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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 Popp; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade**

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

PUBLICATION SCHEDULE AND DEADLINES

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

January 2026 through January 2027

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
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
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43:1	August 5, 2026	August 24, 2026
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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
43:12	January 6, 2027	January 25, 2027

*Filing deadlines are Wednesdays unless otherwise specified.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF LONG-TERM CARE ADMINISTRATORS

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and a small business impact review: **18VAC95-15, Regulations Governing Delegation to an Agency Subordinate** and **18VAC95-30, Regulations Governing the Practice of Assisted Living Facility Administrators**. The Notices of Intended Regulatory Action to amend 18VAC95-15 and 18VAC95-30, which are published in this issue of the Virginia Register, serve as announcement.

Contact Information: Corie Tillman Wolf, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Henrico, VA 23233-1463, telephone (804) 367-4595, FAX (804) 527-4413, or email corie.wolf@dhp.virginia.gov.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF LONG-TERM CARE ADMINISTRATORS

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 Long-Term Care Administrators intends to consider amending **18VAC95-15, Regulations Governing Delegation to an Agency Subordinate**. The purpose of the proposed action is to implement the results of the periodic review the board is announcing. The board does not have specific amendments to the regulation in mind, however a committee of the board will review the regulation and propose necessary amendments to enhance the profession and protect the public. Areas for review include (i) elimination of unnecessary or outdated language, (ii) reduction of barriers to licensure, and (iii) enhancement of public protection.

In addition, pursuant to § 2.2-4007.1 of the Code of Virginia, the agency is conducting a periodic review of this regulation to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

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 28, 2026.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Henrico, VA 23233-1463, telephone (804) 367-4595, FAX (804) 527-4413, or email corie.wolf@dhp.virginia.gov.

VA.R. Doc. No. R26-8365; Filed December 8, 2025, 9:03 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 Long-Term Care Administrators intends to consider amending **18VAC95-30, Regulations Governing the Practice of Assisted Living Facility Administrators**. The purpose of the proposed action is to implement the results of the periodic review the board is announcing. The board does not have specific amendments to regulation in mind, however a committee of the board will review the regulation and propose necessary amendments to enhance the profession and protect the public. Areas of review include (i) elimination of unnecessary or outdated language,

(ii) reduction of barriers to licensure, and (iii) enhancement of public protection.

In addition, pursuant to § 2.2-4007.1 of the Code of Virginia, the agency is conducting a periodic review of this regulation to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

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 28, 2026.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Henrico, VA 23233-1463, telephone (804) 367-4595, FAX (804) 527-4413, or email corie.wolf@dhp.virginia.gov.

VA.R. Doc. No. R26-8364; Filed December 8, 2025, 9:04 a.m.

REGULATIONS

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

Symbol Key

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

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Final Regulation

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

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

Effective Date: February 1, 2026.

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

Summary:

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

Pursuant to Chapter 494 of the 2024 Acts of Assembly, amendments include (i) clarifying that initial-level decertification appeal hearings shall be handled in accordance with § 2.2-4019 of the Code of Virginia and that all subsequent appeal hearings beyond the initial level shall be handled in accordance with § 2.2-4020 of the Code of Virginia; and (ii) updating the Notification of Eligibility for Decertification form to allow for certified criminal justice training academies to submit information to the department about the potential decertification of a law-enforcement or jail officer recruit.

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

Chapter 65

Rules Relating to Professional Standards of Conduct and Procedures for Decertification

6VAC20-65-10. Definitions.

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

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

"Board" means the Criminal Justice Services Board.

"Department" means the Department of Criminal Justice Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. The department shall serve notice upon the decertified officer and agency, to include decertification action taken and remedies available in accordance with § 15.2-1708 of the Code of Virginia.

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

D. The initial-level decertification appeal hearing shall be handled in accordance with § 2.2-4019 of the Code of Virginia.

E. All subsequent decertification appeal hearings beyond the initial level shall be handled in accordance with § 2.2-4020 of the Code of Virginia.

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

FORMS (6VAC20-65)

[Notification of Eligibility for Decertification, DC-1 \(rev. 7/2025\)](#)

VA.R. Doc. No. R22-6811; Filed December 8, 2025, 9:58 a.m.



TITLE 11. GAMING

VIRGINIA LOTTERY BOARD

Fast-Track Regulation

Title of Regulation: 11VAC5-11. Public Participation Guidelines (amending 11VAC5-11-20, 11VAC5-11-50).

Statutory Authority: §§ 2.2-4007.02 and 58.1-4007 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 28, 2026.

Effective Date: February 12, 2026.

Agency Contact: Amy Roper, Regulatory Coordinator, Virginia Lottery, 600 East Main Street, First Floor, Richmond, VA 23219, telephone (804) 692-7133, FAX (804) 692-7325, or email aroper@valottery.com.

Basis: Pursuant to § 58.1-4007 of the Code of Virginia, the powers of the Virginia Lottery Board include that the board shall adopt regulations governing the establishment and operation of a lottery, which shall be promulgated by the board after consultation with the Director of the Virginia Lottery.

Purpose: This action is essential to protect the health, safety, or welfare of citizens because it (i) ensures player understanding of the terminologies used for lottery play and (ii) allows for seamless transition between the regulation, the Lottery game and promotion rules, and the agency website.

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 (i) provides clarifying language, which eliminates any potential confusion, and (ii) synchronizes the terminologies between the regulation, the Lottery game and promotion rules, and the agency website.

Substance: This action clarifies the definition of "agency" to incorporate the Lottery Board and documents the existing practice that a member of the public may be accompanied or represented by counsel or other representative when submitting public comment.

Issues: The advantage of the amendments for the public and Commonwealth is that they will provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares. There are no disadvantages to the Commonwealth or the public.

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 Virginia Lottery Board (board) proposes to include language pertaining to an interested party's right to counsel in rulemaking proceedings in accordance with § 2.2-4007.02 B of the Code of Virginia³ when submitting data, views, and arguments, either orally or in writing, to the agency.

Background. The current regulation states that: "In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency." However, Chapter 795 of the 2012 Acts of the Assembly⁴ added to § 2.2-4007.02.B of the Code of Virginia. that interested persons also be afforded an opportunity to be accompanied by and represented by counsel or other representative. In this action, the Board proposes to append and (ii) be accompanied by and represented by counsel or other representative to 11VAC5-11-50.

Estimated Benefits and Costs. Since the Code of Virginia already specifies that interested persons shall be afforded an opportunity to be accompanied by and represented by counsel or other representative, the Board proposal to add this language to the regulation will not change the law in effect, but will be beneficial in that it will inform interested parties who read this regulation but not the statute of their legal rights concerning representation.

Businesses and Other Entities Affected. The proposed amendment potentially affects all individuals who comment on pending regulatory changes.

Small Businesses⁵ Affected.⁶ The proposed amendment does not affect costs for small businesses.

Localities⁷ Affected.⁸ The proposed amendment does not disproportionately affect particular localities.

Regulations

Projected Impact on Employment. The proposed amendment does not affect employment.

Effects on the Use and Value of Private Property. The proposed amendment does not affect the use and value of private property nor real estate development costs.

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

² <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=2559>.

³ <https://law.lis.virginia.gov/vacode/2.2-4007.02/>.

⁴ <https://legacylis.virginia.gov/cgi-bin/legp604.exe?121+ful+CHAP0795>.

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

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

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

⁸ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: Having reviewed the economic impact analysis prepared by the Department of Planning and Budget, the Virginia Lottery finds it satisfactory and has no additional comments.

Summary:

The amendments (i) clarify the definition of "agency" to mean the Virginia Lottery Board, and (ii) provide that interested persons submitting data, views, and arguments on a regulatory action may be accompanied by and represented by counsel or another representative.

11VAC5-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Virginia Lottery Board, which is the unit of state government body empowered by the agency's basic law to make promulgate regulations or decide cases and hear appeals of agency decisions. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency board.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members of the Virginia Lottery Board or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency board in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency board.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended, and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

11VAC5-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to (i) submit data, views, and arguments, either orally or in writing, to the agency and (ii) be accompanied by and represented by counsel or other representative. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropoed regulation.
4. For a minimum of 30 calendar days following the publication of a final adopted regulation.
5. For a minimum of 30 calendar days following the publication of a fast-track regulation.
6. For a minimum of 21 calendar days following the publication of a notice of periodic review.
7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the

proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

VA.R. Doc. No. R25-8268; Filed December 1, 2025, 10:57 a.m.

Fast-Track Regulation

Title of Regulation: **11VAC5-20. Administration Regulations (amending 11VAC5-20-10, 11VAC5-20-150 through 11VAC5-20-180).**

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 28, 2026.

Effective Date: February 12, 2026.

Agency Contact: Amy Roper, Regulatory Coordinator, Virginia Lottery, 600 East Main Street, First Floor, Richmond, VA 23219, telephone (804) 692-7133, FAX (804) 692-7325, or email aroper@valottery.com.

Basis: Pursuant to § 58.1-4007 of the Code of Virginia, the powers of the Virginia Lottery Board include that the board shall adopt regulations governing the establishment and operation of a lottery, which shall be promulgated by the board after consultation with the Director of the Virginia Lottery.

Purpose: This action is essential to protect the health, safety, or welfare of citizens because it (i) ensures player understanding of the terminologies used for lottery play and allows for seamless transition between the regulations, the Lottery game and promotion rules, and the agency website and (ii) documents the more automated processes now in place and being used by the public.

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 (i) provides clarifying language, which eliminates any potential confusion; and (ii) synchronizes the terminologies between the regulation, the Lottery game and promotion rules, and the agency website.

Substance: This action changes all instances of "agent" and "sales agent" to the currently used and more familiar term "retailer"; documents the automation of license actions responses and conferencing platforms; clarifies the requirements of the license appeal process; and broadens the methods for delivering hearing notices.

Issues: The advantage of the amendments for the public and Commonwealth is that they will provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares. There are no disadvantages to the Commonwealth or the public.

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

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§ 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 Virginia Lottery Board (board) proposes to amend the Administration Regulations (11VAC5-20) to implement changes resulting from a 2024 periodic review.²

Background. As a result of a 2024 periodic review, the board seeks to (i) update this regulation to include the use of document-signing software and video conferencing, (ii) clarify acceptable signature-required mailing options, and (iii) correct certain definitions. The most substantive changes are summarized.

11VAC5-20-160: currently states that (i) a notice of licensing action is sent via the U.S. Postal Service and is presumed to have been received by the third day following the day of mailing, and (ii) a written notice of appeal must be postmarked within 30 days following the date of presumed receipt of the notice of action. This section would be amended to state that (i) a notice of licensing action is sent via email through document signing software as the primary notification and via signature-required common carrier as a secondary notification, and (ii) a written notice of appeal must be received within 30 days of the date of the email notification or bear a date stamp that is within 30 days of the date on the secondary mailed notice. The amended language would also specify that the email is sent to the address provided on the license application and the hard-copy notification is sent to the last known address of the license applicant or licensed retailer.

11VAC5-20-170: currently states that an informal conference may be conducted by telephone at the option of the appellant; this would be amended to add video conferencing as an option.

In addition, signature-required common carrier would be added to certified mail, return receipt requested as allowable means for the agency to send notices; these changes would be made in 11VAC5-20-160, 11VAC5-20-170, and 11VAC5-20-180.

Estimated Benefits and Costs. The proposed changes are intended to update and clarify the regulation, and to ensure that the terminology matches the language used on the agency website. Applicants for a license or licensees appealing a license decision would benefit from the convenience of receiving email notifications and may potentially benefit from the option to conduct an informal fact-finding conference via video conferencing. However, the agency reports it is already transitioning to Docu-sign and video conferencing. Therefore, the extent to which such benefits will accrue from this regulatory change depends on the extent to which these options have already been implemented in practice.

Businesses and Other Entities Affected. This regulation applies to applicants for a lottery retail license whose applications are denied, as well as current retail license holders whose license may be suspended or revoked. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁴ The proposed amendments would not increase costs or reduce benefits. Thus, no adverse impact is indicated.

Small Businesses⁵ Affected.⁶ The proposed amendments do not adversely affect small businesses.

Localities⁷ Affected.⁸ The proposed amendments do not affect any locality in particular and do not appear to increase costs for local governments.

Projected Impact on Employment. The proposed amendments are not expected to have an impact on employment.

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

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

² See <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=2560>.

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

⁴ Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

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

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

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

⁸ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: Having reviewed the economic impact analysis prepared by the Department of Planning and Budget, the Virginia Lottery finds it satisfactory and has no additional comments.

Summary:

The amendments (i) change all instances of "agent" and "sales agent" to the currently used and more familiar term "retailer"; (ii) document the automation of license actions responses and conferencing platforms; (iii) clarify the requirements of the license appeal process; and (iv) broaden the methods for delivering hearing notices.

11VAC5-20-10. Definitions.

The following words and terms when used in any of the agency's regulations shall have the following meanings unless the context clearly indicates otherwise:

"Administrative Process Act" or "APA" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Virginia Lottery created by the Virginia Lottery Law, Sports Betting (Chapter 40 (§ 58.1-4000 et seq.) of Title 58.1 of the Code of Virginia).

"Appeal" means a proceeding initiated by a retailer, bidder, or offeror (for a contract negotiated on a sole source basis), contractor or individual for an informal conference or formal hearing contesting the director's decision (i) to refuse to issue or renew, to suspend or to revoke a lottery license; or (ii) regarding a procurement action.

"Bank" means any commercial bank, savings bank, savings and loan association, credit union, trust company, and any other type or form of banking institution organized under the authority of the Commonwealth of Virginia or of the United States of America that is designated by the State Treasurer to perform functions, activities, or services in connection with the operations of the lottery for the deposit, handling and safekeeping of lottery funds, accounting for those funds, and the safekeeping of records.

"Board" means the Virginia Lottery Board established by the Virginia Lottery Law.

"Conference" or "consultation" means a type of appeal in the nature of an informational or factual proceeding of an informal nature provided for in § 2.2-4019 of the Administrative Process Act.

"Conference officer" means the director, or a person appointed by the director, who is empowered to preside at informal conferences or consultations and to provide a recommendation, conclusion, or decision in such matter.

"Consideration" means something of value given for a promise to make the promise binding. It is one of the essentials of a legal contract.

"Contract" means a binding agreement, enforceable by law, between two or more parties for the supply of goods or services.

"Depository" means any person, including a bonded courier service, armored car service, bank, central or regional offices

of the agency, or any state agency that performs any or all of the following activities or services for the lottery:

1. The safekeeping and distribution of tickets to retailers;
2. The handling of lottery funds;
3. The deposit of lottery funds; or
4. The accounting for lottery funds.

"Director" means the Executive Director of the Virginia Lottery or ~~his~~ the director's designee.

"Electronic funds transfer" or "EFT" means a computerized transaction that withdraws or deposits money from or to a bank account.

"Goods" means all material, equipment, supplies, printing, and automated data processing hardware and software.

"Hearing" means agency processes other than those informational or factual inquiries of an informal nature provided in §§ 2.2-4007 and 2.2-4019 of the Code of Virginia and includes only (i) opportunity for private parties to submit factual proofs in formal proceedings as provided in § 2.2-4009 of the Code of Virginia in connection with the making of regulations or (ii) a similar right of private parties or requirement of public agencies as provided in § 2.2-4020 of the Code of Virginia in connection with case decisions.

"Household" means members of a group who reside at the same address.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as the officer or employee, who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Inspection" means the close and critical examination of goods and services delivered to determine compliance with applicable contract requirements or specifications. It is the basis for acceptance or rejection.

"Legal entity" means an entity, other than a natural person, which has sufficient existence in legal contemplation that it can function legally, sue or be sued and make decisions through agents, as in the case of a corporation.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to Chapter 40 (§ 58.1-4000 et seq.) of Title 58.1 of the Code of Virginia.

"Person" means a natural person and may extend and be applied to groups of persons, as well as a corporation, company, partnership, association, club, trust, estate, society, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals, as well as all departments, commissions, agencies, and instrumentalities of the

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Commonwealth, including counties, cities, municipalities, political subdivisions, agencies, and instrumentalities thereof.

"Procurement" means the process for obtaining goods or services, including all activities from planning and preparation to processing of a request through the processing of a final invoice for payment.

"Retailer ~~and sales agent~~" means a person or business licensed by the agency ~~as an agent~~ to sell lottery tickets or shares.

"Sales," "gross sales," "annual sales," and similar terms mean total ticket sales including any discount allowed to a retailer for his compensation.

"Services" means any work performed by an independent contractor where the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials, and supplies.

"Sole source" means that only one source is practicably available to furnish a product or service.

"Surety bond" means an insurance agreement in which a third party agrees to be liable to pay a specified amount of money to the agency in the event the retailer fails to meet his obligations to the agency.

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

"Vendor" means one who provides goods or services to the agency.

"Virginia Lottery Law" means Chapter 40 (§ 58.1-4000 et seq.) of Title 58.1 of the Code of Virginia.

11VAC5-20-150. Conferences on denial, suspension, or revocation of a retailer's license.

The conduct of license appeal conferences will conform to the provisions of Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia relating to case decisions.

1. An initial conference consisting of an informal ~~fact finding~~ fact-finding process will be conducted by the conference officer to attempt to resolve the issue to the satisfaction of the parties involved.
2. If an appeal is not resolved through the informal ~~fact finding~~ fact-finding process, at the request of the appellant, a formal hearing will be conducted by the board in public. Following the close of the evidence, the board may consider its decision in closed session. The board will then issue its decision on the case.
3. Upon receipt of the board's decision on the case, the appellant may elect to pursue court action in accordance with the provisions of the Administrative Process Act relating to court review.

11VAC5-20-160. Procedure for appealing a licensing decision.

A. Upon receiving a notice that (i) an application for a license or the renewal of a license has been denied by the director, or (ii) the director intends to or has already taken action to suspend or revoke a current license, the applicant or licensed retailer may appeal by filing a written notice of appeal requesting a conference on the licensing action. The notice of appeal shall be submitted within 30 days of receipt of the notice of the licensing action.

1. ~~Receipt of a notice~~ Notice of the licensing action that is mailed in an envelope bearing a United States Postal Service postmark is presumed to have taken place not later than the third day following the day of mailing sent via email through document-signing software as the primary notification to the email provided on the application. Secondary notification is sent via signature-required common carrier to the last known address of the applicant or licensed retailer. If the third day falls upon a day on which mail is not delivered by the United States Postal Service, the notice is presumed to have been received on the next business day. The "last known address" means the address shown on the application of an applicant or licensed retailer unless a more current address has been provided to the agency by the applicant or licensed retailer.

2. The notice of appeal will be timely if it is received within 30 days of the date of the email notification or bears a United States Postal Service postmark showing mailing on or before the 30th day signature-required common carrier date stamp that is within 30 days of the date of the secondary mailed notice prescribed in subdivision 1 of this subsection.

B. A notice of appeal may be mailed or hand delivered to the director at the Virginia Lottery headquarters office.

1. A notice of appeal delivered by hand will be timely only if received at the headquarters of the Virginia Lottery within the time allowed by subsection A of this section.
2. Delivery to any other Virginia Lottery office or to lottery sales personnel by hand or by mail is not sufficient.
3. The appellant assumes full responsibility for the method chosen to file the notice of appeal.

C. The notice of appeal shall state:

1. The decision of the director that is being appealed;
2. The legal and factual basis for the appeal;
3. The retailer's license number or sufficient information identifying the denied applicant; and
4. Any additional information the appellant may wish to include concerning the appeal.

11VAC5-20-170. Procedures for conducting informal fact-finding licensing conferences.

A. The conference officer will conduct an informal fact-finding conference with the appellant for the purpose of resolving the licensing action at issue.

B. The conference officer will hold the conference as soon as possible but not later than 30 days after the notice of appeal is filed, unless an alternate date is designated by the conference officer or ~~his~~ the conference officer's designee and accepted by the appellant. A notice setting out the conference date, time, and location will be sent to the appellant, by certified mail, return receipt requested, or signature-required common carrier at least 10 days before the day set for the conference, unless a shorter time is agreed to by the appellant.

C. A conference may be conducted by telephone, or video conferencing platform at the option of the appellant.

D. The conferences shall be informal.

1. The conferences will be electronically recorded. The recordings will be kept until the time limit for any subsequent appeal has expired.

2. A court reporter may be used. The court reporter shall be paid by the person who requested him. If the appellant elects to have a court reporter, a transcript shall be provided to the agency. The transcript shall become part of the agency's records.

3. The appellant may ~~appear in person~~ represent himself or may be represented by counsel to present ~~his~~ facts, argument, or proof in the matter to be heard and may request other parties to appear to present testimony.

4. The agency will present its facts in the case and may request other parties to appear to present testimony.

5. Questions may be asked by any of the parties at any time during the presentation of information subject to the conference officer's prerogative to regulate the order of presentation in a manner that, in ~~his~~ the conference officer's sole discretion, best serves the interest of fairly developing the facts.

6. The conference officer may exclude information at any time that ~~he~~ the conference officer believes, in ~~his~~ the conference officer's sole discretion, is not germane or that repeats information already received.

7. The conference officer shall declare the conference completed when the time established by the conference officer has expired.

E. Normally, the conference officer shall issue ~~his~~ a decision within 15 days after the conclusion of an informal conference. However, for a conference with a court reporter, the conference officer shall issue his decision within 15 days after receipt of the transcript of the conference. In all cases the agency shall

comply with the APA. The decision will be in the form of a letter to the appellant summarizing the case and setting out ~~his~~ the conference officer's decision on the matter. The decision will be sent to the appellant by certified mail, return receipt requested, or signature-required common carrier.

F. After receiving the conference officer's decision on the informal conference, the appellant may elect to appeal to the board for a formal hearing on the licensing action. The request for appeal shall:

1. Be submitted in writing within 15 days of receipt of the conference officer's decision on the informal conference.
2. Be mailed or hand delivered to the chairman of the board at the headquarters of the Virginia Lottery.
3. Be governed by the same procedures in 11VAC5-20-160 B for filing the original notice of appeal.
4. State:
 - a. The decision of the conference officer that is being appealed;
 - b. The legal and factual basis for the appeal;
 - c. The retailer's license number or sufficient information identifying the denied applicant; and
 - d. Any additional information the appellant may wish to include concerning the appeal.

11VAC5-20-180. Procedures for conducting formal licensing hearings.

A. The board will conduct a formal hearing at its next regularly scheduled meeting following the receipt of a notice of appeal on a licensing action if the date of the scheduled meeting permits the required 10 days of notice to the appellant or at a date to be determined by the chairman of the board and accepted by the appellant.

B. A majority of members of the board is required to hear an appeal. If the chairman and vice chairman of the board are not present, the members present shall choose one from among them to preside over the hearing.

C. The board chairman, at ~~his~~ the board chairman's discretion, may designate a committee of the board to hear licensing appeals and act on its behalf. Such committee shall have at least three members who will hear the appeal on behalf of the board. If the chairman of the board is not present, the members of the committee shall choose one from among them to preside over the hearing.

D. A notice setting the hearing date, time, and location will be sent to the appellant by certified mail, return receipt requested, or signature-required common carrier at least 10 days before the day set for the hearing, unless a shorter time is agreed to by the appellant.

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E. The hearing shall be conducted in accordance with the provisions of Article 3 (§ 2.2-4018 et seq.) of the APA and shall be open to the public.

1. The hearing will be electronically recorded and the recording will be kept until any time limits for any subsequent court appeals have expired.
2. A court reporter may be used. The court reporter shall be paid by the person who requested ~~him~~ the court reporter. If the appellant elects to have a court reporter, a transcript shall be provided to the agency. The transcript shall become part of the agency's records.
3. The provisions of §§ 2.2-4020 through 2.2-4023 of the APA shall apply with respect to the rights and responsibilities of the appellant and of the agency.

F. Normally, the board will issue its written decision within 21 days of the conclusion of the hearing. However, for a hearing with a court reporter, the board will issue its written decision within 21 days of receipt of the transcript of the hearing. In all cases the agency shall comply with the APA.

1. A copy of the board's written decision will be sent to the appellant by certified mail, return receipt requested, or signature-required common carrier. The original written decision shall be retained by the agency and become a part of the case file.
2. The written decision will contain:
 - a. A statement of the facts to be called "Findings of Facts";
 - b. A statement of conclusions to be called "Conclusions" and to include as much detail as the board feels is necessary to set out the reasons and basis for its decision; and
 - c. A statement, to be called "Decision and Order," which sets out the board's decision and order in the case.

G. After receiving the board's decision on the case, the appellant may elect to pursue court review as provided for in the APA.

VA.R. Doc. No. R25-8269; Filed December 1, 2025, 11:00 a.m.

Fast-Track Regulation

Title of Regulation: 11VAC5-31. Licensing Regulations (amending 11VAC5-31-10, 11VAC5-31-30 through 11VAC5-31-90, 11VAC5-31-140, 11VAC5-31-150, 11VAC5-31-160).

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 28, 2026.

Effective Date: February 12, 2026.

Agency Contact: Amy Roper, Regulatory Coordinator, Virginia Lottery, 600 East Main Street, First Floor, Richmond, VA 23219, telephone (804) 692-7133, FAX (804) 692-7325, or email aroper@valottery.com.

Basis: Pursuant to § 58.1-4007 of the Code of Virginia, the powers of the Virginia Lottery Board include that the board shall adopt regulations governing the establishment and operation of a lottery, which shall be promulgated by the board after consultation with the Director of the Virginia Lottery.

Purpose: This action is essential to protect the health, safety, or welfare of citizens because (i) it ensures player understanding of the terminologies used for lottery play and allows for seamless transition between the regulation, the Lottery game and promotion rules, and the agency website; and (ii) it documents agency adjustments in certain equipment care, fees, and details for retailer banks and electronic funds transfers.

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 (i) provides clarifying language, which eliminates any potential confusion; and (ii) synchronizes the terminologies between the regulation, the Lottery game and promotion rules, and the agency website.

Substance: This action changes all instances of "agent" and "sales agent" to the currently used and more familiar term "retailer," increases the additional penalty for late or unpaid retailer payment to \$50, clarifies language regarding a retailer's bank, and clarifies retailer requirements to protect and maintain equipment.

Issues: The advantage of the amendments for the public and Commonwealth is that they will provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares. There are no disadvantages to the Commonwealth or the public.

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 Virginia Lottery Board (board) proposes to amend the Licensing Regulations (11VAC5-31) to implement changes resulting from a 2024 periodic review.²

Background. As a result of a 2024 periodic review, the board seeks to (i) update or correct outdated terminology, (ii) update the penalty for retailers who fail to make payment when payment is due, and also the service charge for dishonored payments, and (iii) update the related forms. The most substantive changes are summarized.

11VAC5-31-10 and 11VAC5-31-160 would be amended to remove the definitions or and references to the vacuum fluorescent display and the Enterprise Series MultiMedia display as the agency no longer uses this equipment. Instead, 11VAC5-31-160 would simply refer to agency equipment.

11VAC5-31-140 would be amended to increase the penalty for retailers who fail to make payment when payment is due from \$25 to \$50. Similarly, the service charge assessed against any retailer whose payment through EFT transaction or by check is dishonored would be increased from \$25 to \$50. Virginia Lottery reports that these changes reflect the fees that the agency already charges in practice.

The forms would be updated to match the forms currently accessible on the Virginia Lottery website via an online document signing platform.³ Lastly, references to agent or sales agent would be replaced with retailer throughout the regulation and other minor clarifying changes would be made.

Estimated Benefits and Costs. Current license holders as well as applicants for new licenses benefit from having clear and accurate information. Thus, changes which ensure the regulation matches the information on the Virginia Lottery website, or on forms or other documents, are beneficial. The changes to the regulation also include an increase in the penalty fee charged for late payments and dishonored payments from \$25 to \$50 (a 100% increase), which would increase the cost to retailers who are subject to these penalties. However, Virginia Lottery reports that the higher fee is already being charged in practice.

Businesses and Other Entities Affected. This regulation applies to applicants for a lottery retail license as well as current retail license holders. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁵ The proposed amendments would increase the penalty fees for late payments and dishonored payments in the regulation. However, because these fees are already charged in practice, there will be no effect from changing the regulation other than an improvement in regulatory clarity. Thus, an adverse impact is not indicated.

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

Localities⁸ Affected.⁹ The proposed amendments do not affect any locality in particular and do not appear to increase costs for local governments.

Projected Impact on Employment. The proposed amendments are not expected to have an impact on employment.

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

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

² See <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=2561>.

³ See <https://www.valottery.com/aboutus/retailer>. Whereas the website uses Docu-sign and requires individuals to enter their name and email address prior

to seeing an editable version of the PDF file, the regulation would directly link to the PDF versions, which can be useful to see what information will be required on the forms..

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: Having reviewed the economic impact analysis prepared by the Department of Planning and Budget, the Virginia Lottery finds it satisfactory and has no additional comments.

Summary:

The amendments (i) change all instances of "agent" and "sales agent" to "retailer"; (ii) increase the additional penalty for late or unpaid retailer payment to \$50; (iii) clarify language regarding a retailer's bank and a retailer requirement to protect and maintain equipment; and (iv) update forms required by the regulation.

11VAC5-31-10. Definitions.

The following words and terms when used in any of the agency's regulations shall have the same meanings as defined in this chapter unless the context clearly indicates otherwise:

"Agency" means the Virginia Lottery created by the Virginia Lottery Law; **Sports Betting** (Chapter 40 (§ 58.1-4000 et seq.) of Title 58.1 of the Code of Virginia).

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"Board" means the Virginia Lottery Board established by the Virginia Lottery Law; Sports Betting (Chapter 40 (§ 58.1-4000 et seq.) of Title 58.1 of the Code of Virginia).

"Director" means the Executive Director of the Virginia Lottery or ~~his~~ the director's designee.

~~"Enterprise Series MultiMedia (ESMM) display" means a player display unit that, when connected to the lottery terminal, displays messages to the customer pertaining to lottery products, drawing messages, and other lottery related messages.~~

"License" means the certificate issued by the agency to a retailer who has met the requirements established by the agency to sell lottery products.

"Lottery retailer," "lottery sales agent," or "retailer" means a person licensed by the director to sell and dispense lottery tickets or products and act as the agency's representative to collect, preserve, and account for Commonwealth of Virginia trust funds.

"Person," for purposes of licensing, means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals, as well as all departments, commissions, agencies and instrumentalities of the Commonwealth, including its counties, cities, municipalities, political subdivisions, agencies, and instrumentalities thereof.

~~"Vacuum fluorescent display" means a player display unit that, when connected to the lottery terminal, presents messages to the customer, such as customer transaction totals, validation and cancellation amounts, and jackpot drawing messages.~~

11VAC5-31-30. Application procedure.

A. Any eligible person shall first file an application with the agency by completing all information requested on forms supplied for that purpose, along with submitting any required fees.

B. The submission of application forms or data for licensure does not in any way entitle any person to receive a license to act as a lottery retailer.

C. In the event an applicant is a former licensed lottery ~~sales agent~~ retailer whose license was suspended, revoked, or refused renewal pursuant to § 58.1-4009 or 58.1-4012 of the Code of Virginia, no application for a new license to sell lottery tickets or shares shall be considered for a minimum period of 90 days following the suspension, revocation, or refusal to renew.

D. The person shall submit all required forms and information to the agency to be considered for licensing. Failure to submit required forms within the agency's licensing procedures may result in the loss of opportunity to become or remain a licensed retailer.

11VAC5-31-40. General standards for licensing.

A. The director or ~~his~~ the director's designee may license those persons who, in ~~his~~ the director's opinion, will best serve the public interest and convenience and public trust in the lottery and promote the sale of lottery tickets. Before issuing or renewing a license, the director may consider factors including, ~~but not limited to,~~ the following:

1. Those factors set out in § 58.1-4009 of the Code of Virginia, these regulations, and the agency's licensing procedures;
2. The ability to offer a high level of customer service to lottery players;
3. The person's prior history, record, and performance with the agency;
4. Whether the place of business caters to or is frequented predominately by persons ~~under~~ younger than 18 years of age;
5. Whether the nature of the business constitutes a threat to the health or safety of prospective patrons;
6. Whether the nature of the business is consonant with the probity of the Commonwealth; and
7. Whether the person or retailer has (i) committed any act of fraud, deceit, misrepresentation, moral turpitude, or illegal gambling or (ii) engaged in conduct prejudicial to public confidence in the state lottery.

B. Special retailer licensing.

1. The director may license special lottery retailers subject to such conditions or limitations as the director may deem prudent and if the director finds there is a need to develop alternative business models to engage in partnerships with certain retailers that are consistent with the laws of the Commonwealth of Virginia and these regulations. These limitations or conditions may include, ~~but are not limited to:~~
 - a. Length of license period;
 - b. Hours or day of sale;
 - c. Selling of only limited products;
 - d. Specific persons who are allowed to sell lottery tickets;
 - e. Specific sporting, charitable, social, or other special events where lottery tickets may be sold if in conformity with law; or
 - f. Different commission and payment structures and bonding requirements.
2. Special licensed ~~agents~~ retailers will be subject to ~~these regulations~~ this chapter.

11VAC5-31-50. Bonding of lottery retailers.

A. A lottery retailer shall have and maintain a surety bond from a surety company entitled to do business in this

Commonwealth. The surety bond shall be in an amount as deemed necessary to secure the interests of the Commonwealth and the agency, in the sole discretion of the director, and shall be payable to the agency and conditioned upon the faithful performance of the lottery retailer's duties.

B. The agency may establish a sliding scale for surety bonding requirements based on the average volume of lottery ticket sales by a retailer to ensure that the Commonwealth's interest in tickets to be sold by a licensed lottery retailer is adequately safeguarded.

C. Prior to issuance of a license, every lottery ~~sales agent~~ retailer shall either (i) be bonded by a surety company entitled to do business in this Commonwealth in such amount and penalty as may be prescribed by the regulations of the department or (ii) provide such other surety as may be satisfactory to the director, payable to the agency, and conditioned upon the faithful performance of ~~his~~ the director's duties. Such alternate surety instruments or arrangements may include, ~~but not be limited to,~~ a combination of surety instruments, ~~including cash.~~

11VAC5-31-60. Lottery bank accounts and electronic funds transfer (EFT) authorization.

A. A lottery retailer shall have and maintain a separate bank account in a bank participating in the Automatic Clearing House (ACH) system. This account shall be styled in the name of the retailer followed by "Virginia Lottery Trust" and shall be used exclusively for lottery business.

B. The lottery account shall be used by the retailer to make funds available to permit withdrawals and deposits initiated by the agency through the electronic funds transfer (EFT) process to settle a retailer's account for funds owed by or due to the retailer from the sale of tickets and the payment of prizes. All retailers shall make payments to the agency through the EFT process in accordance with the agency's licensing procedures, unless the director designates another form of payment and settlement under terms and conditions ~~he~~ the director deems appropriate.

C. The retailer shall be responsible for payment of any fees or service charges assessed by the retailer's bank for maintaining the required account.

D. The director will establish a schedule for processing the EFT transactions against retailers' lottery trust accounts and issue instructions regarding the settlement of accounts.

11VAC5-31-70. License term and periodic review.

A. A general license for an approved lottery ~~sales agent~~ retailer shall be issued for a specific term and is thereafter subject to a periodic determination of continued retailer eligibility and the payment of any fees fixed by the board.

B. The director may issue special licenses to persons for specific events and activities in accordance with the requirements of the agency's licensing procedures.

11VAC5-31-80. License fees.

An initial licensing fee up to \$100 and an annual license fee up to \$70 shall be collected from each lottery ~~sales agent~~ retailer and shall be paid in accordance with the agency's licensing procedures. These fees are nonrefundable, unless otherwise determined by the director in ~~his~~ the director's sole discretion or specified in the agency's procedures. The license fees shall be paid for each location.

11VAC5-31-90. Transfer of license prohibited.

A license issued by the director authorizes a specified person to act as a lottery ~~sales agent~~ retailer at a specified location or locations. The license is not transferrable or assignable to any other person ~~or persons~~ or location ~~or locations~~.

11VAC5-31-140. Deposit of lottery receipts; interest and penalty for late payment; dishonored EFT transactions or checks.

A. Payments shall be due from retailers as specified by the director in accordance with agency policies.

B. Any retailer who fails to make payment when payment is due will be contacted by the agency and instructed to make immediate deposit of the funds due. If the retailer is not able to deposit the necessary funds or if the item is returned to the department unpaid for a second time, the retailer's license may be inactivated. If inactivated, the license will not be reactivated until payment is made by cashier's check, certified check, or electronic funds transfer (EFT) transaction, and if the retailer is deemed a continuing credit risk by the agency, not until an informal conference is held to determine if the licensee is able and willing to meet the terms of his retailer contract. Additionally, interest may be charged on the moneys due plus a ~~\$25~~ \$50 penalty. The interest charge will be equal to the "Underpayment Rate" established pursuant to § 58.1-15 of the Code of Virginia. The interest charge will be calculated beginning the date following the retailer's due date for payment through the day preceding receipt of the late payment by the agency for deposit.

C. In addition to the penalty authorized by subsection B of this section, the director may assess a ~~\$25~~ \$50 service charge against any retailer whose payment through EFT transaction or by check is dishonored.

D. The service charge, interest, and penalty charges may be waived if it is determined by the agency that the event that otherwise would result in the assessment of a service charge, interest, or penalty is not in any way the fault of the lottery retailer.

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11VAC5-31-150. Licensed retailers' compensation.

A. A licensed retailer shall receive up to 5.0% compensation based on his net ticket sales and up to 1.0% of the cash value of all prizes ~~which that~~ the retailer paid.

B. Except as provided pursuant to the State Lottery Law (§ 58.1-4000 et seq. of the Code of Virginia), the board shall approve any bonus or incentive system for payment to retailers. The director may then award such cash bonuses or other incentives to retailers.

C. Retailers may not accept any compensation for the sale of lottery tickets other than compensation approved under this section, regardless of the source.

D. Nothing in this ~~regulation~~ chapter shall be inconsistent with §§ 58.1-4006 D and 58.1-4007 A 11 of the Code of Virginia.

11VAC5-31-160. Denial, suspension, revocation, or noncontinuance of license.

A. The director may refuse to issue a license to a person if the person does not meet the eligibility criteria and standards for licensing as set out in § 58.1-4009 of the Code of Virginia, this chapter, and in the agency's licensing procedures, or if:

1. The person's place of business caters to or is frequented predominantly by persons under 18 years of age, but excluding family-oriented businesses;
2. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons;
3. The nature of the person's business is not consonant with the probity of the Commonwealth;
4. The person has committed any act of fraud, deceit, misrepresentation, moral turpitude, or illegal gambling or engaged in conduct prejudicial to public confidence in the state lottery;
5. The person falsifies or misrepresents a material fact on any application, form, document, or data submitted during the licensure process;
6. The person has an unsatisfactory prior history, record, or performance with the lottery;
7. The person's place of business represents a substantial risk for the collection, deposit, preservation, accounting, or safeguarding of Commonwealth of Virginia Trust Funds, irrespective of the bond or surety provided by the person;
8. The person has been suspended permanently from a federal or state licensing or authorization program and that person has exhausted all administrative remedies pursuant to the respective agency's regulations or procedures; or
9. The proposed retailer's licensed location ~~or locations do~~ does not comply with the requirements of the department's

Retailer Accessibility Guidelines effective January 1, 2011, as applicable.

B. The director may suspend, revoke, or refuse to continue a license for any of the reasons enumerated in § 58.1-4012 of the Code of Virginia, in subsection A of this section, in the agency's procedures, or for any of the following reasons:

1. Failure to maintain the required lottery trust account;
2. Failure to comply with lottery game rules;
3. ~~Failure~~ The impeding of the agency equipment's intended use or visibility or failure to properly care for, or prevent the abuse of, the agency's equipment, or failure to properly position and display the vacuum fluorescent display or Enterprise Series MultiMedia (ESMM) display;
4. Failure to meet minimum point-of-sale standards;
5. Failure to continue to meet the eligibility criteria and standards for licensing; or
6. Failure to comply with (i) any applicable law or statute, rule, policy, or procedure of the agency; (ii) license terms and conditions; (iii) specific rules for all applicable agency games; (iv) directives and instructions that may be issued by the director; and (v) licensing and equipment agreements and contracts signed by the retailer.

C. Any person refused a license under subsection A or B of this section may appeal the director's decision in the manner provided by 11VAC5-20-150.

D. Before taking action under subsection A or B of this section, the director will notify the retailer in writing of his intent to suspend, revoke, or deny continuation of the license. The notification will include the reason ~~or reasons~~ for the proposed action and will provide the retailer with the procedures for requesting a conference. Such notice shall be given to the retailer in accordance with the provisions of the agency's regulations.

E. If the director deems it necessary in order to serve the public interest and maintain public trust in the lottery, ~~he~~ the director may temporarily suspend a license without first notifying the retailer. Such suspension will be in effect until any prosecution, hearing, or investigation into alleged violations is concluded.

F. A retailer shall surrender ~~his~~ the retailer's license to the director by the date specified in the notice of revocation or suspension. The retailer shall also surrender the lottery property in ~~his~~ the retailer's possession and give a final lottery accounting of ~~his~~ the retailer's lottery activities by the date specified by the director.

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 (11VAC5-31)

~~Retailer License Application, VAL-0062 (rev. 9/14)~~

~~Retailer Contract (rev. 1/14)~~

[Retailer Agreement for Authorized Payments \(rev. 10/2024\)](#)

[Retailer Contract \(rev. 7/2025\)](#)

[Retailer License Application \(rev. 7/2025\)](#)

[Retailer Licensing Checklist \(rev. 7/2025\)](#)

[Retailer Location Form \(rev. 7/2025\)](#)

[Retailer Personal Data Form \(rev. 7/2025\)](#)

DOCUMENTS INCORPORATED BY REFERENCE
(11VAC5-31)

[ADA Update: A Primer for Small Business, U.S. Department of Justice, Civil Rights Division, March 15, 2011](#)

VA.R. Doc. No. R25-8270; Filed December 2, 2025, 10:01 a.m.

Fast-Track Regulation

Title of Regulation: 11VAC5-41. Lottery Game Regulations (amending 11VAC5-41-10, 11VAC5-41-60, 11VAC5-41-100, 11VAC5-41-140, 11VAC5-41-180, 11VAC5-41-190, 11VAC5-41-200, 11VAC5-41-220, 11VAC5-41-320).

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 28, 2026.

Effective Date: February 12, 2026.

Agency Contact: Amy Roper, Regulatory Coordinator, Virginia Lottery, 600 East Main Street, First Floor, Richmond, VA 23219, telephone (804) 692-7133, FAX (804) 692-7325, or email aroper@valottery.com.

Basis: Pursuant to § 58.1-4007 of the Code of Virginia, the powers of the Virginia Lottery Board include that the board shall adopt regulations governing the establishment and operation of a lottery, which shall be promulgated by the board after consultation with the Director of the Virginia Lottery.

Purpose: This action is essential to protect the health, safety, or welfare of citizens because (i) it ensures player understanding of the terminologies used for lottery play and allows for seamless transition between the regulation, the Lottery game and promotion rules, and the agency website; and (ii) it documents the current practice pertaining to when a retailer can sell tickets and all methods of claiming prizes.

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 (i) provides clarifying language, which eliminates any potential confusion, and (ii) synchronizes the terminologies between the regulation, the Lottery game and promotion rules, and the agency website.

Substance: This action changes the game type definitions to currently used, more familiar terms; documents the current options for claiming prizes; clarifies language regarding paper tickets; and removes a prize type no longer in use.

Issues: The advantage of the amendments for the public and Commonwealth is that they will provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares. There are no disadvantages to the Commonwealth or the public.

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 Virginia Lottery Board (board) proposes to update certain terminology, definitions, prize claim options, and forms to reflect current practices.

Background. This regulation was last amended in 2015 to update its terminology and definitions. Since then, additional lottery games that use new technology have become available, and practices have evolved which prompted additional updates to regulation terminology and definitions. Additionally, the form for split ownership has changed and additional claim options have become available. In this action the board proposes to update the text of the regulation to reflect the changes that have occurred in practice.

Estimated Benefits and Costs. The board states that the proposed changes are non-substantive and do not require any change in the actions of retailers or players. Thus, no significant economic impact is expected other than providing clarity and consistency between the text of the regulation and the actual terminology and forms used in practice.

Businesses and Other Entities Affected. This regulation establishes lottery game rules for retailers and players. 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 the proposal neither increases cost nor reduces benefit, no adverse impact is indicated.

Small Businesses⁴ Affected.⁵ The proposed changes should not affect small businesses.

Localities⁶ Affected.⁷ The proposed changes do not disproportionately affect particular localities.

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Projected Impact on Employment. The proposed changes should not affect employment.

Effects on the Use and Value of Private Property. The proposed changes should not affect the use and value of private property nor real estate development costs.

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

² 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: Having reviewed the economic impact analysis prepared by the Department of Planning and Budget, the Virginia Lottery finds it satisfactory and has no additional comments.

Summary:

The amendments (i) change the game type definitions to currently used, more familiar terms, (ii) document the current options for claiming prizes, (iii) clarify language regarding paper tickets, (iv) remove a prize type no longer in use, and (v) update forms required by the regulation.

11VAC5-41-10. Definitions for lottery games.

The following words and terms when used in any of the agency's regulations shall have the same meanings as defined in this chapter unless the context clearly indicates otherwise:

"Agency" means the Virginia Lottery created by Virginia Lottery Law; Sports Betting (Chapter 40 (§ 58.1-4000 et seq.) of Title 58.1 of the Code of Virginia).

"Altered ticket" means a lottery ticket or wager that has been forged, counterfeited, or tampered with in any manner.

"Board" means the Virginia Lottery Board established by the Virginia Lottery Law; Sports Betting (Chapter 40 (§ 58.1-4000 et seq.) of Title 58.1 of the Code of Virginia).

"Breakage" means the money accumulated from the rounding down of the pari-mutuel prize levels to the next lowest whole dollar amount.

"Cashing retailer" means an agency-licensed retailer that ~~sells lottery products and~~ is authorized to pay prizes.

~~"Computer gaming system" means any computer system owned, operated, or contracted by the agency that supports the sale, redemption, or validation of lottery tickets or wagers.~~

~~"Computer generated game" means a game that is dependent upon the use of a terminal in direct communication with a game mainframe computer.~~

~~"Computer generated ticket" means an electronically-produced ticket issued through the computer gaming system by a retailer to a player as a receipt for the number, numbers, or items or combination of numbers or items, the player has selected.~~

"Coupon" is a device, whether paper, or otherwise, that is approved by the agency for redemption.

"Director" means the Executive Director of the Virginia Lottery or ~~his~~ the director's designee.

"Drawing" means a formal process of randomly selecting numbers, names, or items in accordance with the specific game or promotion rules for games or promotions requiring the random selection of numbers, names, or items.

"Entry" means a method, whether in electronic or paper form, by which a person enters a drawing or promotion.

"Game" means any individual or particular type of lottery authorized by the board.

"Instant game" means a digital lottery game with self-contained play areas, legends, symbols, numbers, or codes that, when played, immediately reveals or informs the player of the game outcome.

"Instant terminal game" means an immediate print-and-play game designed to provide players with instant terminal-generated game play results that are printed from a Lottery terminal.

"Instant ticket game" or "instant ticket contest" means a game of chance played on a paper ticket or card where (i) a person may receive gifts, prizes, or gratuities; and (ii) winners are determined by preprinted concealed letters, numbers, or symbols that, when exposed, reveal immediately whether the player has won a prize or entry into a prize drawing.

"Lottery gaming system" means any system owned, operated, or contracted by the agency that supports the sale, redemption, or validation of lottery tickets or wagers.

"Misprinted ticket" means a lottery ticket or play that contains a manufacturing, programming, or printing defect that causes the game to no longer play as defined in game rules or does not properly validate against the game's validation files.

"Natural person" means a human being, and not a corporation, company, partnership, association, trust, or other entity.

"Play" means one wager for a chance to win a prize. There may be multiple plays on a single ticket.

"Prize" means any cash or noncash award to a holder of a winning entry or play.

"Prize structure" means the number, value, and odds of winning prizes for a game and the prize tiers within a game and the chances of winning a prize in each tier in an individual game as determined by the agency and as specified in the game rules.

~~"Probability game" means a game in which all of the tickets sold are potentially winning tickets and the outcome of the game depends entirely upon the player's choice or choices during game play.~~

"Promotion" means an "added value" offer to consumers or licensed retailers sanctioned by the director or approved by the board when required.

"Roll stock" or "ticket stock" means the paper roll issued or approved for use by the agency from which a unique lottery ticket is generated displaying the selected ~~items or numbers~~ play.

"Scratcher" means a ticket with a coating over the play area that, when scratched off, reveals instant game play results.

~~"Scratch game" means a game that, when played, reveals or informs the player immediately whether he has won (i) a prize, (ii) entry into a prize drawing, (iii) prize points, or (iv) any combination thereof as specified in game rules.~~

"Share" means a percentage of ownership in a winning ticket, play, or subscription plan.

"Terminal" means a device that is ~~authorized by the agency to function in an interactive mode with~~ located at a Lottery-authorized retail location and connected to the agency's computer gaming system or systems for the purpose of issuing tickets, plays, or an electronic facsimile thereof, and entering, receiving, and processing game-related transactions.

"Terminal-generated game" means a game that is dependent upon the use of a terminal in direct communication with a lottery gaming system.

"Terminal-generated ticket" means a printed paper ticket or digital wager for a drawing issued through a lottery gaming system to a player as a receipt for the number, numbers, or items or combination of numbers or items, the player has selected.

"Ticket number" means the preassigned unique number or combination of letters and numbers or barcode that identifies that particular ticket as one within a particular game or drawing.

"Validation" means the process of reviewing and certifying a lottery ticket to determine whether it is a winning ticket.

"Validation barcode" means the unique number or number-and-letter code or barcode used to determine whether a lottery ticket is a winning ticket.

"Winning ticket," "winning wager," or "winning play" means the ticket, wager, or play that meets the criteria and specific rules for winning prizes as published for each game by the director.

11VAC5-41-60. Drawing and selling times.

A. Drawings shall be conducted at times and places designated by the director and publicly announced by the agency.

B. Retailers may sell tickets from new scratch games upon receipt of the tickets from the agency, but shall not sell tickets for a ~~scratch~~ an instant ticket game after the announced end of that game.

C. Retailers may sell computer-generated tickets up to a designated time prior to the drawing as specified in the computer-generated game rules. That time will be designated by the director.

11VAC5-41-100. Validation requirements.

Prior to awarding a prize, the retailer or agency shall validate the ticket or play as set out in this chapter and in any other manner that the director may prescribe in the specific rules for the lottery game, which shall include ~~but not be limited to~~ the following:

1. If the game rules specify that the physical ticket must be presented for validation then:
 - a. The original ticket must be presented for validation;
 - b. The ticket shall not be mutilated, altered, or tampered with in any manner. If a ticket is partially mutilated or if the ticket is not intact and cannot be validated through normal procedures but can still be validated by other validation tests, the director may pay the prize for that ticket;

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- c. The ticket may not be misregistered or defectively printed to an extent that it cannot be processed by the ~~department~~ agency;
- d. The ticket shall pass all other confidential security checks of the agency;
- e. The ticket validation number shall be present in its entirety; and
- f. The ticket shall not be counterfeited, forged, fraudulently made, or a duplicate of another winning ticket.

2. Where a winning ticket or play has been issued by a terminal:

- a. The ticket or play shall have been issued by the agency or by a licensed lottery retailer in an authorized manner;
- b. The terminal ticket or play shall not have been canceled or previously paid;
- c. The terminal ticket or play shall be validated in accordance with procedures for claiming and paying prizes as set out in the game rules; and
- d. The terminal ticket or play data shall have been recorded in the computer gaming system before the drawing or the instant game ticket sale, and the ticket data shall match this computer record in every respect.

3. If the game rules specify that a physical ticket, play, or record of play is not required for validation there may be other lottery requirements, as defined by the director, for winners to collect prizes.

11VAC5-41-140. ~~Where~~ How prizes are to be claimed.

Winners may claim game prizes as specified in this chapter or in the game rules, including:

1. At agency headquarters;
2. At an agency customer service center;
3. From a cashing retailer;
4. By mail; ~~or~~
5. ~~At~~ Via valottery.com or the Virginia Lottery app; or
6. In any other ~~location~~ manner specifically authorized by the agency.

11VAC5-41-180. Agency action on claims for prizes submitted to agency.

- A. The agency shall validate the winning ticket claim according to procedures contained in this chapter.
- B. If the claim cannot be validated, the agency will promptly notify the ticket holder.
- C. If ~~the~~ a claim is ~~mailed~~ presented to the agency and the agency validates the claim, ~~a check for~~ the prize amount, merchandise, or experiential prizes will be presented or ~~mailed~~

~~to the winner fulfilled~~, as applicable, via check, debit card, wire payment, withdrawal voucher, credit to the winner's account, or by any combination of these or similar methods.

~~D. If an individual presents a claim to the agency in person and the agency validates the claim, a check for the prize amount, merchandise, or experiential prizes will be presented to the winner.~~

11VAC5-41-190. Withholding, notification of prize payments.

A. When paying any prize in excess of \$600, the agency shall:

1. File the appropriate income reporting forms with the Virginia Department of Taxation and the federal Internal Revenue Service; and
2. Withhold federal and state taxes from any winning ticket in accordance with the tax regulation in effect at the time.

B. Additionally, when paying any cash prize ~~of~~ greater than \$100 ~~or more~~, the agency shall withhold any moneys due for delinquent debts as provided by the Commonwealth's Setoff Debt Collection Act, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia.

11VAC5-41-200. ~~Ticket~~ Paper ticket is bearer instrument.

A paper ticket that has been legally issued by a licensed lottery retailer is a bearer instrument until the ticket has been signed. The person who signs the ticket or enters through an electronic validation process is considered the owner of the ticket.

11VAC5-41-220. How prize claim entered.

A prize claim shall be entered in the name of a natural person as prescribed by § 58.1-4019 B of the Code of Virginia. In all cases, the identity and social security number of all natural persons who receive a prize or share of a prize greater than \$100 from a winning ticket redeemed at any agency office shall be provided.

1. A nonresident alien shall furnish his Immigration and Naturalization Service (INS) Number.
2. Two or more natural persons claiming a single prize may file IRS Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the agency. This form designates to whom winnings are to be paid and ~~the~~ any person ~~or persons~~ to whom winnings are taxable.
3. Two or more natural persons wishing to divide a jackpot prize shall complete ~~an "Agreement to Share Ownership and Proceeds of Lottery Ticket"~~ a "Player Affidavit of Multiple Ownership" form. The filing of this form is an irrevocable election that may only be changed by an appropriate judicial order.

11VAC5-41-320. Unclaimed prizes.

A. Except for a free ticket prize, a claim for a lottery game winning ticket must be mailed in an envelope bearing a postmark of the United States Postal Service or another sovereign nation or received for payment as prescribed in this chapter within either 180 days after the date of the drawing for which the ticket was purchased, or of the event that caused the ticket to be a winning entry, or, in the case of a scratcher, within 180 days after the announced end of the game. ~~In If the event that claim cannot be postmarked in accordance with this subsection because~~ the 180th day falls on a Saturday, Sunday, or legal holiday, the prize claimant may bring the winning ticket ~~will be accepted for validation in person to a lottery office~~ on the next business day ~~only at a lottery office~~.

B. Any lottery cash prize that remains unclaimed after either 180 days following the drawing that determined the prize or 180 days after the announced end of the ~~scratch game instant ticket game~~ shall revert to Virginia's Literary Fund. Cash prizes do not include free ticket prizes or other noncash prizes such as merchandise, vacations, admission to events, and the like.

C. All claims for computer-generated game winning tickets for which the prize is a free ticket must be mailed in an envelope bearing a postmark of the United States Postal Service or another sovereign nation or received for redemption as prescribed in this chapter within 180 days after the date of the drawing for which the ticket was purchased. In the event the 180th day falls on a Saturday, Sunday, or legal holiday, a claimant may only redeem ~~his~~ the claimant's winning ticket for a free ticket at a cashing retailer on or before the 180th day.

Except for claims for free ticket prizes mailed to lottery headquarters and postmarked on or before the 180th day, claims for such prizes will not be accepted at any lottery office after the 60th day. This section does not apply to the redemption of free tickets awarded through the subscription program.

D. Any ~~scratch instant ticket~~ game winning ticket of \$25 or less that has been purchased but not claimed within 180 days after the announced end of the ~~scratch instant ticket~~ game shall revert to the Virginia Lottery Fund.

E. In case of a prize payable over time, if such prize is shared by two or more winning tickets, one or more of which is not presented to the agency for payment within the prize redemption period as established by the game rules, the agency will transfer that portion of the prize to Virginia's Literary Fund in accordance with procedures approved by the State Treasurer.

F. In accordance with the provisions of the Servicemembers Civil Relief Act of 1940 (50 USC App § 526), any person while in active military service may claim exemption from the 180-day ticket redemption requirement. Such person, however, must claim ~~his~~ the person's winning ticket or share as soon as practicable, and in no event later than 180 days after discharge from active military service.

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 (11VAC5-41)

~~Split Ownership/Proceeds Verification Form (rev. 2/10)~~

[Player Affidavit of Multiple Ownership \(rev. 10/2024\)](#)

[Prizewinner Claim Form - Game \(rev. 7/2025\)](#)

VA.R. Doc. No. R25-8271; Filed December 2, 2025, 10:01 a.m.



TITLE 12. HEALTH

STATE BOARD OF HEALTH

Fast-Track Regulation

Title of Regulation: **12VAC5-66. Regulations Governing Durable Do Not Resuscitate Orders (amending 12VAC5-66-10, 12VAC5-66-40, 12VAC5-66-50, 12VAC5-66-60, 12VAC5-66-80; repealing 12VAC5-66-20, 12VAC5-66-30, 12VAC5-66-70).**

Statutory Authority: §§ 32.1-12 and 32.1-111.4 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 28, 2026.

Effective Date: February 12, 2026.

Agency Contact: Mohamed G. Abbamin, MPA, Senior Policy Analyst, Office of Emergency Management Services, Virginia Department of Health, 1041 Technology Park Drive, Glen Allen, VA 23059, telephone (804) 980-6984, or email mohamed.abbamin@vdh.virginia.gov.

Basis: Section 32.1-12 of the Code of Virginia authorizes the State Board of Health to make, adopt, promulgate, and enforce such regulations as may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia. Section 32.1-111.4 of the Code of Virginia requires the board to authorize qualified emergency medical services personnel to follow Do Not Resuscitate (DNR) Orders pursuant to 54.1-2897.1 of the Code of Virginia, and § 32.1-111.5 of the Code of Virginia requires the board to prescribe by regulation qualifications necessary for authorization to follow DNR Orders pursuant to § 54.1-2897.1 of the Code of Virginia.

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Purpose: This regulatory action is necessary to ensure compliance with the Code of Virginia and to conform the regulation to Virginia Administrative Code form and style. By enacting these amendments, additional clarity and consistency of the regulation will help ensure that health care personnel, emergency medical services providers, and residents of the Commonwealth can effectively access and understand the regulation governing DNRs.

Rationale for Using Fast-track Rulemaking Process: The action is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process because it ensures that emergency medical services providers can efficiently access and understand the regulation governing Durable DNR Orders.

Substance: This regulatory action repeals 12VAC5-66-20 and 12VAC5-66-30. This action amends 12VAC5-66-10, 12VAC5-66-40, 12VAC5-66-50, 12VAC5-66-60, 12VAC5-66-70, and 12VAC5-66-80, and adds forms. Amendments include (i) terminology updates, that is, adding definitions, removing outdated or irrelevant terms, and expanding some definitions; (ii) structural modifications to improve clarity and organization for providers and citizens; (iii) repealing a section related to issuance of Durable DNR Orders because the board lacks statutory authority for those provisions; and (iv) clarification of procedures on the execution and revocation of DNR Orders through instructions on how these orders should be documented, maintained, and verified, especially by emergency medical services personnel, which are current standard practices.

Issues: The primary advantage of the changes are clarity and comprehensiveness of the application of the regulation governing Durable DNR Orders. By updating terminology, ensuring compliance with the Code of Virginia, refining procedural details, and improving the clarity and readability of the chapter, the revisions will benefit health care providers, patients, and citizens of the Commonwealth. There are no disadvantages associated with the changes.

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 State Board of Health (board) proposes several amendments in order to reflect current standards and practices, remove non-regulatory language, improve clarity, and conform text to the Virginia Register of Regulations Form, Style and Procedure Manual for Publication of Virginia Regulations (Virginia Register Manual).²

Background. The board proposes changes to each section of Regulations Governing Durable Do Not Resuscitate Orders (12VAC5-66) as follows:³

12VAC5-66-10: Add relevant definitions, remove definitions that are no longer used, and amend existing definitions for improved clarity.

12VAC5-66-20: Repeal entire section as it is non-regulatory.

12VAC5-66-30: Repeal entire section as it is non-regulatory.

12VAC5-66-40: Add text to clarify that either a POST or POLST form is recognized as a DNR order. This is current practice. Remove nonregulatory language and amend text to conform with the Virginia Register Manual.

12VAC5-66-50: Remove redundant language, add new text for improved clarity, and amend existing text to conform with the Virginia Register Manual.

12VAC5-66-60: Remove unnecessary language and amend existing text to conform with the Virginia Register Manual.

12VAC5-66-70: Repeal entire section as regulation of the issuance of durable DNR orders exceed the board statutory authority. The provisions that exceed the board statutory authority have not been applied in practice.

12VAC5-66-80: Remove unnecessary language, update and amend existing text to reflect existing conditions and to conform with the Virginia Register Manual.

Estimated Benefits and Costs. None of the proposed amendments change requirements in practice. Nevertheless, the proposed amendments to improve the clarity of the regulation would be beneficial for readers of the regulation in understanding the requirements in practice.

Businesses and Other Entities Affected. The regulation and proposed amendments pertain to individuals who wish to have a Durable DNR Order and those who must comply with it. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁵ As the proposed amendments neither increase cost nor reduce benefit, no adverse impact is indicated.

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

Localities⁸ Affected.⁹ The proposed amendments neither disproportionately affect any particular localities nor affect costs for local governments.

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

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

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://register.dls.virginia.gov/documents/agency_resources/stylemanual.pdf.

³ The regulation defines "Durable Do Not Resuscitate Order" in part as "a written order issued pursuant to § 54.1-2987.1 of the Code of Virginia, in a form authorized by the board, to withhold cardiopulmonary resuscitation from an individual in the event of cardiac or respiratory arrest."

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 Virginia Department of Health has reviewed and concurs with the Department of Planning and Budget's economic impact analysis.

Summary:

The amendments (i) update terminology by adding definitions, removing outdated or irrelevant terms, and expanding some definitions; (ii) modify the structure of the regulation to improve clarity and organization for providers and citizens; (iii) repeal a section related to issuance of Durable Do Not Resuscitate Orders because the board lacks statutory authority for the specific provisions in that section; (iv) clarify procedures on the execution and revocation of DNR orders thorough instructions on how these orders should be documented, maintained, and verified, especially by EMS personnel, which are current standard practices; and (v) update forms.

Part I
Definitions

12VAC5-66-10. Definitions.

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

"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983 of the Code of Virginia to make health care decisions for him.

"Alternate Durable DNR jewelry" means a Durable DNR bracelet or necklace issued by a vendor or seller approved by the Virginia Office of Emergency Medical Services. A Durable DNR Order must be obtained by the patient, from a physician, to obtain Alternate Durable DNR jewelry.

"Board" means the State Board of Health.

"Cardiac arrest" means the cessation of a functional heartbeat.

"Commissioner" means the State Health Commissioner.

"CPR" or "cardiopulmonary resuscitation" shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of cardiac resuscitative medications, and related procedures.

"Durable Do Not Resuscitate Order" or "Durable DNR Order" means a written physician's order issued pursuant to § 54.1-2987.1 of the Code of Virginia in a Durable Do Not Resuscitate Order form or forms authorized by the board, to withhold cardiopulmonary resuscitation from an individual in the event of cardiac or respiratory arrest. For purposes of this chapter, ~~cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of cardiac resuscitative medications, and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate Order" are used in this article, a Durable Do Not Resuscitate Order or other Other DNR Order is not and shall not be construed as an advance directive. When used in these regulations~~ this chapter, the term "Durable DNR Order" shall include any authorized Alternate Durable DNR jewelry issued in conjunction with an original Durable DNR Order. "Durable DNR Order" shall also include a physician order for scope of treatment (POST) or physician orders for life sustaining treatment (POLST) form. Durable DNR ~~orders~~ Order Forms, including POST or POLST forms, shall be ~~completed~~ filled out and signed by a ~~licensed practitioner~~ physician and signed by the patient or patient's authorized representative.

"Emergency ~~Medical Services~~ medical services" or "EMS" means the services rendered by an agency licensed by the Virginia Office of Emergency Medical Services, an equivalent

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~~agency licensed by another state or a similar agency of the federal government when operating within this Commonwealth. shall have the same meaning as in § 32.1-111.1 of the Code of Virginia.~~

~~"Emergency medical services agency" or "EMS agency" means any agency, licensed to engage in the business, service, or regular activity, whether or not for profit, of transporting or rendering immediate medical care to such persons who are sick, injured, wounded, or otherwise incapacitated or helpless. shall have the same meaning as in § 32.1-111.1 of the Code of Virginia.~~

~~"Emergency medical services personnel" or "EMS personnel" shall have the same meaning as in § 32.1-111.1 of the Code of Virginia.~~

~~"Health care personnel" means any qualified emergency medical services personnel and any licensed health care practitioner functioning in any facility, program, or organization operated or licensed by the State Board of Health, the Department of Social Services, or the Department of Behavioral Health and Developmental Services (DBHDS) or operated, licensed, or owned by another state agency, or a continuing care retirement community registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia.~~

~~"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, intellectual disability, or any other mental or physical disorder that precludes communication or impairs judgment, to make an informed decision about providing, withholding, or withdrawing a specific medical treatment or course of treatment because he is unable to understand the nature, extent, or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf or dysphasic or have other communication disorders but who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision. The determination that the patient is "incapable of making an informed decision" shall be made in accordance with § 54.1-2983.2 have the same meaning as in § 54.1-2982 of the Code of Virginia.~~

~~"Office of EMS" or "OEMS" means the Virginia Office of Emergency Medical Services. The Virginia Office of Emergency Medical Services is a state office located within the Virginia Department of Health (VDH).~~

~~"Other Do Not Resuscitate Order" or "Other other DNR Order" means a written physician's order not to resuscitate a patient in the event of cardiac or respiratory arrest on a form other than the authorized state standardized Durable DNR Order Form, POST form, or POLST form under policies and~~

~~procedures of the health care facility to which the individual who is the subject of the order has been admitted.~~

~~"Person authorized to consent on the patient's behalf" means any person authorized by law to consent on behalf of the a patient incapable of making an informed decision as defined by § 54.1-2982 of the Code of Virginia or, in the case of a minor child, the parent or parents other legal guardian having custody of the child or the child's legal guardian or as otherwise provided by law.~~

~~"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the treatment is to be rendered or withheld.~~

~~"Qualified emergency medical services personnel" means personnel certified to practice as defined by § 32.1-111.1 of the Code of Virginia when acting within the scope of their certification.~~

~~"Qualified health care facility" means a facility, program, or organization operated or licensed by the State Board of Health, the Department of Social Services, or by the Department of Behavioral Health and Developmental Services (DBHDS) or operated, licensed, or owned by another state agency and licensed health care practitioners at any continuing care retirement community registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia.~~

~~"Qualified health care personnel" means any qualified emergency medical services personnel and any licensed health care provider or practitioner functioning in any facility, program, or organization operated or licensed by the State Board of Health or by DBHDS or operated, licensed, or owned by another state agency.~~

~~"Respiratory arrest" means cessation of breathing.~~

Part II

Purpose and Applicability

12VAC5-66-20. Authority for regulation. (Repealed.)

~~Section 54.1-2987.1 of the Code of Virginia vests authority for the regulation of Durable DNR Orders in the State Board of Health and directs the board to prescribe by regulation the procedures, including the requirements for forms to authorize qualified health care personnel to follow Durable DNR Orders. All EMS DNR Orders and all Durable Do Not Resuscitate Orders issued or in effect between July 1, 1999, and March 27, 2002, are to be considered valid Durable DNR Orders and shall remain valid until revoked.~~

12VAC5-66-30. Purpose of regulations. (Repealed.)

~~The board has promulgated these regulations in order to carry out the intent of Virginia law that a person shall have the opportunity to execute a Durable DNR Order that comports with his wishes.~~

Part III
Requirements and Provisions

12VAC5-66-40. The Durable Do Not Resuscitate Order Form.

The Durable DNR Order Form shall be a standardized document as approved by the board and consistent with these regulations. ~~The this chapter, including the following requirements and provisions shall apply to the approved Durable DNR Order Form:~~

~~1. Content of the Form~~— A Durable DNR Order Form shall contain, from a physician with whom the patient has a bona fide ~~physician/patient~~ physician-patient relationship, a do not resuscitate determination, signature and the date of issue, the signature of the patient, or, if applicable, the person authorized to consent on the patient's behalf.

~~2. Effective Period for a Signed Durable DNR Order~~— A signed Durable DNR Order shall remain valid until revoked in accordance with § 54.1-2987.1 of the Code of Virginia and ~~12VAC5-66-80 E~~ or until rescinded, in accordance with accepted medical practice, by the provider who issued the Durable Do Not Resuscitate Order.

~~3. Durable DNR Order Form~~— A Durable DNR Order or ~~Alternate Durable DNR jewelry that complies with 12VAC5-66-50~~ shall be valid for the purposes of withholding or withdrawing cardiopulmonary resuscitation by ~~qualified~~ health care personnel in the event of cardiac or respiratory arrest.

~~4. Availability of the Durable DNR Order Form.~~ The An original or a legible photocopy of the Durable DNR Order Form that complies with this section or Alternate Durable DNR jewelry that complies with 12VAC5-66-50, POST Form, or POLST Form shall be maintained and readily available to qualified health care personnel at the patient's current location or residence.

~~5. Qualified health care personnel may honor a legible photocopy of a Durable DNR Form or Other Durable DNR Order as if it were an original.~~

~~6. A patient who is traveling outside his home or between health care facilities should have an original or photocopied Durable DNR Order, Other Durable DNR Order, or Alternate Durable DNR jewelry accompany him.~~

~~7. Distribution of Durable DNR Order Forms~~— The authorized Virginia 5. Three identical Durable DNR Order Form Forms shall be a standardized form available for download via the Internet from the Office of Emergency Medical Services website. The downloadable form will contain directions for completing the form and three identical Durable DNR Order Forms: one original form filled out and distributed as follows:

a. Copy one - to be kept by the patient, the second,

b. Copy two - to be placed kept in the patient's permanent medical record, and the third,

c. Copy three - to be used by the patient for requesting to order Alternate Durable DNR jewelry.

~~8. Hard copies of the 6. A Durable DNR Order Form shall also be made available to physicians or licensed health care facilities by the Office of EMS. The Office of EMS may utilize a vendor to print and distribute the Durable or Other DNR Order Form and a nominal fee may be charged in an amount necessary to cover printing and shipping fees may only be revoked in accordance with § 54.1-2987.1 D of the Code of Virginia.~~

12VAC5-66-50. Authorized alternate Alternate Durable DNR jewelry.

~~The board authorizes the use of Alternate Durable DNR jewelry in conjunction with the issuance of a Durable DNR Order. These A. Alternate Durable DNR jewelry items shall be uniquely-designed and, uniquely-identifiable bracelets and necklaces that are, and available only from a vendor seller approved by the Virginia Department of Health, Office of EMS. The Alternate Durable DNR jewelry must be purchased from the approved vendor by the person~~

B. Only the patient to whom a Durable DNR Order Form applies, or the person authorized to consent on the patient's behalf may purchase Alternate Durable DNR jewelry.

~~An original C. The person to whom a Durable DNR Order Form must be obtained from a physician and provided to the vendor in order to receive Alternate Durable DNR jewelry. Such a necklace or bracelet may be utilized either to validate the applies or the person authorized to consent on the patient's behalf shall present the Durable DNR Order in the event that the original order is not readily available at the site where the person to whom the order applies is found. In order to be honored by qualified health care personnel in place of the standard Durable DNR Order Form, the to the approved seller for purchase of approved Alternate Durable DNR jewelry must contain the minimum information approved by the State Board of Health in 12VAC5-66-60.~~

D. The Alternate Durable DNR jewelry shall display the following information:

1. The words: Do Not Resuscitate;

2. The patient's full legal name;

3. The physician's name and telephone number; and

4. The Virginia Durable DNR issuance date.

12VAC5-66-60. Other DNR Orders.

A. Nothing in these regulations this chapter shall be construed to preclude licensed health care practitioners from following any Other Do Not Resuscitate Order in accordance with the

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applicable policies and procedures of the health care facility in which they practice.

B. ~~Qualified health~~ Health care personnel ~~are authorized to shall honor any an~~ Other Do Not Resuscitate (DNR) Order as if it were a Durable Do Not Resuscitate Order ~~when if the Other DNR Order includes the information required in 12VAC5-66-40 and~~ the patient is ~~currently~~ admitted to a hospital or other or ~~in transit from a~~ qualified health care facility ~~or is in transit from a qualified health care facility provided that such order includes the same information as listed in subdivision 1 of 12VAC5-66-40,~~ except that an Other DNR Order shall not be required to include the signature of the patient or a person authorized to consent for the patient on the order itself.

C. Nothing in ~~these regulations~~ this chapter shall prohibit ~~qualified~~ health care personnel from following ~~any a~~ direct verbal order issued by a licensed physician not to resuscitate a patient in cardiac or respiratory arrest when ~~such the~~ physician is physically present.

Part IV

Implementation Procedures

12VAC5-66-70. Issuance of a Durable DNR Order. (Repealed.)

A. ~~A Durable DNR Order may be issued to a patient by a physician, with whom the patient has established a bona fide physician/patient relationship, as defined by the Board of Medicine in their current guidelines, only with the consent of the patient or, if the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon the request of and with the consent of the person authorized to consent on the patient's behalf.~~

B. ~~The use of the authorized Durable DNR Order Form is encouraged to provide uniformity throughout the health care continuum.~~

C. ~~The authorized Durable DNR Order can be honored by qualified health care personnel in any setting.~~

D. ~~Qualified health care personnel are authorized to honor only a Durable DNR Order on an authorized form or Alternate DNR jewelry, except as provided in 12VAC5-66-60 of these regulations.~~

E. ~~Prior to issuing a Durable DNR Order, the physician shall explain to the patient or the person authorized to consent on the patient's behalf, the alternatives available for response in the event of cardiac or respiratory arrest. If the option of a Durable DNR Order is agreed upon, the physician shall have the following responsibilities:~~

- ~~1. Explain the circumstances under which qualified health care personnel may follow a Durable DNR Order.~~
- ~~2. Explain how to and who may revoke the Durable DNR Order.~~

~~3. Document the patient's full legal name.~~

~~4. Document the execution date of the Durable DNR Order.~~

~~5. Obtain the signature of the patient or the person authorized to consent on the patient's behalf on all three forms: the patient's copy, medical record copy, and the copy used for obtaining Alternate DNR jewelry.~~

~~6. Make sure that the issuing physician's name is clearly printed and the form is signed.~~

~~7. Record the contact telephone number for the issuing physician.~~

~~8. Issue the original Durable DNR Order Form, and the patient and Alternate DNR jewelry copies to the patient and maintain the medical record copy in the patient's medical file.~~

F. The person to whom a Durable DNR Order applies or the person authorized to consent on the patient's behalf must present the following information to the approved vendor in order to purchase and be issued an approved Alternate Durable DNR necklace or bracelet. The necklace or bracelet must contain the following information:

- ~~1. The following words: Do Not Resuscitate;~~
- ~~2. The patient's full legal name;~~
- ~~3. The physician's name and phone number; and~~
- ~~4. The Virginia Durable DNR issuance date.~~

12VAC5-66-80. Durable DNR Order implementation procedures.

A. ~~Qualified health~~ Health care personnel shall ~~comply with the following general procedures and published Virginia Durable DNR Order Implementation Protocols~~ follow the procedures in this section when caring for a patient who is in cardiac or respiratory arrest and who is ~~known or suspected to~~ may have a Durable DNR Order in effect.

B. ~~Initial assessment and intervention. Perform~~ Health care personnel shall initiate routine patient assessment and resuscitation or intervention until a valid Durable DNR Order, Alternate DNR jewelry, or Other DNR Order can be confirmed, as follows:

- ~~1. Determine the presence of a Durable DNR Order, approved Alternate Durable DNR jewelry, or Other DNR Order.~~
- ~~2. If the patient is within a qualified health care facility or in transit between qualified health care facilities, any qualified health care personnel may honor an Other DNR Order as set forth in 12VAC5-66-60.~~
- ~~3. Determine that the Durable DNR form or Alternate DNR jewelry is not altered.~~

~~4. Verify, through driver's license or other identification with photograph and signature or by positive identification by a family member or other person who knows the patient, that the patient in question is the one for whom the Durable DNR Order, Alternate DNR jewelry, or Other DNR Order was issued.~~

~~5. If the Durable DNR Order, Alternate DNR jewelry, or Other DNR Order is intact, unaltered, and verified as issued for the patient, qualified health care personnel may consider it valid.~~

~~C. Resuscitative measures to be withheld or withdrawn. Health care personnel may withhold or terminate resuscitation efforts only when:~~

~~1. An intact, unaltered original or photocopy of the Durable DNR Order Form, POST Form, or POLST Form, approved Alternate Durable DNR jewelry or Other DNR Order is located; and~~

~~2. The patient for whom the Durable DNR Order or Other DNR Order was issued is verified by identification with a photograph and signature or by positive identification by a family member or other person who knows the patient.~~

~~D. If the Durable DNR Order or Other DNR Order is intact, unaltered, and verified as issued for the patient, health care personnel may consider it valid.~~

~~E. In the event of cardiac or respiratory arrest of a patient with a valid Durable DNR Order, Alternate Durable DNR jewelry, or Other DNR Order under the criteria set forth in subsection B of this section, qualified, health care personnel shall withhold or withdraw cardiopulmonary resuscitation (CPR) unless otherwise directed by a physician physically present at the patient patient's location. CPR shall include:~~

- ~~1. Cardiac compression;~~
- ~~2. Artificial ventilation;~~
- ~~3. Defibrillation;~~
- ~~4. Endotracheal Intubation or other advanced airway management, including supra glottic devices such as the LMA, or other airway devices that pass beyond the oral pharynx, such as the Combi Tube, PTL etc.; or~~
- ~~5. Administration of related procedures or cardiac resuscitation medications as prescribed by the patient's physician or medical protocols.~~

~~D. Procedures to provide comfort care or to alleviate pain. In order to provide comfort care or to alleviate pain for a patient with a valid Durable DNR Order of any type or Other DNR Order the following interventions may be provided, depending on the needs of the particular patient:~~

~~F. Health care personnel may provide the following interventions to a patient with a valid Durable DNR Order or Other DNR Order to provide comfort care or to alleviate pain.~~

1. Airway management, including positioning, nasal₁ or pharyngeal airway placement;
2. Suctioning;
3. Supplemental oxygen delivery devices;
4. Pain medications or intravenous fluids;
5. Bleeding control;
6. Patient positioning; or
7. Other therapies deemed necessary to provide comfort care or to alleviate pain.

~~E. Revocation.~~

~~1. If a patient is able to, and does, express to a health care provider or practitioner the desire to be resuscitated in the event of cardiac or respiratory arrest, such expression shall revoke the provider's or practitioner's authority to follow a Durable DNR Order or Other DNR Order. In no case shall any person other than the patient have authority to revoke a Durable DNR Order or Other DNR Order executed upon the request of and with the consent of the patient himself.~~

~~If the patient is a minor or is otherwise incapable of making an informed decision and the Durable DNR Order or Other DNR Order was issued upon the request and with the consent of the person authorized to consent on the patient's behalf, then the expression by said person to a health care provider or practitioner of the desire that the patient be resuscitated shall so revoke the provider's or practitioner's authority to follow a Durable DNR Order or Other DNR Order.~~

~~2. The expression of such desire to be resuscitated prior to cardiac or respiratory arrest shall constitute revocation of the order; however, a new order may be issued upon consent of the patient or the person authorized to consent on the patient's behalf.~~

~~3. The provisions of this section shall not authorize any qualified emergency medical services personnel or licensed health care provider or practitioner who is attending the patient at the time of cardiac or respiratory arrest to provide, continue, withhold or withdraw treatment if such provider or practitioner knows that taking such action is protested by the patient incapable of making an informed decision. No person shall authorize providing, continuing, withholding or withdrawing treatment pursuant to this section that such person knows, or upon reasonable inquiry ought to know, is contrary to the religious beliefs or basic values of a patient incapable of making an informed decision or the wishes of such patient fairly expressed when the patient was capable of making an informed decision.~~

~~F. Documentation. When G. If following a Durable DNR Order or Other DNR Order for a particular patient admitted to a qualified health care facility, qualified health care personnel~~

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shall document care rendered or withheld as required by facility policies and procedures. ~~When~~ If following a Durable DNR Order or Other DNR Order for a particular patient who is not admitted to a qualified health care facility or who is in transit from a health care facility, ~~qualified~~ health care personnel shall document in the patient's medical record the care rendered or withheld in the following manner:

- ~~1. Use standard patient care reporting documents (i.e. patient chart, pre-hospital patient care report).~~
 - ~~2.~~ 1. Describe assessment of the patient's cardiac or respiratory arrest status.;
 - ~~3.~~ 2. Document which identification (e.g., Durable DNR Order Form, Alternate Durable DNR jewelry, ~~or~~ Other DNR Order, or alternate form of identification) was used to confirm Durable DNR status and that it was intact, not altered, ~~not canceled or~~ and not officially revoked.;
 - ~~4.~~ 3. Record the name of the patient's physician who issued the Durable DNR Order, or Other DNR Order.
 - ~~5.~~ H. If the patient is being transported, ~~keep~~ the Durable DNR Order, ~~Alternate Durable DNR jewelry,~~ or Other DNR Order shall remain with the patient.
- ~~G. General considerations. The following general principles shall apply to implementation of all Durable DNR Orders.~~
- ~~1.~~ I. If ~~there is misunderstanding with family members or others present at the patient's location or if there are other concerns about following~~ contest the Durable DNR Order or Other DNR Order, EMS personnel shall contact the patient's physician or EMS medical control for guidance.
 - ~~2.~~ J. If there is any question about the validity of a Durable DNR Order, resuscitative measures ~~should~~ shall be administered until the validity of ~~the~~ a Durable DNR Order or Other DNR Order is ~~established~~ confirmed.

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 (12VAC5-66)

[Durable Do Not Resuscitate Order - Virginia Department of Health, EMS-7105 \(eff. 6/2011\)](#)

[National POLST Form \(eff. 4/2023\)](#)

[Virginia Physician Order for Scope of Treatment Form \(rev. 5 2017\)](#)

VA.R. Doc. No. R25-7311; Filed December 3, 2025, 12:49 p.m.

GENERAL NOTICES

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for The Four Winds Club, Inc.

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for The Four Winds Club, Inc. for violations of State Water Control Law and regulations and applicable permit at the Four Winds Campground Sewage Treatment Plant located in Rappahannock Academy, 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 29, 2025, to January 28, 2026.

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

Proposed Enforcement Action for the Montgomery County Public Sewer Authority

The Department of Environmental Quality is proposing enforcement action for the Montgomery County Public Sewer Authority for violations of State Water Control Law and regulations and applicable permit at the Riner wastewater treatment plant located in Riner, 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 29, 2025, to January 29, 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 the Town of Saltville

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for the Town of Saltville for violations of State Water Control Law and regulations and applicable permit at the Saltville wastewater treatment plant facility located in Saltville, 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 29, 2025, to January 28, 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.

Public Meeting and Opportunity for Public Comment for a Cleanup Plan for Appomattox River Tributaries

Purpose of notice: The Department of Environmental Quality (DEQ) seeks public comment on the development of a cleanup study, also known as a total maximum daily load (TMDL) report, for Appomattox River Tributaries: Big Guinea Creek, Briery Creek, Bush River, Crane Creek, Harris Creek, Horsepen Creek, Nibbs Creek, Sandy River, and Winticomack Creek, located in Amelia, Appomattox, Buckingham, Cumberland, and Prince Edward Counties. These streams are listed as impaired waters and require a cleanup study since monitoring data indicates that the waters do not meet Virginia's water quality standards for aquatic life (Benthics). Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia requires DEQ to develop cleanup studies to address pollutants responsible for causing waters to be on Virginia's § 303(d) list of impaired waters. A component of a cleanup study is the wasteload allocation (WLA); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Code of Virginia for any future adoption of the WLA into the Water Quality Management Planning Regulation (9VAC25-720) after completion of the study. The adoption of the WLA may require new or additional requirements for entities holding a Virginia Pollutant Discharge Elimination System (VPDES) permit in these watersheds.

At the meeting, DEQ will introduce the community to the process used in Virginia to improve stream water quality and invite the public to participate in the study by attending community engagement meetings or through a TMDL advisory group (TAG). DEQ will provide information on the watersheds of interest, the TMDL process, the stressor analysis, and the next steps in the study.

Cleanup study location: The cleanup study addresses the following impaired stream segments:

The Big Guinea Creek segment, including Horsepen Creek (JA18), is in Cumberland County and is 8.73 miles from its headwaters to the confluence with the Appomattox River. The Horsepen Creek segment is 3.99 miles from its headwaters to Big Guinea Creek.

The Briery Creek segment, located in Prince Edward County, is 10.48 miles from Briery Creek Lake Dam to its confluence with Bush River.

The Bush River segment, including Rice Creek, is in Prince Edward County and is 11.49 miles from its headwaters to Mountain Creek. The Rice Creek segment is 4.59 miles from its headwaters to Bush River.

The Crane Creek segment, located in Appomattox County, is 5.19 miles from its headwaters to the confluence with Vaughns Creek.

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The Harris Creek segment, located in Cumberland County, is 6.53 miles from its headwaters to the confluence with the Appomattox River.

The Horsepen (JA05) Creek segment, located in Cumberland County, is 4.01 miles from its headwaters to the confluence with the Appomattox River.

The Sandy River segment, including North Branch Sandy River, is in Prince Edward County and is 4.08 miles from the backwaters of Sandy River Reservoir to the Prince Edward Lake Dam. The North Branch Sandy River segment is 2.40 miles from its headwaters to the confluence with Acorn Creek.

The South Branch Nibbs Creek segment, located in Amelia County, is 5.87 miles from its headwaters to the confluence of North and South branches.

The Winticomack Creek segment, located in Amelia County, is 4.07 miles from the confluence with Long Branch to the mouth at the Appomattox River.

TAG: DEQ invites public comment on the establishment of a TAG to assist in development of this cleanup study. A TAG is a standing group of interested parties established by the department for the purpose of advising the department during developing of the cleanup study. Any member of the public may attend and observe proceedings. However, only group members who have been invited by the department to serve on the TAG may actively participate in the group's discussions. Persons requesting the department use a TAG and those interested in participating should notify the DEQ contact person by the end of the comment period and provide their name, address, phone number, email address, and their organization (if any). If DEQ convenes a TAG, all individuals who wish to participate on the TAG will be considered on a case-by-case basis. TAG members will be expected to attend all TAG meetings. Notification of the composition of the panel will be sent to all individuals who requested participation.

If DEQ receives no requests to establish a TAG, the department will not establish a standing group but will still solicit public feedback by conducting community engagement meetings during cleanup study development. At these community meetings, which are open to the public and any person may participate, DEQ will present its progress on the cleanup study and solicit feedback from those present.

Public meeting: The first public meeting on the development of the cleanup study will be held at the Farmville-Prince Edward Community Library, 1303 West Third Street, Farmville, VA 23901 on January 14, 2026, at 5:30 p.m. In the event of inclement weather, the meeting will be held January 21, 2026, at the same time and location.

Public comment period: January 14, 2026, to February 13, 2026.

How to comment: DEQ accepts written comments by email or postal mail. All comments must be received by DEQ during

the comment period. Submittals must include the name, organization represented (if any), mailing addresses, and telephone numbers of the commenter or requester.

Contact Information: Denise Moyer, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 712-9538, or email denise.moyer@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Opportunity for Review of Eligibility Manual Draft Transmittal

A draft of Transmittal #DMAS-37, the Virginia Medical Assistance Eligibility Manual, is available at <https://www.dmas.virginia.gov/for-applicants/eligibility-guidance/transmittals/>. DMAS-37 includes policy clarifications, updates and revisions. All provisions included in this transmittal are effective with eligibility determinations and post-eligibility (patient pay) calculations made on or after January 1, 2026.

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, TDD (800) 343-0634, 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.
