW Kohl III & HD Cook, eds. Educating the Student Body: Taking Physical Activity and Physical Education to School, Ch. 4: Physical Activity, Fitness, and Physical Education: Effects on Academic Performance (Institute of Medicine 2013),

EXECUTIVE ORDER NUMBER FIFTY-SIX (2025)

RESCISSION OF EXECUTIVE ORDER FIFTY-FOUR

Executive Order 54 (2025) was issued as a temporary measure to address specific conditions that no longer exist. The Order only became necessary because of the recent lapse in federal appropriations that halted payments to Virginians in need through the Supplemental Nutrition Assistance Program (SNAP).

Accordingly, pursuant to the authority vested in me as Governor of the Commonwealth under Article V of the Constitution of Virginia and under the laws of the Commonwealth and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby rescind Executive Order 54 (2025) which is no longer responsive to the circumstances which led to its issuance.

Effective Date

This Executive Order shall be effective upon its signing. Given under my hand and under the Seal of the Commonwealth of Virginia, this 19th day of November 2025.

/s/ Glenn Youngkin, Governor

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

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

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

BOARD OF COUNSELING

Title of Document: Use of Artificial Intelligence as a Tool in Practice.

Public Comment Deadline: January 14, 2026.

Effective Date: January 15, 2026.

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.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Title of Document: Technology Assistance Program Procedures.

Public Comment Deadline: January 14, 2026.

Effective Date: January 15, 2026.

Agency Contact: Kathleen Frazier, Policy Planning Specialist II, Department for the Deaf and Hard of Hearing, 1602 Rolling Hills Drive, Suite 203, Henrico, VA 23229, telephone (804) 662-7025, or email kathleen.frazier@vddhh.virginia.gov.

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

Title of Document: Application Review Matrix.

Public Comment Deadline: January 14, 2026.

Effective Date: January 15, 2026.

Agency Contact: Joe Haughwout, Regulatory Affairs Manager, Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8566, or email joseph.haughwout@dpor.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Document: Hospital Manual Chapter 11.

Public Comment Deadline: January 14, 2026.

Effective Date: January 15, 2026.

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@dmas.virginia.gov.

BOARD OF MEDICINE
BOARD OF NURSING

Title of Document: Information on Prescriptive Authority in Virginia.

Public Comment Deadline: January 14, 2026.

Effective Date: January 15, 2026.

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.

BOARD OF PHARMACY

Titles of Documents: Centralized Compounding by Hospital Pharmacies.

Information on Prescriptive Authority in Virginia.

Instructions for Graduates of Foreign Schools of Pharmacy.

Practice Agreement Requirements for Licensed Nurse Practitioners.

Use of Automated Dispensing Devices in Certain Facilities.

Public Comment Deadline: January 14, 2026.

Effective Date: January 15, 2026.

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.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Title of Document: Waste Management Facility Operators Criminal History Review Matrix.

Public Comment Deadline: January 14, 2026.

Effective Date: January 15, 2026.

Agency Contact: Joe Haughwout, Regulatory Affairs Manager, Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8566, or email joseph.haughwout@dpor.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

Title of Document: Supplemental Nutrition Assistance Program Manual.

Public Comment Deadline: January 14, 2026.

Effective Date: January 15, 2026.

Agency Contact: Michele Thomas, Supplemental Nutrition Assistance Program Manual Manager, Department of Social Services, 5600 Cox Road, Glen Allen, VA 23060, telephone (804) 726-7866, or email michele.thomas@dss.virginia.gov.

The following guidance documents have been submitted for deletion and the listed agencies have opened up a 30-day public comment period. The listed agencies may have 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.

DEPARTMENT OF MOTOR VEHICLES

Title of Document: Red Flags of Medically At-Risk Drivers.

Public Comment Deadline: January 14, 2026.

Effective Date: January 15, 2026.

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

COMMONWEALTH TRANSPORTATION BOARD

Title of Document: Guidance Document for Determination of Certain Financial Benefits to Displacees.

Public Comment Deadline: January 14, 2026.

Effective Date: January 15, 2026.

Agency Contact: Steven Jack, Regulatory Manager, Department of Transportation, 1221 East Broad Street, Richmond, VA 23219, telephone (804) 786-3885, or email steven.jack@vdot.virginia.gov.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY

Opportunity for Public Comment and Public Meeting - Notice of Price Differential on Virginia ABC Products

Pursuant to § 4.1-119 J of the Code of Virginia, the Virginia Alcoholic Beverage Control Authority (Virginia ABC) is providing public notice of a ± $0.02 price differential change for distilled spirits and other products sold by Virginia ABC. The change is in response to the nationwide penny shortage and may, in limited instances, result in an increase or decrease in the retail price of distilled spirits and other products sold to the public when paid for using cash. Virginia ABC is seeking public comment regarding this change, and will also hold a public meeting on January 15, 2026, at Virginia ABC Headquarters, 7450 Freight Way, Mechanicsville, Virginia 23116 to receive and consider verbal comment on the proposed change. The tentative date for implementation of the change is February 1, 2026.

Contact Information: LaTonya D. Hucks-Watkins, Senior Legal Counsel, Virginia Alcoholic Beverage Control Authority, 7450 Freight Way, Mechanicsville, VA 23116, telephone (804) 213-4698, fax (804) 213-4574, or email latonya.hucks-watkins@virginiaabc.com.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Roseland Farms LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Roseland Farms LLC for violations of State Water Control Law and regulations and applicable permit at the Roseland Farm Golf Course facility located in Bland, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from December 15, 2025, to January 15, 2026.

Contact Information: Joseph Heller, Enforcement Specialist, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, or email joseph.r.heller@deq.virginia.gov.

Proposed Enforcement Action for Windswept Development LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Windswept Development LLC for violations of State Water Control Law and regulations and applicable permit at the Depot at Fighting Creek facility located in Powhatan County, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from December 15, 2025, to January 14, 2026.

Contact Information: Cara Witte, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949 Cox Road, Suite A, Glen Allen, VA 23060, or email cara.witte@deq.virginia.gov.

DEPARTMENT OF GENERAL SERVICES

Revision to Fees for Noncommercial Environmental Laboratory Certification

The Department of General Services, Division of Consolidated Laboratory Services (DCLS) published a general notice in 42:4 VA.R. 584-585 October 6, 2025, seeking comment on the revision to fees charged for certifying noncommercial environmental laboratories under 1VAC30-45-130. No comments were received on the revision to these fees. The revised fees will stand as published.

The fees were revised for two successive 12-month periods. The first year's fees will be effective January 1, 2026, to December 31, 2026. The second year's fees will be effective January 1, 2027, to December 31, 2027.

FEES EFFECTIVE JANUARY 1, 2026 - DECEMBER 31, 2026

1VAC30-45-130 B: Environmental laboratories performing only simple test procedures as defined by 1VAC30-45-40 shall pay an annual fee of $759.

1VAC30-45-130 D 2
TABLE 1: BASE FEES

Number of Methods	1 Matrix	2 Matrices
1-9	$1,645	$1,810
10-29	$1,771	$1,992
30-99	$1,961	$2,309

1VAC30-45-130 E 5
TABLE 2: TEST CATEGORY FEES

Test Category	1 Matrix	2 Matrices
Oxygen Demand	$285	$424
Bacteriology, 1-3 total methods	$221	$336
Bacteriology, 4 or more total methods	$278	$418
Physical, 1-5 total methods	$221	$336

Physical, 6-10 total methods	$278	$418
Inorganic chemistry, 1-10 total methods	$317	$474
Inorganic chemistry, 11-20 total methods	$398	$601
Inorganic chemistry, 21-49 total methods	$498	$747
Chemistry metals, 1-5 total methods	$411	$620
Chemistry metals, 6-20 total methods	$519	$778
Organic chemistry, 1-5 total methods	$506	$759
Organic chemistry, 6-20 total methods	$633	$949

FEES EFFECTIVE JANUARY 1, 2027 - DECEMBER 31, 2027

1VAC30-45-130 B: Environmental laboratories performing only simple test procedures as defined by 1VAC30-45-40, shall pay an annual fee of $805.

1VAC30-45-130 D 2
TABLE 1: BASE FEES

Number of Methods	1 Matrix	2 Matrices
1-9	$1743	$1918
10-29	$1877	$2112
30-99	$2079	$2447

1VAC30-45-130 E 5
TABLE 2: TEST CATEGORY FEES

Test Category	1 Matrix	2 Matrices
Oxygen Demand	$302	$449
Bacteriology, 1-3 total methods	$234	$356
Bacteriology, 4 or more total methods	$295	$443
Physical, 1-5 total methods	$234	$356
Physical, 6-10 total methods	$295	$443
Inorganic chemistry, 1-10 total methods	$336	$503
Inorganic chemistry, 11-20 total methods	$422	$637
Inorganic chemistry, 21-49 total methods	$528	$792
Chemistry metals, 1-5 total methods	$436	$658
Chemistry metals, 6-20 total methods	$550	$824
Organic chemistry, 1-5 total methods	$536	$805
Organic chemistry, 6-20 total methods	$670	$1006

How fees are calculated: Environmental laboratories pay the total of the base fee and the test category fees.

Base fee. DCLS determines the base fee for a laboratory by taking into account both the total number of methods and the total number of field of certification matrices for which the laboratory would be certified.

Test category fees. The test category fees cover the types of testing for which a laboratory may be certified as specified in the laboratory's application or as certified at the time of annual billing. Fees are charged for each category of tests to be certified. Fees are charged for the total number of field of certification matrices to be certified under the specific test category. For example, if a laboratory is performing inorganic chemistry for both nonpotable water and solid and chemical materials matrices, the fee for this test category would be found in the column for two matrices. The fee for each category includes one or more analytical methods unless otherwise specified.

When to pay: Payment is due when the initial application is processed or annually thereafter upon receipt of the invoice from DCLS. Annual billing precedes the expiration of the current certificate.

How to pay: Fees may be paid by check or with a credit card via an electronic payment portal provided by DCLS, or other payment arrangements may be made by contacting lab_cert@dgs.virginia.gov. All payments are made after an invoice is issued by DCLS, in accordance with instructions on the invoice or in accordance with special arrangements made by contacting DCLS.

Contact Information: Kimberly Freiberger, Policy Planning Specialist III, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, telephone (804) 205-3861, fax (804) 371-8305, or email kimberley.freiberger@dgs.virginia.gov.

Revision to Fees for Commercial Environmental Laboratory Accreditation

The Department of General Services, Division of Consolidated Laboratory Services (DCLS) published a general notice in 42:4

VA.R. 581-583 October 6, 2025, seeking comment on the revision to fees charged for accrediting commercial environmental laboratories under 1VAC30-46-150. No comments were received on the revision to these fees. The revised fees will stand as published.

The fees were revised for two successive 12-month periods. The first year's fees will be effective January 1, 2026, to December 31, 2026. The second year's fees will be effective January 1, 2027, to December 31, 2027.

FEES EFFECTIVE JANUARY 1, 2026 - DECEMBER 31, 2026

1VAC30-46-150 C 2
TABLE 1: BASE FEES

Number of Methods	1 Matrix	2 Matrices	3 Matrices	4 or more Matrices
1-9	$1788	$1967	$2166	$2379
10-29	$1925	$2166	$2407	$2682
30-99	$2132	$2509	$2957	$3507
100-149	$2269	$2723	$3266	$3919
150+	$2475	$3094	$3884	$4847

1VAC30-46-150 D 5
TABLE 2: TEST CATEGORY FEES

Test Category	1 Matrix	2 Matrices	3 or more Matrices
Aquatic toxicity, acute methods only	$814	N/A	N/A
Aquatic toxicity, acute and chronic methods	$1089	N/A	N/A
Oxygen Demand	$309	$461	$598
Bacteriology, 1-3 total methods	$241	$364	$474
Bacteriology, 4 or more total methods	$303	$454	$592
Physical, 1-5 total methods	$241	$364	$474
Physical, 6-10 total methods	$303	$454	$592
Physical, 11 or more total methods	$378	$571	$743
Inorganic chemistry, 1-10 total methods	$344	$516	$674
Inorganic chemistry, 11-20 total methods	$433	$653	$853
Inorganic chemistry, 21-49 total methods	$542	$812	$1055
Inorganic chemistry, 50 or more total methods	$677	$1018	$1323
Chemistry metals, 1-5 total methods	$447	$674	$876
Chemistry metals, 6-20 total methods	$564	$846	$1100
Chemistry metals, 21 or more total methods	$704	$1059	$1375
Organic chemistry, 1-5 total methods	$1122	$1397	$1645
Organic chemistry, 6-20 total methods	$1260	$1604	$1913
Organic chemistry, 21-40 total methods	$1431	$1865	$2253
Organic chemistry, 41 or more total methods	$1645	$2181	$2662
Radiochemical, 1-10 total methods	$1089	$1502	$1873
Radiochemical, 11 or more total methods	$1261	$1763	$2217
Asbestos	$1261	$1763	$2217

FEES EFFECTIVE JANUARY 1, 2027 - DECEMBER 31, 2027

1VAC30-46-150 C 2
TABLE 1: BASE FEES

Number of Methods	1 Matrix	2 Matrices	3 Matrices	4 or more Matrices
1-9	$1895	$2085	$2296	$2522
10-29	$2041	$2296	$2551	$2843
30-99	$2260	$2660	$3134	$3717
100-149	$2405	$2886	$3462	$4154
150+	$2624	$3280	$4117	$5137

1VAC30-46-150 D 5
TABLE 2: TEST CATEGORY FEES

Test Category	1 Matrix	2 Matrices	3 or more Matrices

Aquatic toxicity, acute methods only	$863	N/A	N/A
Aquatic toxicity, acute and chronic methods	$1154	N/A	N/A
Oxygen Demand	$328	$489	$634
Bacteriology, 1-3 total methods	$255	$386	$503
Bacteriology, 4 or more total methods	$321	$482	$627
Physical, 1-5 total methods	$255	$386	$503
Physical, 6-10 total methods	$321	$482	$627
Physical, 11 or more total methods	$401	$605	$787
Inorganic chemistry, 1-10 total methods	$365	$547	$715
Inorganic chemistry, 11-20 total methods	$459	$693	$904
Inorganic chemistry, 21-49 total methods	$575	$861	$1118
Inorganic chemistry, 50 or more total methods	$717	$1079	$1403
Chemistry metals, 1-5 total methods	$473	$715	$928
Chemistry metals, 6-20 total methods	$598	$897	$1166
Chemistry metals, 21 or more total methods	$746	$1123	$1458
Organic chemistry, 1-5 total methods	$1189	$1481	$1743
Organic chemistry, 6-20 total methods	$1335	$1700	$2028
Organic chemistry, 21-40 total methods	$1517	$1976	$2388
Organic chemistry, 41 or more total methods	$1743	$2312	$2822
Radiochemical, 1-10 total methods	$1154	$1592	$1986
Radiochemical, 11 or more total methods	$1336	$1869	$2349
Asbestos	$1336	$1869	$2349

How fees are calculated: Environmental laboratories pay the total of the base fee and the test category fees.

Base fee. DCLS determines the base fee for a laboratory by taking into account both the total number of methods and the total number of field of accreditation matrices for which the laboratory would be accredited.

Test category fees. The test category fees cover the types of testing for which a laboratory may be accredited, as specified in the laboratory's application or as accredited at the time of annual billing. Fees are charged for each category of tests to be accredited. Fees are charged for the total number of field of accreditation matrices to be accredited under the specific test category. For example, if a laboratory is performing inorganic chemistry for both nonpotable water and solid and chemical materials matrices, the fee for this test category would be found in the column for two matrices. The fee for each category includes one or more analytical methods unless otherwise specified.

When to pay: Payment is due when the initial application is processed or annually thereafter upon receipt of the invoice from DCLS. Annual billing precedes the expiration of the current certificate.

How to pay: Fees may be paid by check or with a credit card via an electronic payment portal provided by DCLS, or other payment arrangements may be made by contacting Lab_Cert@dgs.virginia.gov. All payments are made after an invoice is issued by DCLS, in accordance with instructions on the invoice or in accordance with special arrangements made by contacting DCLS.

Contact Information: Kimberly Freiberger, Policy Planning Specialist III, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, telephone (804) 205-3861, fax (804) 371-8305, or email kimberley.freiberger@dgs.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Opportunity for Public Review of Notice of Intent to Amend State Plan - Repeal of Increased Primary Care Service Payments

The Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rate; Other Types of Care (12VAC30-80). This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the *Social Security Act*, 42 USC § 1396a(a)(13). A copy of this notice is available for public review from the DMAS contact listed. This notice is available for public review on the Virginia Regulatory Town Hall at https://townhall.virginia.gov/L/generalnotice.cfm.

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

DMAS is revising the state plan to remove obsolete language that pertains to increased primary care service payments. The increased payments were temporary, pursuant to § 1202 of the Affordable Care Act, which required Medicaid to reimburse certain primary care services at Medicare rates during calendar years 2013 and 2014. Virginia did not submit subsequent state plan amendments to the Centers for Medicare and Medicaid Services to extend or make the increased payments permanent. Therefore, the language in the state plan is outdated and must be removed.

There are no expected increases or decreases in annual fee-for-service aggregate expenditures in federal fiscal year 2026 or federal fiscal year 2027.

Contact Information: Jimeequa Williams, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 225-3508, fax (804) 786-1680, or email jimeequa.williams@dmas.virginia.gov.

Notice of Public Comment Opportunity - Mental Health Clubhouse Services

As part of the Right Help, Right Now Medicaid Behavioral Health Services Redesign, DMAS is seeking public comment on a new behavioral health service, Mental Health Clubhouse Services. A draft Mental Health Clubhouse service description is available at https://www.dmas.virginia.gov/media/2zqiic0w/dmas-mental-health-clubhouse-services_draft-policies_11132025.pdf.

Additional information on the Right Help, Right Now Medicaid Behavioral Health Services Redesign is available on the DMAS website at https://www.dmas.virginia.gov/for-providers/benefits-services-for-providers/behavioral-health/medicaid-behavioral-health-services-redesign/.

Contact Information: Syreeta Stewart, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, fax (804) 786-1680, or email syreeta.stewart@dmas.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.

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.

VIRGINIA MANUFACTURED HOUSING BOARD

Title of Regulation: **13VAC6-20. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.**

Publication: 42:4 VA.R. 517-527; October 6, 2025.

Corrections to Proposed Regulation:

Page 521, 13VAC6-20-30 C, beginning with "C. The" strike text through "following:"

Page 522, column 1, 13VAC6-60 B 7, beginning with "7. Name" strike text through "dealership."

Page 523, column 1, 13VAC6-100 B, after "~~7. List of salespeople employed.~~" beginning with "Photographs" strike text through "subsection."

VA.R. Doc. No. R24-7851; Filed November 10, 2025, 2:22 p.m.