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# CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Fall 2003 VAC Supplement includes final regulations published through *Virginia Register* Volume 19, Issue 24, dated August 11, 2003). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 1. Administration</b>			
1 VAC 55-10-10	Amended	20:5 VA.R. 454	12/17/03
1 VAC 55-10-20	Amended	20:5 VA.R. 454	12/17/03
1 VAC 55-10-30	Amended	20:5 VA.R. 454	12/17/03
1 VAC 55-20-320 emer	Amended	19:25 VA.R. 3829	10/1/03-9/30/04
<b>Title 2. Agriculture</b>			
2 VAC 20-30	Erratum	20:1 VA.R 39	--
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 15-30-40	Amended	19:25 VA.R. 3780	7/30/03
4 VAC 20-490-35	Added	20:6 VA.R. 584	11/1/03
4 VAC 20-490-40	Amended	20:6 VA.R. 584	11/1/03
4 VAC 20-490-45	Added	20:6 VA.R. 584	11/1/03
4 VAC 20-620-30	Amended	20:4 VA.R. 342	10/15/03
4 VAC 20-620-40	Amended	20:4 VA.R. 342	10/15/03
4 VAC 20-650-10 through 4 VAC 20-650-40	Amended	20:6 VA.R. 585	11/1/03
4 VAC 20-720-20	Amended	20:6 VA.R. 585	11/1/03
4 VAC 20-720-40	Amended	20:6 VA.R. 586	11/1/03
4 VAC 20-720-40 through 4 VAC 20-720-80	Amended	20:4 VA.R. 344-346	10/8/03
4 VAC 20-720-50 through 4 VAC 20-720-90	Amended	20:6 VA.R. 587-588	11/1/03
4 VAC 20-752-20	Amended	19:25 VA.R. 3780	7/23/03
4 VAC 20-950-46	Amended	20:6 VA.R. 589	11/1/03
4 VAC 20-950-47	Amended	20:6 VA.R. 589	11/1/03
4 VAC 20-950-48	Amended	20:6 VA.R. 589	11/1/03
4 VAC 20-1070-10 through 4 VAC 20-1070-50	Added	19:25 VA.R. 3781	8/1/03
4 VAC 25-31 (Forms)	Amended	20:2 VA.R. 135	--
4 VAC 25-31 (Forms)	Amended	20:5 VA.R. 487	--
4 VAC 25-130 (Forms)	Amended	20:1 VA.R 33	--
<b>Title 6. Criminal Justice and Corrections</b>			
6 VAC 20-171-10	Amended	20:3 VA.R. 214	11/19/03
6 VAC 20-171-20	Amended	20:3 VA.R. 217	11/19/03
6 VAC 20-171-30	Amended	20:3 VA.R. 217	11/19/03
6 VAC 20-171-40	Repealed	20:3 VA.R. 217	11/19/03
6 VAC 20-171-50 through 6 VAC 20-171-130	Amended	20:3 VA.R. 217-221	11/19/03
6 VAC 20-171-140	Repealed	20:3 VA.R. 221	11/19/03
6 VAC 20-171-150	Repealed	20:3 VA.R. 222	11/19/03
6 VAC 20-171-170 through 6 VAC 20-171-200	Amended	20:3 VA.R. 222-223	11/19/03
6 VAC 20-171-220	Amended	20:3 VA.R. 224	11/19/03
6 VAC 20-171-230	Amended	20:3 VA.R. 225	11/19/03
6 VAC 20-171-240	Amended	20:3 VA.R. 226	11/19/03
6 VAC 20-171-250 through 6 VAC 20-171-280	Amended	20:3 VA.R. 227-229	11/19/03
6 VAC 20-171-300	Amended	20:3 VA.R. 230	11/19/03
6 VAC 20-171-310	Amended	20:3 VA.R. 231	11/19/03
6 VAC 20-171-320	Amended	20:3 VA.R. 232	11/19/03
6 VAC 20-171-325	Repealed	20:3 VA.R. 233	11/19/03

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
6 VAC 20-171-330	Repealed	20:3 VA.R. 233	11/19/03
6 VAC 20-171-340	Repealed	20:3 VA.R. 233	11/19/03
6 VAC 20-171-350 through 6 VAC 20-171-400	Amended	20:3 VA.R. 234-241	11/19/03
6 VAC 20-171-420	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-430	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-440	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-460	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-480	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-500	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-510	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-540	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-171-560	Amended	20:3 VA.R. 241	11/19/03
6 VAC 20-190-10	Amended	20:4 VA.R. 346	12/3/03
6 VAC 20-190-40	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-60	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-90	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-100	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-120	Amended	20:4 VA.R. 347	12/3/03
6 VAC 20-190-150	Amended	20:4 VA.R. 348	12/3/03
6 VAC 20-190-160	Amended	20:4 VA.R. 348	12/3/03
6 VAC 20-190-170	Amended	20:4 VA.R. 348	12/3/03
6 VAC 20-200	Repealed	20:4 VA.R. 348	12/3/03
6 VAC 20-220-10 through 6 VAC 20-220-80	Added	20:4 VA.R. 348-350	12/3/03
<b>Title 9. Environment</b>			
9 VAC 5-10-20	Amended	20:6 VA.R. 590	1/1/04
9 VAC 5-40	Erratum	19:25 VA.R. 3844	--
9 VAC 20-60-18	Amended	20:2 VA.R. 128	11/5/03
9 VAC 20-80	Erratum	19:26 VA.R. 3926	--
9 VAC 20-80-10	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-60	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-80	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-90	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-100	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-105	Added	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-110	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-113	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-115	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-120	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-140	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-150	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-160	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-170	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-180	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-190	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-205	Added	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-210	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-240	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-250	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-260	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-270	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-280	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-300	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-310	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-330	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-340	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-360	Amended	19:25 VA.R. 3782	9/24/03

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-80-370	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-460	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-485	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-500	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-510	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-520	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-530	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-550	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-570	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-580	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-600	Repealed	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-620	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-640	Added	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-650	Added	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-670	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-730	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-740	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-760	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-770	Repealed	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-780	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-80-790	Amended	19:25 VA.R. 3782	9/24/03
9 VAC 20-170-70	Added	20:3 VA.R. 242	11/19/03
9 VAC 20-170-195	Added	20:3 VA.R. 243	11/19/03
9 VAC 25-260	Erratum	19:26 VA.R. 3926	--
9 VAC 25-260-5 through 9 VAC 25-260-30	Amended	19:25 VA.R. 3785	†
9 VAC 25-260-50	Amended	19:25 VA.R. 3785	†
9 VAC 25-260-140	Amended	19:25 VA.R. 3785	†
9 VAC 25-260-150	Repealed	19:25 VA.R. 3785	†
9 VAC 25-260-170	Amended	19:25 VA.R. 3785	†
9 VAC 25-260-190 through 9 VAC 25-260-240	Repealed	19:25 VA.R. 3785	†
9 VAC 25-260-300	Amended	19:25 VA.R. 3785	†
9 VAC 25-260-310	Amended	19:25 VA.R. 3785	†
9 VAC 25-260-320	Amended	19:25 VA.R. 3785	†
9 VAC 25-260-340	Repealed	19:25 VA.R. 3785	†
9 VAC 25-260-380 through 9 VAC 25-260-450	Amended	19:25 VA.R. 3785	†
9 VAC 25-260-415	Added	19:25 VA.R. 3785	†
9 VAC 25-260-470 through 9 VAC 25-260-540	Amended	19:25 VA.R. 3785	†
9 VAC 25-280-10 through 9 VAC 25-280-90	Added	19:25 VA.R. 3785	†
<b>Title 10. Finance and Financial Institutions</b>			
10 VAC 5-200-90	Added	20:2 VA.R. 128	9/11/03
<b>Title 11. Gaming</b>			
11 VAC 10-20-410 through 11 VAC 10-20-417 emer	Added	19:26 VA.R. 3913-3919	8/13/03-8/12/04
11 VAC 10-130-77	Amended	20:4 VA.R. 350	10/14/03
11 VAC 10-150-130	Amended	20:4 VA.R. 351	11/17/03
<b>Title 12. Health</b>			
12 VAC 5-218-10 through 12 VAC 5-218-60	Added	19:26 VA.R. 3911	10/8/03
12 VAC 5-220-200	Amended	20:2 VA.R. 129	11/5/03
12 VAC 5-400-10 through 12 VAC 5-400-90	Repealed	20:6 VA.R. 597	12/31/03
12 VAC 5-407-10 through 12 VAC 5-407-120	Added	19:26 VA.R. 3911	10/8/03
12 VAC 5-550-5	Added	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-10	Repealed	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-30	Amended	19:26 VA.R. 3912	10/8/03

<sup>1</sup> 30 days after notice of EPA approval published in the Virginia Register of Regulations.

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-550-40	Repealed	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-70	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-90 through 12 VAC 5-550-120	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-125	Added	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-130	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-140	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-150	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-190	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-200	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-210	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-230 through 12 VAC 5-550-260	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-280 through 12 VAC 5-550-330	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-350 through 12 VAC 5-550-410	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-430 through 12 VAC 5-550-470	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-510	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 5-550-520	Amended	19:26 VA.R. 3912	10/8/03
12 VAC 30-40-100	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-140	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-240	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-280	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-40-290	Amended	20:4 VA.R. 351	12/3/03
12 VAC 30-50-10	Amended	20:1 VA.R. 25	10/22/03
12 VAC 30-50-20	Amended	20:1 VA.R. 26	10/22/03
12 VAC 30-50-50	Amended	20:1 VA.R. 26	10/22/03
12 VAC 30-50-60	Amended	20:1 VA.R. 27	10/22/03
12 VAC 30-50-120	Amended	20:1 VA.R. 27	10/22/03
12 VAC 30-50-140	Amended	20:1 VA.R. 27	10/22/03
12 VAC 30-50-140	Amended	20:1 VA.R. 29	10/22/03
12 VAC 30-50-150	Amended	20:1 VA.R. 30	10/22/03
12 VAC 30-50-530	Amended	20:1 VA.R. 28	10/22/03
12 VAC 30-70-201	Amended	20:5 VA.R. 455	1/4/04
12 VAC 30-70-291 emer	Amended	19:26 VA.R. 3920	8/13/03-8/12/04
12 VAC 30-70-301 emer	Amended	19:26 VA.R. 3921	8/13/03-8/12/04
12 VAC 30-70-331 emer	Amended	19:26 VA.R. 3922	8/13/03-8/12/04
12 VAC 30-80-40	Amended	20:2 VA.R. 132	11/6/03
12 VAC 30-120-700	Amended	19:25 VA.R. 3786	10/1/03
12 VAC 30-120-710	Amended	19:25 VA.R. 3789	10/1/03
12 VAC 30-120-720	Amended	19:25 VA.R. 3789	10/1/03
12 VAC 30-135-10 through 12 VAC 30-135-90	Added	19:25 VA.R. 3789-3791	10/1/03
12 VAC 35-105	Erratum	19:25 VA. R. 3844	--
<b>Title 13. Housing</b>			
13 VAC 5-21-10	Amended	19:25 VA.R. 3791	10/1/03
13 VAC 5-21-20	Amended	19:25 VA.R. 3792	10/1/03
13 VAC 5-21-31	Amended	19:25 VA.R. 3792	10/1/03
13 VAC 5-21-41	Amended	19:25 VA.R. 3793	10/1/03
13 VAC 5-21-51	Amended	19:25 VA.R. 3795	10/1/03
13 VAC 5-21-61	Amended	19:25 VA.R. 3795	10/1/03
13 VAC 5-21-70	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-10	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-40	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-50	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-60	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-90	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-31-110	Amended	19:25 VA.R. 3797	10/1/03
13 VAC 5-31-180	Amended	19:25 VA.R. 3797	10/1/03
13 VAC 5-31-190	Added	19:25 VA.R. 3797	10/1/03

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 5-51	Erratum	20:1 VA.R 39	--
13 VAC 5-51-11	Amended	19:25 VA.R. 3798	10/1/03
13 VAC 5-51-21	Amended	19:25 VA.R. 3798	10/1/03
13 VAC 5-51-31	Amended	19:25 VA.R. 3799	10/1/03
13 VAC 5-51-41	Amended	19:25 VA.R. 3799	10/1/03
13 VAC 5-51-51	Amended	19:25 VA.R. 3800	10/1/03
13 VAC 5-51-61	Amended	19:25 VA.R. 3801	10/1/03
13 VAC 5-51-71	Repealed	19:25 VA.R. 3801	10/1/03
13 VAC 5-51-81	Amended	19:25 VA.R. 3802	10/1/03
13 VAC 5-51-85	Added	19:25 VA.R. 3810	10/1/03
13 VAC 5-51-91	Amended	19:25 VA.R. 3812	10/1/03
13 VAC 5-51-101	Amended	19:25 VA.R. 3813	10/1/03
13 VAC 5-51-111	Amended	19:25 VA.R. 3814	10/1/03
13 VAC 5-51-121	Amended	19:25 VA.R. 3814	10/1/03
13 VAC 5-51-129	Added	19:25 VA.R. 3815	10/1/03
13 VAC 5-51-130	Amended	19:25 VA.R. 3815	10/1/03
13 VAC 5-51-131	Amended	19:25 VA.R. 3815	10/1/03
13 VAC 5-51-132	Added	19:25 VA.R. 3816	10/1/03
13 VAC 5-51-133	Amended	19:25 VA.R. 3816	10/1/03
13 VAC 5-51-135	Amended	19:25 VA.R. 3816	10/1/03
13 VAC 5-51-136	Amended	19:25 VA.R. 3817	10/1/03
13 VAC 5-51-140	Amended	19:25 VA.R. 3817	10/1/03
13 VAC 5-51-150	Amended	19:25 VA.R. 3818	10/1/03
13 VAC 5-51-155	Added	19:25 VA.R. 3822	10/1/03
13 VAC 5-51-160	Repealed	19:25 VA.R. 3822	10/1/03
13 VAC 5-51-170	Repealed	19:25 VA.R. 3822	10/1/03
13 VAC 5-51-180	Repealed	19:25 VA.R. 3823	10/1/03
13 VAC 5-51-181	Repealed	19:25 VA.R. 3823	10/1/03
13 VAC 5-51-182	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-51-190	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-51-200	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-61-11 through 13 VAC 5-61-460	Repealed	19:25 VA.R. 3824	10/1/03
13 VAC 5-62	Erratum	20:2 VA.R. 140	--
13 VAC 5-62-10 through 13 VAC 5-62-480	Added	19:25 VA.R. 3824	10/1/03
13 VAC 5-62-260 L	Suspended	20:2 VA.R. 133	<sup>2</sup>
13 VAC 5-62-260 M	Suspended	20:2 VA.R. 133	<sup>2</sup>
13 VAC 5-62-260 N	Suspended	20:2 VA.R. 133	<sup>2</sup>
13 VAC 5-80-10	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-20	Repealed	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-30	Repealed	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-40 through 13 VAC 5-80-140	Amended	19:25 VA.R. 3796	10/1/03
13 VAC 5-80-150	Repealed	19:25 VA.R. 3796	10/1/03
13 VAC 5-91-10	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-40	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-50	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-60	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-100	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-110	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-120	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-140	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-160	Amended	19:25 VA.R. 3825	10/1/03
13 VAC 5-91-180	Amended	19:25 VA.R. 3826	10/1/03

<sup>2</sup> Effective date suspended for further public comment.

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 5-91-200	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-210	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-230	Repealed	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-245	Added	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-250	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-260	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 5-91-270	Amended	19:25 VA.R. 3826	10/1/03
13 VAC 10-10-10	Amended	19:25 VA.R. 3826	8/1/03
13 VAC 10-10-20	Amended	19:25 VA.R. 3826	8/1/03
13 VAC 10-40-10	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-30 through 13 VAC 10-40-70	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-90	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-100	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-120	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-120	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-130	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-130	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-140	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-160	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-160	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-170	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-190 through 13 VAC 10-40-230	Amended	19:25 VA.R. 3827	8/1/03
13 VAC 10-40-190	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-210	Amended	20:3 VA.R. 244	9/25/03
13 VAC 10-40-230	Amended	20:3 VA.R. 244	9/25/03
<b>Title 14. Insurance</b>			
14 VAC 5-71-10	Amended	20:5 VA.R. 457	11/1/03
14 VAC 5-71-20	Amended	20:5 VA.R. 458	11/1/03
14 VAC 5-71-30	Repealed	20:5 VA.R. 459	11/1/03
14 VAC 5-71-31	Added	20:5 VA.R. 460	11/1/03
14 VAC 5-71-35	Added	20:5 VA.R. 463	11/1/03
14 VAC 5-71-40	Amended	20:5 VA.R. 464	11/1/03
14 VAC 5-71-60	Amended	20:5 VA.R. 464	11/1/03
14 VAC 5-71-70	Amended	20:5 VA.R. 465	11/1/03
14 VAC 5-71-80	Repealed	20:5 VA.R. 466	11/1/03
14 VAC 5-71-90	Amended	20:5 VA.R. 466	11/1/03
14 VAC 5-71-91	Added	20:5 VA.R. 467	11/1/03
14 VAC 5-71-92	Added	20:5 VA.R. 467	11/1/03
14 VAC 5-71-93	Added	20:5 VA.R. 467	11/1/03
14 VAC 5-310-10	Amended	20:5 VA.R. 469	12/31/03
14 VAC 5-310-20	Amended	20:5 VA.R. 469	12/31/03
14 VAC 5-310-30	Amended	20:5 VA.R. 469	12/31/03
14 VAC 5-310-40	Amended	20:5 VA.R. 470	12/31/03
14 VAC 5-310-50	Amended	20:5 VA.R. 470	12/31/03
14 VAC 5-310-60	Repealed	20:5 VA.R. 472	12/31/03
14 VAC 5-310-70	Repealed	20:5 VA.R. 473	12/31/03
14 VAC 5-310-80	Amended	20:5 VA.R. 475	12/31/03
14 VAC 5-310-90	Amended	20:5 VA.R. 479	12/31/03
14 VAC 5-310-100	Amended	20:5 VA.R. 481	12/31/03
14 VAC 5-310-105	Added	20:5 VA.R. 482	12/31/03
14 VAC 5-310-110	Repealed	20:5 VA.R. 482	12/31/03
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 15-30	Erratum	19:26 VA.R. 3926	--
18 VAC 76-40-10 emer	Added	19:25 VA.R. 3831	8/6/03-8/5/04
18 VAC 76-40-20 emer	Added	19:25 VA.R. 3831	8/6/03-8/5/04
18 VAC 76-40-30 emer	Added	19:25 VA.R. 3832	8/6/03-8/5/04



## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 76-40-30 emer (Forms)	Added	19:25 VA.R. 3833	--
18 VAC 80-20-70	Amended	19:25 VA.R. 3827	10/1/03
<b>Title 19. Public Safety</b>			
19 VAC 30-20-80	Amended	20:4 VA.R. 352	1/2/04
19 VAC 30-80-20	Amended	20:2 VA.R. 134	11/5/03
19 VAC 30-80-40	Added	20:2 VA.R. 134	11/5/03
<b>Title 21. Securities and Retail Franchising</b>			
21 VAC 5-120-50	Amended	20:1 VA.R. 32	9/2/03
<b>Title 22. Social Services</b>			
22 VAC 40-705-60	Amended	20:5 VA.R. 483	1/1/04
22 VAC 40-705-130	Amended	20:5 VA.R. 483	1/1/04
22 VAC 40-730-115	Added	20:5 VA.R. 484	1/1/04
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 30-71-10	Amended	20:4 VA.R. 353	12/3/03
24 VAC 30-71-20	Amended	20:4 VA.R. 353	12/3/03
24 VAC 30-71-30	Amended	20:4 VA.R. 354	12/3/03
24 VAC 30-71-50	Amended	20:4 VA.R. 354	12/3/03
24 VAC 30-71-70	Amended	20:4 VA.R. 354	12/3/03
24 VAC 30-71-80	Amended	20:4 VA.R. 354	12/3/03
24 VAC 30-71-90	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-100	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-110	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-120	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-130	Amended	20:4 VA.R. 355	12/3/03
24 VAC 30-71-150	Amended	20:4 VA.R. 357	12/3/03
24 VAC 30-71-160	Amended	20:4 VA.R. 357	12/3/03
24 VAC 30-71-170	Amended	20:4 VA.R. 362	12/3/03
24 VAC 30-580-10 through 24 VAC 30-580-40	Amended	20:5 VA.R. 485-486	10/28/03

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# NOTICES OF INTENDED REGULATORY ACTION

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## Symbol Key

† Indicates entries since last publication of the *Virginia Register*

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## TITLE 8. EDUCATION

### STATE BOARD OF EDUCATION

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Education intends to consider adopting regulations entitled **8 VAC 20-680, Regulations Governing the General Achievement Diploma**. The purpose of the regulation is to provide individuals with an additional diploma option. The regulation will specify requirements for the award of a general achievement diploma for those persons who have (i) achieved a passing score on the GED examination; (ii) successfully completed an education and training program designated by the Board of Education; and (iii) satisfied other requirements as may be established by the board for the award of such diploma. The regulations will replace emergency regulations adopted by the Board of Education in July 2003.

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

Statutory Authority: §§ 22.1-253.13:4 and 22.1-254 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on December 31, 2003.

**Contact:** Charles Finley, Assistant Superintendent for Accountability, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 786-9421, FAX (804) 225-2524 or e-mail [cfinley@mail.vak12ed.edu](mailto:cfinley@mail.vak12ed.edu).

VA.R. Doc. No. R04-31; Filed November 7, 2003, 1:23 p.m.

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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-260, Water Quality Standards**. The purpose of the proposed action is to include in the regulation updated numerical and narrative criteria to protect designated uses from the impacts of nutrients and sedimentation. The rulemaking will also include new and revised use designations for the Chesapeake Bay and its tidal tributaries.

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

Statutory Authority: §§ 62.1-44.15 and 62.1-44.15 of the Code of Virginia, the Clean Water Act (33 USC § 1251 et seq.) and 40 CFR Part 131.

Public comments may be submitted until 5 p.m. on January 15, 2004.

**Contact:** Eleanore M. Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4522 or e-mail [emdau@deq.state.va.us](mailto:emdau@deq.state.va.us).

VA.R. Doc. No. R04-39; Filed October 29, 2003, 11:17 a.m.

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## TITLE 11. GAMING

### STATE LOTTERY BOARD

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Lottery Board intends to consider amending regulations entitled **11 VAC 5-20, Administration Regulations**. The purpose of the proposed action is to update, streamline and add flexibility to the Virginia Lottery's procurement processes.

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

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

Public comments may be submitted until 5 p.m. on January 16, 2004.

**Contact:** Betty K. Hill, Administrative Assistant, Division of Legislative and Regulatory Affairs, State Lottery Board, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7904, FAX (804) 692-7603 or e-mail [bhill@valottery.state.va.us](mailto:bhill@valottery.state.va.us).

VA.R. Doc. No. R04-52; Filed November 24, 2003, 12:04 p.m.

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARDS OF NURSING AND MEDICINE

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Boards of Nursing and Medicine intend to consider amending regulations entitled **18 VAC 90-30, Regulations Governing the Licensure of Nurse Practitioners**. The purpose of the proposed action is to (i) state clearly that an applicant for initial licensure in a specialty area of practice must have a degree from an advanced practice educational program and certification by national examination that are both consistent with that area of practice; (ii) specify that a graduate degree is required for licensure; and (iii) write regulations for licensure by endorsement.

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

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on January 14, 2004.

**Contact:** Jay Douglas, R.N., Executive Director, Board of Nursing, 6603 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or e-mail [jay.douglas@dhp.state.va.us](mailto:jay.douglas@dhp.state.va.us).

VA.R. Doc. No. R04-49; Filed November 20, 2003, 2:28 p.m.

### BOARD OF COUNSELING

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to consider amending regulations entitled **18 VAC 115-20, Regulations Governing the Practice of Professional Counseling**. The purpose of the proposed action is to amend the existing regulation to update and provide for consistency of regulations relating to standards of practices, disciplinary actions, and reinstatement governing the three professions licensed by this board.

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

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

Public comments may be submitted until 5 p.m. on December 17, 2003.

**Contact:** Ben Foster, Deputy Executive Director, Board of Counseling, 6603 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-7250 or e-mail [ben.foster@dhp.state.va.us](mailto:ben.foster@dhp.state.va.us).

VA.R. Doc. No. R04-28; Filed October 28, 2003, 3:27 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to consider amending regulations entitled **18 VAC 115-50, Regulations Governing the Practice of Marriage and Family Therapy**. The purpose of the proposed action is to amend the existing regulation to update and provide for consistency of regulations relating to standards of practices, disciplinary actions, and reinstatement governing the three professions licensed by this board.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on December 17, 2003.

**Contact:** Ben Foster, Deputy Executive Director, Board of Counseling, 6603 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-7250 or e-mail [ben.foster@dhp.state.va.us](mailto:ben.foster@dhp.state.va.us).

VA.R. Doc. No. R04-29; Filed October 28, 2003, 3:27 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Counseling intends to consider amending regulations entitled **18 VAC 115-60, Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners**. The purpose of the proposed action is to amend the existing regulation to update and provide for consistency of regulations relating to standards of practices, disciplinary actions, and reinstatement governing the three professions licensed by this board.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on December 17, 2003.

**Contact:** Ben Foster, Deputy Executive Director, Board of Counseling, 6603 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-7250 or e-mail [ben.foster@dhp.state.va.us](mailto:ben.foster@dhp.state.va.us).

VA.R. Doc. No. R04-30; Filed October 28, 2003, 3:27 p.m.



# PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

## Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text.  
Language which has been stricken indicates proposed text for deletion.

## TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

### STATE CORPORATION COMMISSION

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

**Title of Regulation:** 10 VAC 5-40. Credit Unions (adding 10 VAC 5-40-40).

**Statutory Authority:** §§ 6.1-225.3:1, 6.1-225.22 and 12.1-13 of the Code of Virginia.

**Public Hearing Date:** Hearing will be scheduled if requested.  
Public comments may be submitted until January 9, 2004.

**Agency Contact:** E. Joseph Face, Jr., Commissioner of Financial Institutions, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9657, FAX (804) 371-9416, toll free (800) 552-7945, or e-mail [jface@scc.state.va.us](mailto:jface@scc.state.va.us).

#### Summary:

*The proposed regulation gives state credit unions parity with their federal counterparts in relation to providing credit union services to underbanked areas.*

AT RICHMOND, NOVEMBER 21, 2003

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. BFI-2003-00060

**Ex Parte:** In re: Proposed Credit Union Regulation

#### ORDER TO TAKE NOTICE

WHEREAS, §§ 6.1-225.3:1 and 6.1-225.22 of the Code of Virginia authorize the State Corporation Commission ("Commission") to promulgate regulations permitting state credit unions to exercise powers comparable to federal credit unions; and

WHEREAS, certain federal credit unions are authorized by 12 USC § 1759 to expand their membership to include persons and organizations in "underserved areas;" and

WHEREAS, the Commission is informed that certain state credit unions wish to exercise this authority;

IT IS ORDERED THAT:

(1) The proposed regulation entitled "Serving Underserved Areas" is appended hereto and made part of the record in this case.

(2) Written comments or requests for hearing must be filed with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before January 9, 2004, and shall contain a reference to Case No. BFI-2003-00060.

Requests for hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments.

(3) Interested persons desiring to electronically submit comments or request a hearing may do so by following the instructions at the Commission's website: <http://www.state.va.us/scc/caseinfo.htm>.

(4) The proposed regulation shall be posted on the Commission's website at the above Internet address.

(5) An attested copy of this order, together with a copy of the proposed regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions who shall forthwith mail a copy of this Order and the proposed regulation to all state credit unions and such other interested persons as he may designate.

#### 10 VAC 5-40-40. Serving underserved areas.

*Any multiple-group state credit union shall have the power to amend its articles of incorporation or bylaws, pursuant to § 6.1-225.16 of the Code of Virginia, to expand its field of membership to include individuals and organizations in one or more underserved areas to the same extent, and subject to the same conditions, as is authorized for federal credit unions under 12 USC § 1759. The numerical limitations contained in § 6.1-225.23 B 2 and the provisions of § 6.1-225.23:1 of the Code of Virginia shall not apply to the exercise of this power.*

VA.R. Doc. No. R04-50; Filed November 21, 2003, 3:42 p.m.

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**Title of Regulation:** 10 VAC 5-200. Payday Lending (adding 10 VAC 5-200-100).

**Statutory Authority:** §§ 6.1-458 and 12.1-13 of the Code of Virginia.

**Public Hearing Date:** Hearing will be scheduled if requested.  
Public comments may be submitted until January 9, 2004.

**Agency Contact:** E. J. Face, Jr., Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9659,

FAX (804) 371-9416, toll free (800) 552-7945, or e-mail jface@scc.state.va.us.

Summary:

The proposed amendments govern the conduct of any business other than payday lending where a licensed payday lending business is conducted.

AT RICHMOND, NOVEMBER 14, 2003

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2003-00054

Ex Parte: In re: proposed regulation relating to conduct of other business in payday lending offices

ORDER TO TAKE NOTICE

WHEREAS, § 6.1-458 of the Payday Loan Act ("Act"), § 6.1-444 et seq. of the Code of Virginia, authorizes the State Corporation Commission ("Commission") to adopt such regulations as it deems appropriate to effect the purposes of the Act;

WHEREAS, § 6.1-463 of the Act authorizes the Commission to determine what other businesses should be solicited or conducted at the office of a licensed payday lender; and

WHEREAS, the Bureau of Financial Institutions has proposed a regulation that will govern the conduct of business other than payday lending where a licensed payday lending business is conducted;

IT IS THEREFORE ORDERED THAT:

(1) The proposed payday lending regulation, entitled "Other business in payday lending offices," is appended hereto and made a part of the record herein.

(2) Comments or requests for hearing on the proposed regulation must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before January 9, 2004. Requests for hearing shall state why a hearing is necessary and why such issues cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2003-00054. Interested persons desiring to submit comments or request a hearing electronically may do so by following the instructions available at the Commission's website:

(3) The proposed regulation shall be posted on the Commission's website at

http://www.state.va.us/scc/caseinfo.htm.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who forthwith shall

mail a copy of this order, together with the proposed regulation, to all licensed payday lenders and other interested parties designated by the Bureau of Financial Institutions.

10 VAC 5-200-100. Other business in payday lending offices.

A. This section governs the conduct of any business other than payday lending where a licensed payday lending business is conducted.

B. Upon the filing of a written application and payment of the fee required by law, and subject to approval by the commission and the imposition of such conditions as the commission deems necessary and in the public interest, other business may be conducted in a location where a licensed payday lending business is conducted if the commission determines that such other business is financial in nature, except the selling of insurance or the enrolling of borrowers under group insurance policies. The commission shall in its discretion determine whether a proposed other business is "financial in nature," and shall not be obliged to consider the meaning of this term under federal law. Notwithstanding whether a proposed other business is financial in nature, the commission may approve, among other things, the following: (i) furnishing copy machine or facsimile services; (ii) selling stamps, prepaid telephone cards, photo IDs, or check cashing membership cards; (iii) selling lottery tickets, provided the seller is licensed to sell lottery tickets by the State Lottery Department; (iv) operating a cash dispensing only ATM; or (v) selling any other product or service with a price of less than \$5.00.

C. Nothing contained herein shall apply to any nonfinancial other business conducted pursuant to any order of the commission entered on or before November 30, 2003. However, this subsection shall not be construed to authorize any person to begin engaging in such other business at payday lending locations where such other business was not conducted as of November 30, 2003.

D. Written evidence of commission approval of each other business conducted by any payday lender licensee shall be maintained at each location where such other business is conducted.

VA.R. Doc. No. R04-47; Filed November 17, 2003, 11:42 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Title of Regulation: 18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic (amending 18 VAC 85-20-22).

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public Hearing Date: January 22, 2004 - 8:15 a.m.

Public comments may be submitted until February 13, 2004.

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# Proposed Regulations

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(See Calendar of Events section for additional information)

**Agency Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.state.va.us](mailto:elaine.yeatts@dhp.state.va.us).

**Basis:** Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 provides the board the authority to levy fees and promulgate regulations to administer the regulatory system:

The legal authority to promulgate the regulation for a fee increase is in the fifth enactment clause of Chapter 762 of the 2003 Acts of the Assembly.

**Purpose:** In the 2003 General Assembly, House Bill 1441 strengthened requirements for health care institutions to report misconduct by doctors when there is a "reasonable probability that such health professional may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations." Both the time limit for reporting and the content of the report have been specified in the Code of Virginia, and the civil penalty for failure to report has been increased from a maximum of \$10,000 to \$25,000. Accordingly, the agency estimated that complaints or reports of misconduct by doctors could increase from 1,500 to 1,800 per year.

In addition, HB1441 changed the threshold for a finding of unprofessional conduct from a gross negligence standard to a simple negligence standard. The current standard is: "*Gross ignorance or carelessness in his practice, or gross malpractice*"; since July 1, 2003, the standard has been: "*Intentional or negligent conduct in the practice of any branch of the healing arts that causes or is likely to cause injury to a patient or patients.*"

The end result of the reduction in the threshold for disciplinary action coupled with the additional reporting requirements will be a substantial increase in the number of disciplinary proceedings conducted by the Board of Medicine. Additional reporting will likely result in approximately 160 new cases to fully investigate (from 1,200 to 1,360), but the number of informal conferences is expected to more than double from 80 to 175 per year. Likewise, it is projected that the number of formal hearings may double from 25 to 50 per year. In addition, it is expected that a number of cases that may have previously been closed as "no violation" under the old disciplinary standard may be settled with a confidential consent agreement. The number of confidential consent agreements, which must be prepared by legal staff and reviewed by counsel, is estimated to be approximately 375 per year. During debate on the bill, it was clearly noted that the additional cost associated with compliance and implementation of HB1441 would result in increased costs for the affected boards and would generate an immediate need for additional revenue.

The provision of sufficient funding to support the costs of investigating and adjudicating reports of negligence or unprofessional conduct is essential to the mission of the board, which is to protect the health and safety of the public.

Delays in the disciplinary process due to insufficient resources could potentially allow unsafe doctors to remain in active practice and would be harmful to consumers of medical care.

**Substance:** The proposed action will amend 18 VAC 85-20-22 to increase the biennial renewal fee by \$77 for doctors of medicine, osteopathic medicine and podiatry from \$260 to \$337 and for doctors of chiropractic from \$235 to \$312. Other fees that are associated with the licensing (renewal) fee are also increased accordingly. The application fee for initial licensure in Virginia is increased from \$225 to \$302 for doctors of medicine, osteopathic medicine and podiatry and for doctors of chiropractic from \$200 to \$277, because the first renewal cycle is included in the initial application fee. The fee for late renewal anytime within the two years following the expiration date is increased by \$25 from \$90 to \$115 (late fees are calculated at approximately 1/3 of the renewal fee). The fees for reinstatement of a lapsed license after two years are increased from \$305 to \$382 doctors of medicine, osteopathic medicine and podiatry and for doctors of chiropractic from \$290 to \$367. Renewal fees for inactive licensees are increased by \$38 from \$130 to \$168 with the late fee increasing from \$45 to \$55 (renewal of inactive licenses is calculated at approximately half of the active fee).

A fee currently in regulation is eliminated because it is no longer applicable. The fee for board approval to sit for Part 3 of the USMLE examination without subsequent licensure in Virginia is deleted, since those applicants now can apply directly to USMLE to be approved to sit for the exam. An amendment in subsection H clarifies that renewal occurs in each even-numbered year, which is the current policy of the board.

Finally, the legislation eliminated § 54.1-2921 in the Medical Practice Act and inserted a new section, § 54.1-2408.2, in which a three-year time limit is set before a health regulatory board can consider a petition for reinstatement following revocation. The deleted section in Chapter 29 of Title 54.1 of the Code of Virginia is referenced in current regulation for a reinstatement fee charged to an applicant who is seeking reinstatement following revocation or after a petition to reinstate has been denied. The board must change the Code of Virginia citation in its regulation and specifically add the requirement for the \$2,000 fee for an applicant after a petition to reinstate has been denied since that is not referenced in the new § 54.1-2408.2.

**Issues:** In order for the department to continue processing applications, investigating complaints and conducting disciplinary proceedings against doctors, it is necessary for the board to have sufficient funding. There are no direct advantages to the public in taking action to increase renewal fees, but failure to act could place the public in jeopardy as there could be delays in licensing practitioners and in the investigation and adjudication of complaints of negligence or other unprofessional conduct. To the extent the board has acted in anticipation of its need for additional revenue to offset additional expenditures and loss of income, the public is well-served. There are no disadvantages to the public; a \$77 increase in a professional licensure fee payable every two years is not likely to deter persons interested in entering the

profession nor is it likely to cause any currently practicing doctor to leave the profession.

The primary advantage to the Commonwealth is the availability of sufficient funding for the department and the board to carry out their statutory responsibilities. Since the agency is self-funded through its licensure fees, an increase in fees is the only mechanism for producing adequate income to meet its budget. There are no disadvantages to the agency or the Commonwealth.

There are no other matters of interest related to this regulatory action that are pertinent to the regulated community, government officials, and the public.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The board of medicine (the board) proposes to permanently raise its licensure fees to meet the requirements of HB 1441 and Chapter 1042, Item 321 of the 2003 General Assembly. The proposed new fee schedule has been in effect since July 2003 under the emergency regulations.

Estimated economic impact. The proposed changes permanently increase various licensure fees paid by doctors of medicine, osteopathy, podiatry, and chiropractic. The main purpose of the fee increase is to collect additional revenues to comply with the requirements of HB 1441. This bill strengthens the requirements for health care institutions to report misconduct by doctors and reduces the threshold for disciplinary action from gross negligence to simple negligence. As a result, the board expects 160 additional reports of misconduct that will be fully investigated, 95 informal conferences, and 25 formal conferences. Additionally, approximately 375 confidential consent agreements (a new disciplinary instrument introduced by the bill) are expected. A secondary purpose of the fee increase is to collect additional revenues to comply with the requirements of Chapter 1042, Item 321 of the 2003 Acts of Assembly. This bill mandates the transfer of \$560,568 from the Department of Health Profession's budget to the Virginia Department of Health for financial incentives such as scholarships to physicians who commit to practice in underserved areas of the Commonwealth. The total fiscal effect of increased reporting, investigations, disciplinary proceedings, enforcement and the transfer of funds to the Department of Health is estimated to be approximately \$3.7 million per biennium. The proposed fee changes to finance the anticipated shortfall are as follows:

Increase application fee from \$225 to \$302 for licensure in medicine, osteopathy, and podiatry and from \$200 to \$277 for licensure in chiropractic.

Increase biennial renewal fee of an active license from \$260 to \$337 for licensure in medicine, osteopathy, and podiatry and from \$235 to \$312 for licensure in chiropractic.

Increase late fee for biennial renewal from \$90 to \$115 for licensure in medicine, osteopathy, and podiatry and from \$80 to \$105 for licensure in chiropractic.

Increase reinstatement fee for a lapsed license (a license not renewed within two years after expiration) from \$305 to \$382 for licensure in medicine, osteopathy, and podiatry and from \$290 to \$367 for licensure in chiropractic.

Increase biennial renewal fee of an inactive license from \$130 to \$168 and increase late renewal fee of an inactive license from \$45 to \$55.

While the purpose of the proposed increase in fee schedule is to finance the additional expenditures introduced by HB 1441 and Item 321 of Chapter 1042, failure to collect additional revenues would undermine the ability of the board to perform all of its functions rather than only those functions recently introduced by the statutory changes. Thus, the benefit of the proposed fee increases is maintaining the level of public service provided by the board (i.e., protecting public health and safety through licensing, investigations of complaints, adjudication of disciplinary cases, etc.).

Although the total increase in compliance costs amounts to \$3.7 million per biennium, from an individual perspective, a \$77 increase in fees is a small portion of the total cost of entry (including all education and training expenses) into one of these medical professions. Thus, the proposed fee increases are unlikely to significantly alter decision of individuals to entry or exit these medical professions.

The proposed regulations also contain three minor changes, which are not expected to produce any significant economic effect. The language establishing \$85 fee for board approval to sit for Part 3 of the United States Medical Licensing examination will be deleted as this fee is no longer collected; students are currently allowed to participate in the exam without the board's approval. Thus, this change will remove an obsolete fee in the regulations and more accurately reflect the current practice. Similarly, another change will clarify that the licensure renewal occurs in each even-numbered year. Finally, the reference to the Code of Virginia with respect to reinstatement of licensure will be revised as legislative changes eliminated current referenced section and inserted a new section in its place. The relevant references and language is modified in a way that will maintain the same requirements as before.

Businesses and entities affected. There are currently 29,223 doctors of medicine and surgery, 1,018 doctors of osteopathy, 499 doctors of podiatry, and 1,634 doctors of chiropractic licensed in the Commonwealth.

Localities particularly affected. The proposed fee increases do not affect any particular locality more than others.

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# Proposed Regulations

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Projected impact on employment. Since the increase in licensure fees is a relatively small portion of the total cost of entry, no significant effect on employment in affected medical professions is expected. However, it is anticipated that an additional 27 full time administrative positions will be needed by the boards of medicine, nursing, and pharmacy as a result of HB 1441. Of the 27, the number of positions that will be devoted to the Board of Medicine is not known at this time. These positions will be filled as needed.

Effects on the use and value of private property. The effect of the proposed fee increases on the value of individual medical practices is expected to be small. However, the economic theory provides that the decrease in the aggregate value of privately owned medical practices should be equal to the aggregate decrease in profit streams, which will be equal to the total amount of fees collected from these practices.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Medicine concurs with the analysis of the Department of Planning and Budget for proposed regulations, 18 VAC 85-20-10 et seq., to increase certain fees related to increases in the disciplinary caseload and a change in the threshold for disciplinary action in the law.

## Summary:

*The proposed amendments increase the application fee and biennial renewal fee for licensure in medicine, osteopathy, podiatry, and chiropractic by \$77 per licensee and similarly increase other associated fees. This regulatory action will replace emergency regulations that have been in effect since July 15, 2003.*

## **18 VAC 85-20-22. Required fees.**

- A. Unless otherwise provided, fees established by the board shall not be refundable.
- B. All examination fees shall be determined by and made payable as designated by the board.
- C. The application fee for licensure in medicine, osteopathy, and podiatry shall be ~~\$225~~ \$302, and the fee for licensure in chiropractic shall be ~~\$200~~ \$277. ~~The fee for board approval to sit for Part 3 of the United States Medical Licensing Examination without subsequent licensure in Virginia shall be \$85.~~
- D. The fee for a temporary permit to practice medicine pursuant to § 54.1-2927 B (i) and (ii) of the Code of Virginia shall be \$30.
- E. The application fee for a limited professorial or fellow license issued pursuant to 18 VAC 85-20-210 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.
- F. The application fee for a limited license to interns and residents pursuant to 18 VAC 85-20-220 shall be \$55. The annual renewal fee shall be \$35 a year. An additional fee for late renewal of licensure shall be \$15.
- G. The fee for a duplicate wall certificate shall be \$15; the fee for a duplicate license shall be \$5.

H. The fee for biennial renewal shall be ~~\$260~~ \$337 for licensure in medicine, osteopathy and podiatry and ~~\$235~~ \$312 for licensure in chiropractic, due in *each even-numbered year in the licensee's birth month*. An additional fee for processing a late renewal application within one renewal cycle shall be ~~\$90~~ \$115 for licensure in medicine, osteopathy and podiatry and ~~\$80~~ \$105 for licensure in chiropractic.

I. The fee for requesting reinstatement of licensure or certification pursuant to § ~~54.1-2924~~ 54.1-2408.2 of the Code of Virginia *or for requesting reinstatement after any petition to reinstate the certificate or license of any person has been denied* shall be \$2,000.

J. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia ~~which that~~ has expired for a period of two years or more shall be ~~\$305~~ \$382 for licensure in medicine, osteopathy and podiatry and ~~\$290~~ \$367 for licensure in chiropractic and shall be submitted with an application for licensure reinstatement.

K. The fee for a letter of good standing/verification to another jurisdiction for a license shall be \$10.

L. The fee for certification of grades to another jurisdiction by the board shall be \$25. The fee shall be due and payable upon submitting the form to the board.

M. The fee for biennial renewal of an inactive license shall be ~~\$130~~ \$168, due in the licensee's birth month. An additional fee for late renewal of licensure shall be ~~\$45~~ \$55 for each renewal cycle.

N. The fee for a returned check shall be \$25.

**NOTICE:** The forms used in administering 18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

Instructions for Completing Application to Practice Medicine for Graduates of Approved Institutions (rev. ~~12/02~~ 7/03).

Instructions for Completing an Application to Practice Medicine for Graduates of Nonapproved Institutions (rev. ~~12/02~~ 7/03).

Instructions for Completing PMLEXIS Examination/License Application (rev. ~~9/04~~ 7/03).

~~Instructions~~ Information for Completing Chiropractic Endorsement Application (rev. ~~4/02~~ 7/03).

Instructions for Completing Podiatry Endorsement Application (rev. ~~4/03~~ 7/03).

Instructions for Completing Osteopathic ~~National Boards~~ Endorsement Medicine Licensure Application (rev. ~~4/02~~ 7/03).

Form A, Claims History Sheet (rev. 12/02).

Form B, Activity Questionnaire (rev. 12/02).



Form C, Clearance from Other State Boards (rev. 12/02).  
Form E, Disciplinary Inquiry (rev. 12/02).  
Application for a License to Practice Medicine and Surgery (rev. ~~12/02~~ 7/03).  
Application for a License to Practice Osteopathic Medicine (rev. ~~12/02~~ 7/03).  
Application for a License to Practice Podiatry (rev. ~~4/03~~ 7/03).  
*Application for a License to Practice Chiropractic* (rev. 7/03).  
Form H, Virginia Request for Podiatry Disciplinary Action (rev. 1/03).  
Form I, National Board of Podiatric Medical Examiners Request for Scores on Part I and II (rev. 1/03).  
Requirements and Instructions for an Intern/Resident License (rev. 1/03).  
Intern/Resident, Form A, Memorandum from Associate Dean of Graduate Medical Education (rev. 1/03).  
Intern/Resident, Form B, Certificate of Professional Education (rev. 12/02).  
Application for a Temporary License for Intern/Resident Training Program (rev. 1/03).  
Form H, Report of Clinical Rotations (rev. 12/02).  
Instructions for Completing an Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow (rev. 3/03).  
Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow (rev. 2/03).  
Form G, Request for Status Report of Educational Commission for Foreign Medical Graduates Certification (rev. 12/02).  
Form L, Certificate of Professional Education (rev. 12/02).  
Continued Competency Activity and Assessment Form (rev. 4/00).  
Instructions for Reinstatement of Medicine and Surgery Licensure Application (rev. ~~4/03~~ 7/03).  
Application for Reinstatement of License to Practice Medicine (rev. ~~4/03~~ 7/03).  
Form A, MD Reinstatement, Claims History Sheet (rev. 1/03).  
Form B, MD Reinstatement, Activity Questionnaire Form (rev. 1/03).  
Form C, MD Reinstatement, State Questionnaire Form (rev. 1/03).  
MD Reinstatement, Disciplinary Inquiries to Federation of State Medical Boards (rev. 1/03).  
Instructions for Reinstatement of Osteopathy Licensure Application (rev. ~~3/03~~ 7/03).  
Application for Reinstatement of License to Practice Osteopathy (rev. ~~3/03~~ 7/03).

Form A, Osteopathy Reinstatement, Claims History (rev. 3/03).  
Instructions for Reinstatement of Chiropractic Licensure Application (rev. ~~3/03~~ 7/03).  
Application for Reinstatement of License to Practice ~~Chiropractic~~ as a *Chiropractor* (rev. ~~3/03~~ 7/03).  
Instructions for Reinstatement of Podiatry Licensure Application (rev. ~~4/03~~ 7/03).  
Application for Reinstatement of License to Practice Podiatry (rev. ~~4/03~~ 7/03).  
Application for Reinstatement of License to Practice Medicine/Osteopathy After Petition for Reinstatement Denied or License Revoked (rev. 3/03).  
Application for Reinstatement of License to Practice Medicine/Osteopathy (rev. 2/03).  
Application for Reinstatement of License to Practice Chiropractic (rev. 3/03).  
Renewal Notice and Application, 0101 Medicine and Surgery (rev. ~~12/02~~ 7/03).  
Renewal Notice and Application, 0102 Osteopathy and Surgery (rev. ~~12/02~~ 7/03).  
Renewal Notice and Application, 0103 Podiatry (rev. ~~12/02~~ 7/03).  
Renewal Notice and Application, 0104 Chiropractic (rev. ~~12/02~~ 7/03).  
Renewal Notice and Application, 0108 Naturopath (rev. 12/02).  
Renewal Notice and Application, 0109 University and Limited License (rev. 12/02).  
Renewal Notice and Application, 0116 Interns and Residents (rev. 12/02).  
Application for Registration for Volunteer Practice (eff. 12/02).  
Sponsor Certification for Volunteer Registration (eff. 1/03).  
Guidelines for Completing the Practitioner Profile Questionnaire (rev. 12/02).  
Practitioner's Help Section (rev. 11/02).  
Practitioner Questionnaire (rev. 11/02).

VA.R. Doc. No. R03-264; Filed November 20, 2003, 2:24 p.m.

## BOARD OF NURSING

**Title of Regulation: 18 VAC 90-20. Regulations Governing the Practice of Nursing (amending 18 VAC 90-20-30).**

**Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.**

**Public Hearing Date: January 27, 2004 - 11 a.m.**

Public comments may be submitted until February 13, 2004.  
(See Calendar of Events section)

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# Proposed Regulations

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for additional information)

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail [elaine.yeatts@dhp.state.va.us](mailto:elaine.yeatts@dhp.state.va.us).

Basis: Regulations are promulgated under the general authority of Chapter 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the board the authority to promulgate regulations to administer the regulatory system.

The legal authority to promulgate the regulation for a fee increase is in the fifth enactment clause of Chapter 762 of the 2003 Acts of the Assembly.

The legal authority to promulgate the regulation for a fee increase as needed to offset a loss of revenue related to the Nurse Licensure Compact is Chapter 249 of the 2003 Acts of the Assembly.

Purpose: The purpose of the regulatory action is to address the need for increased revenue related to two legislative actions of the 2003 General Assembly.

House Bill 1441 strengthened requirements for health care institutions to report misconduct by nurses when there is a "reasonable probability that such health professional may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations." Both the time limit for reporting and the content of the report have been specified in the Code of Virginia, and the civil penalty for failure to report has been increased from a maximum of \$10,000 to \$25,000.

Accordingly, the agency estimated that complaints or reports of misconduct by nurses could increase from 1,400 to 1,750 per year, resulting in approximately 315 new cases to fully investigate, 78 more informal conferences and 22 more formal hearings. In addition, there may be approximately 174 cases that will result in a confidential consent agreement, which must be prepared by legal staff and reviewed by counsel. During debate on the bill, it was clearly noted that the additional cost associated with compliance and implementation of HB1441 would result in increased costs for the affected boards and would generate an immediate need for additional revenue in order to address the increased number of reports, investigations and disciplinary cases sent to the board. To fail to address misconduct by a nurse in a timely manner could place the public health and safety at risk.

In response, the General Assembly included an enactment clause to authorize the promulgation of emergency regulations to increase fees. The fifth enactment clause in Chapter 762 of the 2003 Acts of the Assembly requires, "That the health regulatory boards shall promulgate regulations to address any fee adjustments necessary to accomplish the regulatory and enforcement responsibilities set forth in this act to be effective within 280 days of its enactment." In compliance, the board adopted emergency regulations adding \$12 to the biennial renewal fee and proposes to include that increase in the promulgation of permanent regulations.

House Bill 1871 authorizes Virginia's membership in a multistate nursing compact that provides for the reciprocal

recognition of other states' licenses to practice as a registered nurse or a licensed practical nurse. While the provisions of this bill will not become effective until January 1, 2005, the board must begin the process of addressing the resulting loss of revenue, which can only be accomplished through an increase in fees charged to applicants and licensees.

Currently, there are 19 states that have implemented membership in the compact and others that are in the process. For those nurses who hold a license in Virginia but reside in a compact state, it will become unnecessary for them to retain a Virginia license as they will be practicing in Virginia on a multistate licensure privilege. Therefore, it is expected that the Board of Nursing will realize a loss of revenue from renewals, application fees for licensure by endorsement, and fees for verification of licensure to other states.

While there may be some very modest savings from fewer licensees and fewer applicants, the expenditures for the board are largely related to its disciplinary caseload, which would not be decreased by this action. Nurses who practice in Virginia, even though they hold a license in another state and pay their renewal fees to that state, would still be subject to the investigations and disciplinary proceedings in this state. Therefore, all the costs for investigating and conducting a hearing on a complaint of misconduct on a compact nurse will be borne by those nurses who hold a Virginia license. To ensure that there is sufficient revenue for the board to continue its responsibility of licensing minimally competent nurses and taking disciplinary action against those who are impaired or unprofessional by the effective date of the compact, it must begin to revise its fee schedule accordingly. If the board delayed the adoption of increased fees related to the loss of revenue until after entry into the compact, a deficit would likely result that would necessitate even higher fees to resolve the deficit and have sufficient revenue for current operations.

Failure to provide sufficient funding through the adoption of regulations to cover the costs of implementing this legislation would place the agency in noncompliance with the law. If the board failed to increase fees sufficient to provide adequate staffing and support for investigative and disciplinary activities, the public health and safety would suffer by long delays in responding to complaints, processing cases and possibly removing incompetent or dangerous practitioners. The proposed regulatory action is essential to ensure that the board and the department have sufficient resources to respond to reports of misconduct in a timely and thorough fashion.

Substance: The biennial renewal fee is \$70 (\$82 under the emergency regulation currently in effect). The proposed biennial renewal fee will be \$95. Of the \$25 increase, \$12 is related to the requirements of HB1441 on increased reporting and is already effective through an emergency action. An additional \$13 per nurse per biennium will be necessary to offset the additional expenditures and loss of revenue related to joining the Nurse Licensure Compact in January 2005 as mandated by HB1871.

The application fee is \$105. Under the emergency regulation, the application fee is \$117. The proposed application fee will be \$130. Consistent with the fee principles, the application fee

includes the first biennial renewal so the new licensee is not required to renew his license for at least two years. Therefore, the application fee must be increased by the same amount as the renewal fee.

The late renewal fee is \$25. Under emergency regulations, the late fee is \$30. The proposed late renewal fee will be \$35. According to the fee principles, the late fee should be approximately 1/3 of the renewal fee, so this fee is adjusted accordingly.

The reinstatement of a lapsed license is \$120, \$132 under emergency regulations. The proposed reinstatement of a suspended or revoked license is \$160, \$172 under emergency regulations. Reinstatement fee for a lapsed license will be \$145; reinstatement for a suspended or revoked license will be \$185. As with the application fee, the reinstatement fee includes the biennial renewal and, therefore, is adjusted consistent with the increase in the renewal fee.

Issues: In order for the department to continue processing applications, investigating complaints and conducting disciplinary proceedings against nurses, it is necessary for the board to have sufficient funding. There are no direct advantages to the public in taking action to increase nursing renewal fees, but failure to act could place the public in jeopardy as there could be delays in licensing nurses, which would further exacerbate the nursing shortage in the state, and there could be significant delays in the investigation and adjudication of complaints of negligence or other unprofessional conduct. To the extent the board has acted in anticipation of its need for additional revenue to offset additional expenditures and loss of income, the public is well served. There are no disadvantages to the public; a \$25 increase in a professional licensure fee payable every two years is not likely to deter persons interested in entering the profession nor is it likely to cause any currently practicing nurse to leave the profession.

The primary advantage to the Commonwealth is the availability of sufficient funding for the department and the board to carry out its statutory responsibilities. Since the agency is self-funded through its licensure fees, an increase in fees is the only mechanism for producing adequate income to meet its budget. There are no disadvantages to the agency or the Commonwealth.

There are no other matters of interest related to this regulatory action that are pertinent to the regulated community, government officials, and the public.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private

property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Board of Nursing (the board) proposes to permanently raise its licensure fees to meet the requirements of HB 1441 and HB 1871 of the 2003 General Assembly. The new fee schedule incorporating the fiscal effect of HB 1441 has been in effect since July 2003 under the emergency regulations. The fiscal effect of HB 1871 has not been incorporated in the fee schedule under emergency regulations, but will be incorporated with this permanent action.

Estimated economic impact. The proposed changes permanently increase various licensure fees paid by registered and licensed practical nurses. The purpose of the fee increase is to collect additional revenues to comply with the requirements of HB 1441 and HB 1871. HB 1441 strengthens the requirements for health care institutions to report misconduct by nurses. As a result, the board expects 350 additional reports or complaints, 315 full investigations, 78 informal conferences, and 22 formal hearings. Also, about 174 confidential consent agreements (a new disciplinary instrument introduced by the bill) are expected. The total fiscal effect of increased reporting, investigations, disciplinary proceedings, and enforcement is estimated to be approximately \$2.1 million budget shortfall for the Board of Nursing per biennium. The board already increased the biennial license renewal fee by \$12 and other fees accordingly to finance the fiscal effect of HB 1441 under the emergency regulations.

HB 1871 will create additional budget shortfall for the agency. This bill mandates Virginia's membership in a multistate nursing compact starting in January 2005. A nurse holding a license from any of the member states<sup>1</sup> will be allowed to practice everywhere in the compact. Currently, nurses are required to hold multiple licenses if they practice in more than one state. The reciprocal recognition of licenses among the members will eliminate the need to retain a Virginia license for those who practice in Virginia based on a multistate licensure privilege. Thus, the number of licenses issued by the board is expected to decrease by 9,667, which will cause a significant reduction in biennial renewal fees, license verification fees, and licensure-by-endorsement fees. Although there is likely to be some savings from fewer licensees and applicants, the costs associated with disciplinary proceedings related to individuals with multistate licensure privilege will continue to be borne by the Commonwealth and there will be new staff, training, and database expenditures associated with administration of the compact agreement. A significant decrease in revenues coupled with only a modest decrease in licensure costs and additional new expenditures is projected to produce \$1.3 million net budget shortfall (\$13 per license) every two years.

The proposed fee changes to finance the anticipated \$3.4 million shortfall are as follows:

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<sup>1</sup> Currently there are 19 states that have signed the compact and there are others in the process.

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# Proposed Regulations

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- Increase application fee from \$105 to \$130 for both licensure by examination and by endorsement.
- Increase biennial renewal fee from \$70 to \$95.
- Increase late fee for biennial renewal from \$25 to \$35.
- Increase reinstatement fee for a lapsed license (a license not renewed within two years after expiration) from \$120 to \$145.
- Increase reinstatement fee for a suspended or revoked license from \$160 to \$185.

While the purpose of the proposed increase in fee schedule is to finance the additional expenditures introduced by HB 1441 and HB 1871, failure to collect additional revenues would undermine the ability of the board to perform all of its functions rather than only those functions recently introduced by the statutory changes. Thus, the benefit of the proposed fee increases is maintaining the level of public service provided by the board (i.e. protecting public health and safety through licensing, investigations of complaints, adjudication of disciplinary cases, review of and approval of nursing education programs, etc.).

Although the total increase in compliance costs amounts to \$3.4 million per biennium, from an individual perspective, a \$25 increase in fees is a small portion of the total cost of entry (including all education and training expenses) into the nursing profession. Thus, while higher fees may discourage some individuals, particularly those considering part-time work, from seeking licensure and offering their services, the proposed fee increases are unlikely to significantly alter the decision of individuals to entry or exit the profession and consequently are not expected to significantly affect the supply of nurses in Virginia.

Businesses and entities affected. There are currently 85,718 registered nurses and 27,236 practical nurses licensed in the Commonwealth.

Localities particularly affected. The proposed fee increases do not affect any particular locality more than others.

Projected impact on employment. Since the increase in licensure fees is a relatively small portion of the total cost of entry, no significant effect on employment in nursing profession is expected. However, it is anticipated that an additional 27 full time administrative positions will be needed by the boards of medicine, nursing, and pharmacy as a result of HB 1441. Of the 27, the number of positions that will be devoted to the Board of Nursing is not known at this time. Additionally, it is estimated that HB 1871 will increase the staffing needs for the Board of Nursing by two positions. All of these positions will be filled as needed.

Effects on the use and value of private property. The proposed fee increases are not expected to significantly affect the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Nursing concurs with the analysis of the Department of Planning and Budget for proposed regulations, 18 VAC 90-20, to increase

certain fees pursuant to increases in the disciplinary caseload and implementation of the nurse licensure compact.

## Summary:

*Fees related to application for and renewal of licensure as a registered nurse or a licensed practical nurse are being increased to provide sufficient funding for an increased disciplinary caseload related to mandated reporting of misconduct and to offset the decrease in revenue related to Virginia's entry into the Nurse Licensure Compact in January 2005. Both initiatives result from legislation passed by the 2003 Session of the General Assembly. The biennial renewal fee will increase from \$70 to \$95 and other fees associated with the renewal fee will increase accordingly.*

## **18 VAC 90-20-30. Fees.**

Fees required in connection with the licensing of applicants by the board are:

1. Application for licensure by examination	<del>\$105</del> \$130
2. Application for licensure by endorsement	<del>\$105</del> \$130
3. Reapplication for licensure by examination	\$25
4. Biennial licensure renewal	<del>\$70</del> \$95
5. Late renewal	<del>\$25</del> \$35
6. Reinstatement of lapsed license	<del>\$120</del> \$145
7. Reinstatement of suspended or revoked license	<del>\$160</del> \$185
8. Duplicate license	\$5
9. Replacement wall certificate	\$15
10. Verification of license	\$25
11. Transcript of all or part of applicant/licensee records	\$25
12. Returned check charge	\$25
13. Application for CNS registration	\$95
14. Biennial renewal of CNS registration	\$60
15. Reinstatement of lapsed CNS registration	\$105
16. Verification of CNS registration to another jurisdiction	\$25
17. Late renewal of CNS registration	\$20

**NOTICE:** The forms used in administering 18 VAC 90-20, Regulations Governing the Practice of Nursing, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, Board of Nursing, 6603 W. Broad St., Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

## FORMS

Instructions for Licensure by Endorsement -- Registered Nurse (rev. 10/02).

Application for Licensure by Endorsement -- Registered Nurse (rev. ~~10/02~~ 11/03).

Instructions for Licensure by Endorsement-- Licensed Practical Nurse (rev. 10/02).

Application for Licensure by Endorsement -- Licensed Practical Nurse (rev. ~~40/02~~ 11/03).

Instructions for Filing Application for Licensure by Examination for Registered Nurses, RN1-INS (rev. 10/02).

Application for Licensure by Examination -- Registered Nurse (rev. ~~40/02~~ 11/03).

Instructions for Filing Application for Licensure by Examination for Practical Nurses, PN1-INS (rev. 10/02).

Application for Licensure by Examination -- Licensed Practical Nurses (rev. ~~40/02~~ 11/03).

Instructions for Filing Application for Licensure by Repeat Examination for Registered Nurses, RN2-INS (rev. 10/02).

Application for Licensure by Repeat Examination for Registered Nurse (rev. 10/02).

Instructions for Filing Application for Licensure by Repeat Examination for Practical Nurses, PN2-INS (rev. 10/02).

Application for Licensure by Repeat Examination for Licensed Practical Nurse (rev. 10/02).

Instructions for Filing Application for Licensure by Examination for Licensed Practical Nurses Educated in Other Countries, PNF-INS (rev. ~~40/02~~ 11/03).

Application for Licensure by Examination for Licensed Practical Nurses Educated in Other Countries (rev. ~~40/02~~ 11/03).

Application for Licensure by Examination for Registered Nurses Educated in Other Countries (rev. ~~40/02~~ 11/03).

*Instructions for Filing Application for Licensure by Examination for Registered Nurses Educated in Other Countries (rev. 11/03).*

Temporary Exemption to Licensure (eff. 10/02).

Application for Reinstatement of License as a Registered Nurse (rev. ~~40/02~~ 11/03).

Application for Reinstatement of License as a Licensed Practical Nurse (rev. ~~40/02~~ 11/03).

*Application for Reinstatement of License as a Registered Nurse Following Suspension or Revocation (rev. 11/03)*

*Application for Reinstatement of License as a Licensed Practical Nurse Following Suspension or Revocation (rev. 11/03).*

License Verification Form (rev. 10/02).

Renewal Notice and Application, 0001, RN (rev. ~~42/02~~ 11/03).

Renewal Notice and Application, 0002, LPN (rev. ~~42/02~~ 11/03).

Renewal Notice and Application, 0015, Clinical Nurse Specialist (rev. 12/02).

Application for Registration as a Clinical Nurse Specialist (rev. 10/02).

Survey Visit Report (rev. 12/02).

Annual Report for Registered Nursing Programs (rev. 12/02).

Annual Report for Practical Nursing Programs (rev. 12/02).

Renewal Notice and Application, 1401, Certified Nurse Aide (rev. 12/02).

Renewal Notice and Application, Advanced Certified Nurse Aide (eff. 12/02).

Instructions for Application for Advanced Nurse Aide Certification (eff. 2/03).

Application for Certification as Advanced Nurse Aide (eff. 2/03).

Application for Reinstatement of Nurse Aide Certification (rev. 12/02).

Instructions for Application for Reinstatement of Nurse Aide Certification (rev. 12/02).

Instructions for Application for Reinstatement of Advanced Nurse Aide Certification (eff 2/03).

Application for Reinstatement of Advanced Nurse Aide Certification (eff. 2/03).

Application for Nurse Aide Certification by Endorsement (rev. 12/02).

Instructions for Application for Nurse Aide Certification by Endorsement (rev. 12/02).

Nurse Aide Certification Verification Form (rev. 12/02).

Application to Establish Nurse Aide Education Program (rev. 12/02).

Application to Establish an Advanced Nurse Aide Education Program (eff. 12/02).

Nurse Aide Education Program Evaluation Report (rev. 11/02).

Nurse Aide Education Program -- On-Site Review Report (rev. 11/02).

Advanced Certification Nurse Aide Education Program -- On-site Review Report (eff. 12/02).

Evaluation of On-Site Visitor (rev. 12/02).

Request for Statistical Information (rev. 12/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

VA.R. Doc. No. R03-260; Filed November 20, 2003, 2:26 p.m.



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# Proposed Regulations

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## TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

### STATE CORPORATION COMMISSION

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

Appendices A through E, referenced in the following order, are not being published; however, they are available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1300 East Main Street, 1st Floor, Richmond, Virginia 23219, from 8:15 a.m. to 5 p.m., Monday through Friday.

**Title of Regulation:** 20 VAC 5-309. Rules for Enforcement of the Underground Utility Damage Prevention Act (amending 20 VAC 5-309-15, 20 VAC 5-309-20, 20 VAC 5-309-40, 20 VAC 5-309-70, 20 VAC 5-309-110 and 20 VAC 5-309-140).

**Statutory Authority:** §§ 12.1-13 and 56-265.30 of the Code of Virginia.

**Public Hearing Date:** Hearing will be scheduled if requested. Public comments may be submitted until December 31, 2003. (See Calendar of Events section for additional information)

**Agency Contact:** Massoud Tahamtani, Director, Division of Utility and Railroad Safety, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9264, FAX (804) 371-9734, toll free (800) 552-7945, or e-mail [mtahamtani@scc.state.va.us](mailto:mtahamtani@scc.state.va.us).

**Summary:**

*Proposed revisions incorporate the effects, among other things, of certain amendments that the General Assembly has made to the Underground Utility Damage Prevention Act (Act), Chapter 10.3 (§ 56-265.14 et seq.) of Title 56 of the Code of Virginia. The proposed amendments clarify the period during which an excavator's notification to the notification center would be valid; propose a regulation that addresses how letter designations will be assigned to operators when marking underground utility lines; adopt marking symbols for duct structures and conduit systems, which marking symbols shall be those set out in item 9 of the Virginia Underground Utility Best Practices as provided in the Virginia Underground Utility Marking Standards published by the Division of Utility and Railroad Safety; and specify the marking symbols to be used in areas where marks may be destroyed and offset marking is used, that is, the marking symbols as shown in item 15 of the Virginia Underground Utility Best Practices as provided in the Virginia Underground Utility Marking Standards published by the Division of Utility and Railroad Safety. Additionally,*

*the regulations propose marking symbols for underground lines in conjunction with notification tickets issued to licensed professionals, i.e., designers, for commercial, governmental projects, or residential projects consisting of 25 or more units requiring approval of governmental or regulatory authorities. The proposals further substitute the Division of Utility and Railroad Safety for the Division of Energy Regulation as the commission division responsible for assisting the commission in enforcement of the Act and remove outdated references to the commission's Rules of Practice and Procedure.*

AT RICHMOND, NOVEMBER 17, 2003

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE-2003-00490

**Ex Parte:** In the matter of revisions to the Commission's Rules for the Enforcement of the Underground Utility Damage Prevention Act

#### ORDER PRESCRIBING NOTICE AND INVITING COMMENTS AND/OR REQUESTS FOR HEARING

On December 19, 2001, the State Corporation Commission ("Commission") entered an Order in Case No. PUE-1999-00786, adopting "Rules for Enforcement of the Underground Utility Damage Prevention Act" ("Rules") that became effective on July 1, 2001. During the 2001 Session of the General Assembly, § 56-265.30 of the Act was amended to provide that the Commission was not authorized to promulgate any rules or regulations pursuant to its authority to enforce the Underground Utility Damage Prevention Act, Chapter 10.3 (§ 56-265.15 et seq.) of Title 56 of the Code of Virginia (the "Act") that require any person, other than jurisdictional gas or hazardous liquid operators, to report to the Commission any probable violation of the Act or any incident involving damage, dislocation or disturbance of any utility. See 2001 Va. Acts ch. 399.

In response to this statutory change, the Commission entered an Order on April 24, 2001, in Case No. PUE-1999-00786, conforming its Rules to this statutory amendment. In that Order, Part III of the Rules (20 VAC 5-309-90 thru 20 VAC 5-309-120) were removed. The regulations that were eliminated required operators other than jurisdictional gas or hazardous liquid operators, to report incidents involving violations of the Act or damage, dislocation, or disturbance of any underground utility lines.

Since this statutory revision and the adoption of the Rules, the General Assembly has further amended the Act to: (i) clarify the period during which an excavator's notification to the notification center would be valid; (ii) provide for the issuance of "Designer" notices by the notification center at the request of designers, i.e., licensed professionals designing governmental, commercial, or residential projects consisting of twenty-five or more units, or industrial projects; (iii) require operators to provide information on the operator's underground utility lines, and to locate these lines if the designer requests a field locate; and (iv) authorize the Commission to adopt regulations governing (a) the letter

designations for each operator to be used in conjunction with the marking of underground utility lines, and (b) symbols for marking of underground utility lines, that are "in compliance with subsection B (sic) [2] of § 56-265.17:3" and in accordance with industry standards. See 2002 Va. Acts ch. 841.

Since these statutory changes, the Commission's Division of Utility and Railroad Safety ("Division" or "Staff") established a committee of stakeholder representatives, and developed proposals for the designation of letters for each operator to be used in conjunction with the marking of all underground utility lines and proposals regarding symbols for marking of underground lines in compliance with the requirements of § 56-265.17:3, i.e., procedures for operators receiving a designer notice. Staff advises that this committee reached a consensus on a set of marking best practices to be used in Virginia. We commend these participants for their efforts and note that their recommended marking best practices have been incorporated in the rules proposed for consideration by the Division.

In addition, the Division has identified certain necessary technical revisions to Chapter 309, "Rules for Enforcement of the Underground Utility Damage Prevention Act," 20 VAC 5-309-10 et seq., which the Staff now submits should be considered by the Commission. Among the technical changes proposed by the Division are a revision to 20 VAC 5-309-15 and 20 VAC 5-309-20 to recognize that the Division of Utility and Railroad Safety rather than the Division of Energy Regulation is now charged with assisting the Commission in the enforcement of the Underground Utility Damage Prevention Act. The Division of Utility and Railroad Safety was created on July 1, 2002, out of the Division of Railroad Regulation and part of the Division of Energy Regulation.

Further, the Division has proposed certain technical amendments to the Rules to incorporate recent revisions to the Commission's Rules of Practice and Procedure. Additionally, technical revisions have been made to 20 VAC 5-309-110 to conform that Rule to amendments in the Act concerning the period during which an excavator's notification to the center is valid.

NOW, UPON consideration of the foregoing, the Commission is of the opinion and finds that a rulemaking should be initiated to consider the revisions to the Rules proposed by our Staff as a result of the latest amendments to the Act; that public notice should be given of the revisions and additions to the Rules proposed by the Staff (hereafter "Rule Revisions"); that interested persons should be afforded an opportunity to file written comments or to request a hearing on the Rule Revisions appended hereto as Appendix 1; that the notice of the proposed rulemaking should be published in newspapers of general circulation throughout the Commonwealth; that the Staff should file a report summarizing and analyzing the filed comments and proposing further revisions to the Rules where appropriate; and that this Order and proposed Rule Revisions should be forwarded promptly to the Registrar of Regulations for publication in the Virginia Register of Regulations.

Accordingly, IT IS ORDERED THAT:

(1) This matter shall be docketed and assigned Case No. PUE-2003-00490.

(2) Interested persons may obtain a copy of this Order, together with a copy of the proposed Rule Revisions upon which comment is sought (Appendix 1 hereto) by directing a request in writing for the same on or before December 19, 2003, to Massoud Tahamtani, Director, Division of Utility and Railroad Safety, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218, and referring to Case No. PUE-2003-00490.

(3) A copy of this Order and the Revisions to the Rules (Appendix 1 hereto) shall be made available for public review at the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, during the Commission's regular hours of operation, Monday through Friday, from 8:15 a.m. to 5:00 p.m., and shall be promptly made available to the public on the Commission's website. Interested persons may also review a copy of the Order and Appendix 1 thereto on the Commission's website at:

<http://www.state.va.us/scc/caseinfo.htm>.

(4) Interested persons wishing to file comments and/or requests for hearing on the proposed Rule Revisions shall file an original and fifteen (15) copies of such comments in writing on or before December 31, 2003, with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118; and shall refer to Case No. PUE-2003-00490.

(5) Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website:

<http://www.state.va.us/scc/caseinfo/notice.htm>.

Electronic comments shall be submitted on or before December 31, 2003.

(6) On or before December 5, 2003, the Commission's Division of Information Resources shall cause the following notice to be published as classified advertising on two occasions in newspapers of general circulation throughout the Commonwealth of Virginia:

**NOTICE TO THE PUBLIC OF PROPOSED  
REVISIONS THAT THE STATE CORPORATION  
COMMISSION IS CONSIDERING TO THE RULES  
FOR THE ENFORCEMENT OF THE UNDERGROUND  
UTILITY DAMAGE PREVENTION ACT**

**CASE NO. PUE-2003-00490**

The Underground Utility Damage Prevention Act, Chapter 10.3 (§ 56-265.14 et seq.) of Title 56 of the Code of Virginia (the "Act") was revised by the 2002 General Assembly, effective July 1, 2002, among other things, to: clarify the period during which an excavator's notification to the notification center would be valid; provide for the issuance of "Designer" notices by the notification center at the request of designers, i.e., licensed professionals designing governmental, commercial, or residential projects consisting of

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twenty-five or more units or industrial projects; and require operators to provide information to designers on the location of operator's underground utility lines, and to locate these underground lines if the designer requests a field locate. This Session of the General Assembly also amended § 56-265.19 F of the Act to authorize the State Corporation Commission ("Commission") to adopt regulations governing (i) the letter designations for each operator to be used in conjunction with the marking of underground utility lines, and (ii) symbols for marking of underground utility lines in compliance with "subsection B (sic) [2] of § 56-265.17:3 of the Act. Such letter designation and marking symbols shall be in accordance with industry standards." 2002 Va. Acts ch. 841. Consequently, the Commission is considering revisions and additions to the Rules for Enforcement of the Underground Utility Damage Prevention Act adopted in Case No. PUE-1999-00786 ("proposed Rule revisions") proposed by the Commission's Division of Utility and Railroad Safety ("Division") to address these statutory and certain other technical changes.

According to the Division, the proposed Rule revisions are necessary to: comply with the 2002 amendments to the Act, include revisions to refer to the Division of Utility and Railroad Safety instead of the Division of Energy Regulation as the Division responsible for assisting the Commission in enforcing the Act, and incorporate in the Rules certain technical corrections to references to the Commission's Rules of Practice and Procedure. The Rules, in conjunction with the Act, seek to reduce damage to underground utility lines and prevent injuries, inconvenient utility service interruptions, damage to the environment, economic losses resulting from damage to underground utility lines, and possible loss of life. The revisions proposed by Staff will affect utility operators, contract-locators, excavators, and the public generally. Therefore, the Commission has initiated the foregoing rulemaking to receive comments and requests for hearing on the Rule revisions and additions proposed by the Staff.

A copy of the Order Prescribing Notice and Inviting Comments and/or Requests for Hearing ("Order"), together with the proposed Rule revisions upon which comments are sought, may be reviewed from 8:15 a.m. to 5:00 p.m., Monday through Friday, in the State Corporation Commission's Document Control Center, located at 1300 East Main Street, Tyler Building, First Floor, Richmond, Virginia 23219. Interested persons may obtain a copy of the Commission's Order and the proposed Rule revisions under consideration by directing a written request for the same on or before December 19, 2003, to Massoud Tahamtani, Director, Division of Utility and Railroad Safety, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218, and referring to Case No. PUE-2003-00490. Interested persons may also review a copy of this Order and proposed Rule revisions on the Commission's website,

<http://www.state.va.us/scc/caseinfo.htm>.

Any person who wishes to comment upon and/or request a hearing on the proposed Rule revisions appended to the Commission's Order Prescribing Notice and Inviting Comments and/or Requests for Hearing shall file an original and fifteen (15) copies of such comments or requests with

Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before December 31, 2003, and shall refer to Case No. PUE-2003-00490.

Requests for hearing shall state why a hearing is necessary and why issues raised in the request for hearing cannot be adequately addressed in written comments. All correspondence shall refer to Case No. PUE-2003-00490. If no sufficient request for hearing is received, the Commission may enter an order promulgating rules based upon the comments and the written pleadings filed in this proceeding.

Interested persons desiring to submit comments electronically may do so by following the instructions available on the Commission's website:

<http://www.state.va.us/scc/caseinfo/notice.htm>

and referring to Case No. PUE-2003-00490. Electronic comments must be submitted to the Commission on or before December 31, 2003.

All written communications to the Commission concerning this proceeding shall be directed to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and should refer to Case No. PUE-2003-00490.

### THE DIVISION OF UTILITY AND RAILROAD SAFETY

(7) On or before February 6, 2004, the Division shall file a report, summarizing and analyzing the comments received herein and proposing further additions or revisions to the Rules as appropriate. The Division shall mail a copy of its report to all parties of record.

(8) The Commission's Division of Information Resources shall forthwith cause this Order to be forwarded for publication in the Virginia Register of Regulations.

(9) On or before January 30, 2004, the Division of Information Resources shall file with Clerk of the Commission proof of publication of the notice required in Ordering Paragraph (6) herein.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all of the certificated water and sewer utilities subject to the Commission's regulation as set out in Appendix A hereto; all of the telephone companies regulated by the Commission as set out in Appendix B hereto; all of Virginia's certificated interexchange carriers as set out in Appendix C hereto; all of the certificated gas utilities as set out in Appendix D hereto; all of the certificated electric cooperatives and electric companies as set out in Appendix E hereto; Jack Combs, President, Virginia Underground Utility Protection Service, Inc., P.O. Box 28477, Richmond, Virginia 23228; Jim Holzer, One Call Concepts, Inc., 7223 Parkway Drive, Hanover, Maryland 21076; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; Gray Pruitt, 2415 Grenoble Road, Richmond, Virginia 23294; John F. Gionfriddo, Town of Vienna, 127 Center Street South, Vienna, Virginia 22180; R. Lance Terpenney, Town Manager, and Wayne O. Nelson, P.E., Director of Engineering and Public



Works, Town of Christiansburg, 100 East Main Street, Christiansburg, Virginia 24073-3029; John G. Whitacre, Engineer, Frederick County Sanitation Authority, P.O. Box 1877, Winchester, Virginia 22604-8377; Jim Stepahin, Executive Director, Virginia Utility & Heavy Contractors Council, 9303 Center Street, Suite 109, Manassas, Virginia 20110-5547; Peter S. Fortin, P.E., Engineering Manager, City of Norfolk, Department of Utilities, P.O. Box 1080, Norfolk, Virginia 23501; William M. Hackworth, City Attorney, and Gary E. Tegenkamp, Assistant City Attorney, City of Roanoke, Dept. of Utility Line Services, 464 Municipal Building, 215 Church Avenue, S.W., Roanoke, Virginia 24011; Bettie L. Cahoon, Construction Inspector Supervisor, City of Chesapeake, Department of Public Utilities, P.O. Box 15225, Chesapeake, Virginia 23328; Steven C. Vermillion, Executive Director, Associated General Contractors of Virginia, Inc., P.O. Box 5700, Glen Allen, Virginia 23058-5700; Richard Harrell, City of Virginia Beach, Department of Public Utilities Engineering, 2405 Courthouse Drive, Virginia Beach, Virginia 23456; John E. Moore, Director of Public Works, Town of Herndon, P.O. Box 427, Herndon, Virginia 20172-0427; John Garrett, Engineering Field Supervisor/Utilities Locator, Planning & Engineering Dept., Town of Blacksburg, 300 South Main Street, Blacksburg, Virginia 24060; Gregory Wroniewicz, Department of Transportation, Commonwealth of Virginia, 1401 East Broad Street, Richmond, Virginia 23219-2000; Charlie C. Crowder, Jr., General Manager, Fairfax County Water Authority, 8570 Executive Park Avenue, P.O. Box 1500, Merrifield, Virginia 22116-0815; M. Daniel Kuhns, Jr., Distribution Superintendent, Newport News Waterworks, 2600 Washington Avenue, Newport News, Virginia 23607; Gary L. Robertson, Utility Director, County of Roanoke Utility Department, 1206 Kessler Mill Road, Salem, Virginia 24153; Diana L. McColgan, Utility Coordinator, Arlington County, Department of Public Works, Engineering Division, #1 Courthouse Plaza, Suite 813, 2100 Clarendon Boulevard, Arlington, Virginia 22201; Moe M. Wadda, P.E., Civil Engineer, City of Falls Church, Department of Environmental Services, Harry E. Wells Building, 300 Park Avenue, Falls Church, Virginia 22046-3332; Philip Monger, Director of Public Works, City of Harrisonburg, Water & Sewer Operations Center, 2155 Beery Road, Harrisonburg, Virginia 22801; Ifty Khan, Director, Fairfax County Wastewater Collection Division, 6000 Fred's Oak Road, Burke, Virginia 22015; Roy E. Covington, P.E., Assistant Director of Utilities, Chesterfield County, P.O. Box 40, Chesterfield, Virginia 23832-0040; David Ward, Ward and Stancil, Inc., 8346 Old Richfood Road, Mechanicsville, Virginia 23116; Carl Brumfield, Utiliquist, LLC, 1620 East Parham Road, Richmond, Virginia 23228; Mark Singer, RAMCA, 1108 East Main Street, Suite 904, Richmond, Virginia 23218; Jack Watts, Loss Control, Contracting Enterprises Incorporated, P.O. Box 13725, Roanoke, Virginia 24036; and the Commission's Office of General Counsel and Division of Utility and Railroad Safety.

## **20 VAC 5-309-15. Definitions.**

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

"Division" means the State Corporation Commission's Division of ~~Energy Regulation~~ *Utility and Railroad Safety*.

"Installation records of a utility line" means maps, drawings, diagram, sketches, or any other depictions or descriptions of an underground utility line that reflect the location at the time of installation in a reasonably accurate manner.

"Locate" or "marking" means an operator's or its contract locator's markings of an underground utility line.

"Serious impact on public health" means any condition involving a water or sewer utility line that creates, or may create, a danger to the health and well being of the public.

## **20 VAC 5-309-20. Report of probable violations.**

Any person, as defined in § 56-265.15 of the Code of Virginia, may report probable violations of Chapter 10.3 of Title 56 to the State Corporation Commission, Division of ~~Energy Regulation~~ *Utility and Railroad Safety* (division). The reports of probable violations may be submitted to the division in writing, by phone, fax, e-mail, or in person. All written reports of probable violations shall include the information requested on SCC Form DPA-1, if available. All probable violations shall be reported to the division within 30 days of a person becoming aware of the circumstances constituting the probable violations.

## **20 VAC 5-309-40. Advisory Committee review of probable violations.**

A. The Advisory Committee (committee), established by the commission, shall meet on a periodic basis to review probable violations of the Act and the staff's findings and recommendations relative to such violations. Upon determination of either the staff or the committee that a violation may have occurred, and that an enforcement action is required, the staff shall take one or more of the following actions:

1. Issue a warning letter to the person alleged to have committed the violation (respondent);
2. Issue an information letter to a county, city, or town alleged to have committed the violation;
3. Enter settlement negotiations with the respondent. Upon reaching agreement on settlement terms, the division shall present the proposed settlement to the commission for final acceptance or rejection; or
4. Request the issuance of a "Rule to Show Cause" order pursuant to ~~Rule 4-11~~ (5 VAC 5-20-90) of the commission's Rules of Practice and Procedure.

B. In the event that the staff but not the committee recommends enforcement action against a probable violator, notwithstanding 20 VAC 5-309-40 A 3, the staff may not pursue a settlement with the probable violator absent the initiation of a rule to show cause. As part of its request for a rule to show cause, staff shall report to the commission the committee's recommendations and reason or reasons for the committee's recommendations.

C. As soon as practicable after its establishment, the committee shall develop and implement a set of bylaws.

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# Proposed Regulations

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These bylaws shall delineate the committee's practice and procedures relative to performing the duties assigned by the commission, including the review of probable violations of the Act.

D. If deemed necessary, the committee shall establish one or more subcommittees of experts in the operations covered by the Act. These subcommittees shall assist the committee in performing its assigned duties.

## **20 VAC 5-309-70. Petition for reconsideration.**

Any person subject to an order from the Virginia State Corporation Commission may petition the commission for reconsideration of its order under ~~Rule 8-9~~ (5 VAC 5-20-220) of the commission's Rules of Practice and Procedure.

## **20 VAC 5-309-110. General marking requirements.**

A. All markings shall be suitable for their intended purpose for a period of 15 working days ~~from the time of notification~~ *beginning at 7 a.m. on the next working day following notice* by the excavator to the notification center.

B. Markings shall be made at sufficient intervals to clearly indicate the approximate horizontal location and direction of the underground utility line. However, the distance between any two marks indicating the same utility line shall not exceed 20 feet. Site conditions or directional changes of the underground utility line shall be considered to determine the need for shorter distance between marks.

C. Markings of underground utility lines shall be by means of stakes, paint, flags, or combination thereof. The terrain, site conditions, and the type and extent of the proposed excavation shall be considered to determine the most suitable means to mark underground utility lines.

D. Paint marks shall be approximately 8 to 10 inches in length and one to two inches in width except when "spot" marking is necessary.

E. A minimum of three separate marks shall be made for each underground utility line marking.

F. Valve box covers that are at grade and visible shall be marked with the appropriate color in accordance with the Act.

G. If in the process of marking an underground utility line, a customer-owned underground utility line of the same type is discovered, the operator or its contract locator shall make a reasonable effort to contact the excavator or the customer to advise of the presence of the line.

H. Where the proposed excavation crosses an underground utility line, markings shall be at intervals that clearly define the route of the underground line.

I. All markings shall extend if practical, a reasonable distance beyond the boundaries of the specific location of the proposed work as detailed on the ticket.

J. If the use of line marking is considered damaging to property (driveways, landscaping, historic locations to the extent boundaries are known), "spot" marking or other suitable marking methods shall be used.

K. Markings shall be valid for an excavation site for 15 *working days from the time of notification beginning at 7 a.m. on the next working day following notice to the notification center* by the excavator or until one of the following events occurs:

1. The markings become faded, illegible or destroyed; or
2. If the markings were placed in response to an emergency and the emergency condition has ceased to exist.

L. Where permitted by the operator's records, all utility lines of the same type in the same trench owned by the same operator shall be marked individually or by a single mark. If a single mark is used, the number of the utility lines shall be indicated at every other mark.

M. Operators or their contract locators shall use all information necessary to mark their facilities accurately.

N. Markings of an underground pipeline greater than 12 inches in nominal outside dimension shall include the size in inches at every other mark.

O. Duct structures and conduit systems shall be marked in accordance with the horizontal marking symbols for such structures and conduit systems ~~set out in the National Utility Locating Contractor's Association's ("NULCA's") standards as shown in item nine of the Virginia Underground Utility Marking Best Practices as provided in the Virginia Underground Utility Marking Standards (February 2003) published by the division~~ ([http://www.state.va.us/scc/division/urs/mutility/va\\_uums.pdf](http://www.state.va.us/scc/division/urs/mutility/va_uums.pdf)).

P. In areas where marks would be destroyed, offset markings shall be made using horizontal marking symbols ~~by NULCA's marking standards as shown in item 15 of the Virginia Underground Utility Marking Best Practices as provided in the Virginia Underground Utility Marking Standards (February 2003) published by the division~~ ([http://www.state.va.us/scc/division/urs/mutility/va\\_uums.pdf](http://www.state.va.us/scc/division/urs/mutility/va_uums.pdf)).

Q. *The assigned letter designations for each operator to be used in conjunction with markings of underground utility lines shall be the same as those assigned by the notification center certified for a geographic area, subject to the review of the same and approval of such designations in writing by the advisory committee. Such approved designations by the advisory committee shall be deemed final unless appealed to the commission within 30 days of the advisory committee's written evidence of approval. Operators wishing to appeal the letter designations assigned in accordance with this section may file an appropriate formal pleading with the commission seeking review of the assigned letter designation within 30 days of the issuance of the written approval of the advisory committee.*

R. *The symbols for marking of underground utility lines in compliance with § 56-265.19 F (ii) of the Act shall be the same as those shown in the Virginia Underground Utility Marking Standards (February 2003) published by the division* ([http://www.state.va.us/scc/division/urs/mutility/va\\_uums.pdf](http://www.state.va.us/scc/division/urs/mutility/va_uums.pdf)).

**20 VAC 5-309-140. Excavator's responsibilities to avoid damage, dislocating or disturbances of utility lines.**

Any person excavating around underground utility lines shall take all reasonable steps to protect such utility lines. These steps shall include, but are not limited to, the following:

- 1. The excavator shall plan the excavation in such a manner to avoid damage to, and minimize interference with, underground utility lines in and near the construction area;
- 2. *The excavator shall expose the underground utility line to its extremities by hand digging;*
- 3. *The excavator shall not utilize mechanized equipment within two feet of the extremities of all exposed utility lines;*
- 2- 4. The excavator shall maintain a reasonable clearance, to include the width of the utility line, if known, plus 24 inches, between the marked or staked location of an underground utility line and the cutting edge or point of any mechanized equipment, considering the known limit of control of the cutting edge or point to avoid damage to the utility line; and
- 3- 5. The excavator shall provide proper support for underground utility lines during excavation activities. During backfill operations, the excavator shall use the same or similar backfill material that was originally around the utility line, ensure there is proper compaction around the utility line, protect all tracer wires, and protect or replace warning tapes.

DOCUMENT INCORPORATED BY REFERENCE

*Virginia Underground Utility Marking Standards, February 2003, Virginia State Corporation Commission, Division of Utility and Railroad Safety.*

VA.R. Doc. No. R04-48; Filed November 17, 2003, 11:42 a.m.

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**Title of Regulation:** 20 VAC 5-419. Procedural Rules for Implementing §§ 251 and 252 of the Telecommunications Act of 1996, 47 USC §§ 251 and 252 (amending 20 VAC 5-419-10 through 20 VAC 5-419-40).

**Statutory Authority:** § 12.1-13 of the Code of Virginia.

**Public Hearing Date:** Hearing will be scheduled if requested. Public comments may be submitted until January 5, 2004.

**Agency Contact:** John K. Shumate, Jr., Attorney, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9671, FAX (804) 371-9240, toll free (800) 552-7945, or e-mail jshumate@scc.state.va.us.

Summary:

*The proposed rules, in part, address the procedure for filing negotiated agreements with the commission, the availability of negotiated agreements for public inspection, and the procedure for compulsory arbitration. The proposed rules also reduce the number of copies that parties to a negotiated agreement must supply, eliminate the notification*

*requirement, and provide for the automatic approval by the commission of negotiated agreements.*

AT RICHMOND, NOVEMBER 20, 2003

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC-2003-00171

Ex Parte: In the matter of revising the rules governing the filing of interconnection agreements

ORDER FOR NOTICE AND COMMENT OR REQUESTS FOR HEARING

Concerns for efficiency, cost-savings, and for reducing administrative burdens on regulated industries have prompted the Staff of the State Corporation Commission ("Commission") to draft proposed revisions to 20 VAC 5-419-10 et seq., which implement §§ 251 and 252 of the Telecommunications Act of 1996. The Staff's Proposed Rules are attached as Attachment A.

In part, the Staff proposes rules in Attachment A that address the procedure for filing negotiated agreements with the Commission, the availability of negotiated agreements for public inspection, and the procedure for compulsory arbitration. The proposed rules also reduce the number of copies that parties to a negotiated agreement must supply, eliminate the notification requirement, and provide for the automatic approval by the Commission of negotiated agreements.

The Commission's Division of Information Resources is directed to forward the Proposed Rules to the Registrar of Virginia for publication in the Virginia Register of Regulations and to make the Proposed Rules available on the Commission's website. Interested persons should be permitted to comment on, propose modifications or supplements to, or request a hearing on the Proposed Rules.

Accordingly, IT IS SO ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC-2003-00171.

(2) The Commission's Division of Information Resources shall forward the Proposed Rules to the Registrar of Virginia for publication in the Virginia Register of Regulations.

(3) On or before December 15, 2003, the Commission's Division of Information Resources shall make a downloadable version of the Proposed Rules available for access by the public at the Commission's website, <http://www.state.va.us/scc/caseinfo.htm>. The Clerk of the Commission shall make a copy of the Proposed Rules available for public inspection in the Clerk's Office and provide a copy of the Proposed Rules, free of charge, in response to any written request for same.

(4) Interested persons wishing to comment on, propose modifications or supplements to, or request a hearing on the Proposed Rules shall file an original and fifteen (15) copies of such comments, proposals, or requests with the Clerk of the Commission, c/o Document Control Center, P.O. Box

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# Proposed Regulations

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2118, Richmond, Virginia 23218, on or before January 5, 2004, making reference to Case No. PUC-2003-00171. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.state.va.us/scc/caseinfo.htm>.

(5) On or before December 15, 2003, the Commission's Division of Information Resources shall publish the following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia.

NOTICE TO THE PUBLIC OF A PROCEEDING  
TO AMEND RULES GOVERNING THE FILING OF  
INTERCONNECTION AGREEMENTS  
CASE NO. PUC-2003-00171

Concerns for efficiency, cost-savings, and for reducing administrative burdens on regulated industries have prompted the Staff of the State Corporation Commission ("Commission") to draft proposed revisions to 20 VAC 5-419-10 *et seq.*, which implement §§ 251 and 252 of the Telecommunications Act of 1996. The Commission now proposes rules ("Proposed Rules") that generally reduce the regulatory requirements borne by parties to a negotiated agreement and amend, in part, the procedures required for the filing of approval of interconnection agreements as well as the proceedings governing compulsory arbitrations under 47 USC § 252(b).

Interested parties may obtain a copy of the Proposed Rules by visiting the Commission's website, <http://www.state.va.us/scc/caseinfo.htm>, or by requesting a copy from the Clerk of the Commission. The Clerk's Office will provide a copy of the Proposed Rules to any interested party, free of charge, in response to any written request. The Proposed Rules have been forwarded to the Office of the Registrar of Virginia for publication in the Virginia Register of Regulations.

Interested persons wishing to comment on, propose modifications or supplements to, or request a hearing on the Proposed Rules shall file an original and fifteen (15) copies of such comments, proposals, or requests with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.state.va.us/scc/caseinfo.htm>. Comments and requests for hearing must be submitted on or before January 5, 2004, and must refer to Case No. PUC-2003-00171.

VIRGINIA STATE CORPORATION COMMISSION

(6) This matter is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter, attached hereto as Attachment B. The Service List is available from the Clerk of the State Corporation Commission,

c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

## 20 VAC 5-419-10. General procedure.

~~A. Any reference in this chapter to "interested parties" shall initially refer to the service list attached to the Order Prescribing Notice and Inviting Comments entered in Case No. PUC960059. Any other person who wishes to be included on this service list as an "interested party" under this chapter may file such a request with the Clerk of the State Corporation Commission. A master list shall be kept by the clerk and shall be updated as necessary. A reference in this chapter to service upon interested parties shall mean service on all parties included on this master service list as updated by the clerk's office, unless this service list has been modified in accordance with this chapter. Any reference in this chapter to a person shall include a person or an entity.~~

~~B. A. An arbitration request which has issues resolved through negotiations, but not filed as a separate agreement, will be considered as one proceeding through the arbitration procedure set out in 20 VAC 5-419-30. The resolved portions of the agreement shall be reviewed under 47 USC § 252(e)(2)(A), and arbitrated portions of the agreement shall be reviewed under 47 USC § 252(e)(2)(B). An arbitration request having issues resolved through negotiations and filed as a separate agreement will be considered as two proceedings. The separate negotiated agreement shall be considered under 20 VAC 5-419-20 and any unresolved issues will be considered under 20 VAC 5-419-30 shall include issues that the parties have not resolved through negotiation. The resolved portions of an agreement shall be reviewed under 47 USC § 252(e)(2)(A), and arbitrated portions of an agreement shall be reviewed under 47 USC § 252(e)(2)(B).~~

~~C. The commission may deviate from the provisions of this chapter as it deems necessary to fulfill its obligations under 47 USC §§ 251 and 252.~~

~~D. B. The filing of an arbitration request shall not preclude the parties from continuing negotiations on unresolved issues. Those issues that are resolved after an arbitration request has been filed with the commission shall be considered negotiated provisions, subject to appropriate notice requirements under the proposed arbitration procedures.~~

~~E. C. To the extent there is conflict between this chapter and the State Corporation Commission's Rules of Practice and Procedure (5 VAC 5-20-40 *et seq.*), this chapter shall control.~~

~~F. D. No provision of this chapter shall interfere with the commission's power to direct a hearing examiner to consider any issue or issues which arise during these proceedings a proceeding under this chapter.~~

~~G. E. The provisions of this chapter that require the filing of supporting documentation or evidence shall require strict compliance. Failure to file supporting documentation or evidence as when required by this chapter may result in denial dismissal of the relief sought by the party failing to comply or in a decision adverse to that party's position on the merits.~~

~~F. The commission may decline to act in matters governed by this chapter arising under 47 USC §§ 251 and 252, or may~~

exercise its authority pursuant to § 56-265.4:4 B 4 of the Code of Virginia.

H. G. The commission may, in its discretion, order an evidentiary hearing to address issues that arise in ~~these proceedings~~ a proceeding under this chapter or may deny a hearing request when a hearing is not necessary to resolve the issues at hand. The commission may also consolidate proceedings or common issues from two or more proceedings.

H. All filings made pursuant to this chapter shall be with the clerk of the commission. Additional copies of any filing made pursuant to this chapter shall be provided to the clerk of the commission upon request of the clerk.

I. The commission may deviate from the provisions of this chapter as it deems necessary to fulfill its obligations under the Code of Virginia or 47 USC §§ 251 and 252.

**20 VAC 5-419-20. Agreements arrived at through negotiation.**

The following procedure shall be observed when parties who have negotiated and entered into a binding agreement for interconnection, services, or network elements ("interconnection agreement") under 47 USC § 252(a)(1) submit their voluntarily negotiated agreement for review by the commission under 47 USC § 252(e):

1. The parties shall, within 28 days of the execution or adoption of the negotiated agreement, jointly file three printed copies of the negotiated agreement with the commission and on or before that same day shall serve a notice of filing, which describes the terms and conditions of the agreement or a copy of the negotiated agreement itself, on all interested parties and the commission staff, in accordance with ~~5 VAC 5-20-140~~ clerk of the commission. If a person specifically requests a copy of the negotiated agreement, The parties shall promptly serve a copy of the agreement on the any person making the request for same. The filed agreement shall be accompanied by a cover letter setting forth the names and mailing address of the regulatory contact for each party to the negotiated agreement and shall clearly and conspicuously identify the filing as an interconnection agreement.

2. Within 21 days of the filing of the negotiated agreement, any person may submit file an original and two copies of comments or requests for hearing regarding the negotiated agreement. ~~These~~ Comments or requests for hearing shall refer to the case number, include all supporting documentation. The comments, and shall be limited to the criteria for review under 47 USC § 252(e)(2)(A). A request for hearing must be filed with the comments. Absent a showing of good cause for a hearing, the commission may review the negotiated agreement without a hearing. Any person filing comments or a request for hearing, or both, shall, on or before the date of filing of such comments or request, serve a copy on the parties to the negotiation and the commission staff in accordance with ~~5 VAC 5-20-140~~. Upon the request of another person, a person shall promptly serve a negotiated agreement. A copy of the comments or request for hearing, or both, shall be served promptly on the persons making the request for same.

~~3. After the deadline for comments or requests for hearing, the service list for the case shall be limited to the parties to the negotiations, the commission staff and any persons filing comments or requests for hearing, or both ("modified service list").~~

~~4. 3. Within 35 15 days of the filing of the negotiated agreement any comment or request for hearing, the parties to the negotiated agreement may jointly file a an original and two copies of a response to any comments filed thereto and shall serve a copy on the person who filed comments or request for hearing. This response shall refer to the case number and include all supporting documentation, and shall be served on the modified service list and the commission staff on or before the filing date in accordance with 5 VAC 5-20-140.~~

4. Unless otherwise acted upon by the commission, negotiated agreements shall be deemed approved, pursuant to 47 USC § 252 (e)(4), 90 days after the negotiated agreement is filed with the commission.

5. Notification of modifications or amendments to any agreement shall be filed and subject to comment or request for hearing in the same manner governing agreements as set forth above. Notifications of modifications or amendments shall refer to the case number assigned in the original case.

6. The parties to any negotiated agreement subject to this section shall file an original and two copies of notification of its termination within 28 days after the date of termination of the agreement.

**20 VAC 5-419-30. Agreements arrived at through compulsory arbitration.**

The following procedure shall be followed when a party to a negotiation petitions the commission to arbitrate unresolved issues under 47 USC § 252(b):

1. Any party to a negotiation may petition ("petitioning party") the commission to arbitrate any unresolved issue in accordance with the deadlines set out in 47 USC § 252(b)(1). ~~The~~ An original and five copies of an arbitration request shall be filed as a petition, including all supporting documentation, and must conform with 47 USC § 252(b)(2). The petition shall be accompanied by a cover letter clearly and conspicuously identifying the filing as a petition for compulsory arbitration under 47 USC § 252(b). Along with its petition, the petitioning party shall file any request for hearing along with any prefiled direct testimony and all materials it will rely on to support its case at the hearing, including all evidence it intends to present. In its petition, the petitioning party shall certify its compliance with the duty to negotiate in good faith provision of 47 USC § 251(c)(1). In addition to its obligation to serve a copy of the petition on the other party or parties to the negotiation, The petitioning party shall serve, on or before the date of filing, a notice of filing which describes the contents of the arbitration petition or a copy of the petition itself on all interested parties and the commission staff, on or before the same day it is filed with the commission, in accordance with ~~5 VAC 5-20-140~~ on all other parties to the negotiation. If a any person specifically requests a copy of the petition, the petitioning

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party shall promptly serve a copy of the petition on the person making the request *for same*.

~~2. Within 25 days after the petition requesting arbitration is filed with the commission, the nonpetitioning party or parties to the negotiation ("responding party") may file a *an original and five copies of any* response and any additional information as provided under 47 USC § 252(b)(3). In addition, with its response, if a request for hearing was filed by the petitioning party, the responding party shall file *an original and five copies of any prefiled direct responsive* testimony, *if necessary*, and all materials it will rely on to support its case at the hearing, including all evidence it intends to present. If no request for hearing was filed by the petitioning party, The responding party may file, with its response, a request for a hearing along with any prefiled and shall file *an original and five copies of its* direct testimony and all materials it will rely on to support its case at the hearing, including all evidence it intends to present. The Any response shall include *any all* supporting documentation and shall be served on the petitioning party and commission staff, and a notice of filing which describes the contents of the response or a copy of the response itself shall be served on all interested parties, on or before the date the response is filed with the commission, in accordance with 5 VAC 5-20-140. If a person specifically requests a copy of the response, the responding party shall promptly serve a copy of the response on the person making the request *for same*. If no timely request for hearing is received, the commission may arbitrate the unresolved issues and review the resolved issues without a hearing.~~

~~3. Comments on the petition and response may be filed no more than 45 days after the petition is filed with the commission. Comments relating to unresolved issues in the petition shall be limited to the standards for reviewing arbitrated agreements under 47 USC § 252(e) and 47 USC § 252(e)(2)(B). Comments relating to the issues resolved in the negotiation which is the subject of the arbitration petition shall be limited to the standards for reviewing negotiated agreements under 47 USC § 252(e)(2)(A). Comments shall include all supporting documentation.~~

~~4. If a hearing request has been filed by either the petitioning or the responding party, a person wishing to participate in the hearing shall file, by the deadline for filing comments, a notice of participation which shall contain (i) a precise statement of the party's interest in the proceeding; (ii) a full and clear statement of the facts which the interested party is prepared to prove by competent evidence, the proof of which will warrant the relief sought; and (iii) a statement of the specific relief sought and legal basis therefor. Along with the notice of participation, the person wishing to participate in the hearing shall also file all supporting documentation, including testimony and evidence it will rely on to support its position at the hearing. A person filing comments or a notice of participation, or both, shall, on or before the day of the filing, serve a copy on the petitioning and responding parties and the commission staff in accordance with 5 VAC 5-20-140. Upon the request of another person, a person filing comments or a notice of participation, or both, shall promptly serve a copy~~

~~of the comments or notice on the person making the request. In addition, if the responding party filed a hearing request, the petitioning party's prefiled direct testimony, if any, and all materials it will rely on to support its case at the hearing, including all evidence it intends to present shall be filed and served on the responding party and the commission staff by the deadline for filing comments by persons.~~

~~5. After the deadline for comments or notices of participation, the service list for the case shall be the modified service list, limited to the parties to the arbitration petition, the commission staff, and any persons filing comments or notices of participation, or both.~~

~~6. Nine months or sooner after the request for interconnection, services, or network elements was received by the incumbent local exchange carrier, the commission shall issue its decision resolving the unresolved issues. In its order, the commission shall provide a deadline for the parties to the negotiation to provide the commission with a formalized agreement.~~

~~3. Participation by individuals and entities other than the negotiating parties shall be by leave of the commission.~~

~~7. The 4. If the commission accepts arbitration of the dispute, the parties shall submit the formalized agreement as an agreement adopted by arbitration for commission review under 47 USC § 252(e), in compliance with the deadlines set by the commission. On or before submission of the formalized agreement, the parties will serve a copy of the agreement on the parties on the modified service list, and the commission staff in accordance with 5 VAC 5-20-140 file six copies of an agreement adopting the results of such arbitration within 28 days of the conclusion of the arbitration. The deadline for filing such agreement may be extended by order of the commission for good cause shown.~~

~~8. 5. Within 10 days after the formalized agreement is filed with the commission, any person may file *an original and five copies of* comments or request for hearing on the agreement. Such comments shall be limited to the grounds for rejection as listed in 47 USC § 252(e)(2) and shall include all supporting documentation. Simultaneously with their filing On or before the date of filing, comments or requests for hearing shall be served on the parties to the agreement and the commission staff by next day delivery and to the parties on the modified service list in accordance with 5 VAC 5-20-140.~~

~~9. 6. Within 15 days after the formalized agreement is filed with the commission, any party to the agreement may file *an original and five copies of any* reply comments in direct response to comments filed under subdivision 7 5 of this section. Such reply shall include all supporting documentation, and shall be served on the modified service list and the commission staff on or before the filing date in accordance with 5 VAC 5-20-140.~~

**20 VAC 5-419-40. Statement of generally available terms.**

The following procedure shall be followed when a Bell Operating Company ("BOC") files a statement of generally available terms and conditions:

1. The BOC shall, on or before the day the statement of *generally available terms and conditions* is filed with the clerk of the commission, serve a notice of filing which generally describes the terms and conditions of the statement or a copy of the statement itself on all interested parties ~~in accordance with 5 VAC 5-20-140~~. If a person specifically requests a copy of the statement, the BOC shall promptly serve a copy of the statement on the person making the request. The BOC shall, on or before the date of filing, serve a copy of the statement on the commission staff ~~in accordance with 5 VAC 5-20-140~~. The filing shall include a detailed explanation of how the statement complies with 47 USC § 252(d) and 47 USC § 251 and the regulations thereunder and shall include all supporting documentation.

2. Comments or requests for hearing may be filed within 21 days of the filing of the statement. Comments shall be limited to whether the statement complies with 47 USC § 252(d) and 47 USC § 251 and the regulations thereunder and shall include all supporting documentation. ~~Any request for hearing shall be filed with the comments.~~ The commission will grant a hearing request only if good cause is shown. Comments or requests for hearing, or both, shall, on or before the date of filing, be served upon the BOC and the commission staff ~~in accordance with 5 VAC 5-20-140~~. Upon the request of another person, a person shall promptly serve a copy of the comments or request for hearing, or both, on the person making the request *for same*.

3. After the deadline for *the filing of* comments or requests for hearing has passed, the service list for the case shall be ~~the modified service list~~, limited to the BOC, the commission staff, and any persons ~~filing~~ *who timely filed* comments or requests for hearing, or both.

VA.R. Doc. No. R04-51; Filed November 21, 2003, 3:43 p.m.



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# FINAL REGULATIONS

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For information concerning Final Regulations, see Information Page.

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## Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a change from the proposed text of the regulation.

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## TITLE 8. EDUCATION

### STATE BOARD OF EDUCATION

Title of Regulation: 8 VAC 20-70. Regulations Governing Pupil Transportation (amending 8 VAC 20-70-10, 8 VAC 20-70-30, 8 VAC 20-70-40, 8 VAC 20-70-70, 8 VAC 20-70-80, 8 VAC 20-70-100 through 8 VAC 20-70-170, 8 VAC 20-70-190, 8 VAC 20-70-200, [ 8 VAC 20-70-210, ] 8 VAC 20-70-220, 8 VAC 20-70-230, 8 VAC 20-70-280, 8 VAC 20-70-290, [ 8 VAC 20-70-300, ] 8 VAC 20-70-340 through [ 8 VAC 20-70-350, 8 VAC 20-70-370, ] 8 VAC 20-70-380, 8 VAC 20-70-400 through 8 VAC 20-70-440, 8 VAC 20-70-460, 8 VAC 20-70-470, and 8 VAC 20-70-510; adding 8 VAC 20-70-235 and 8 VAC 20-70-525; repealing 8 VAC 20-70-240 through 8 VAC 20-70-270, 8 VAC 20-70-390, 8 VAC 20-70-520, and 8 VAC 20-70-530 through 8 VAC 20-70-1510).

Statutory Authority: §§ 22.1-16, 22.1-177, and 22.1-178 of the Code of Virginia.

Effective Date: January 14, 2004.

Agency Contact: Ms. June Eanes, Director of Support Services, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2037, FAX (804) 225-2524, or e-mail [jeanes@mail.vak12ed.edu](mailto:jeanes@mail.vak12ed.edu).

#### Summary:

*The amendments reflect changes in the Code of Virginia including (i) altering the maximum speed limits for school buses; (ii) allowing licensed nurse practitioners to perform drivers' annual physical examinations; and (iii) describing the use of warning strobe lights.*

*Additionally, amendments (i) update the definitions to conform to the definitions used in the 2000 National School Transportation Specifications and Procedures; (ii) require that drivers who transport students with disabilities or who drive Type D buses complete additional training; (iii) repeal Part III relating to distribution of pupil transportation funds since this funding is governed by the appropriation act; (iv) eliminate the provisions addressing bus specifications, equipment and construction, which will instead be adopted annually as specification guidelines; (v) delete the requirement that bus drivers report pupil misconduct to the principal; (vi) revise seating requirements; (vii) require pick up and discharge to occur only at designated stops; and (viii) include specifications for activity vehicles.*

**REGISTRAR'S NOTICE:** The proposed regulation was adopted as published 19:1 VA.R. 55-83 September 23, 2002, with the changes identified below. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length; however the sections that have changes since publication of the proposed are set out.

[ CHAPTER 70.

REGULATIONS GOVERNING PUPIL TRANSPORTATION  
INCLUDING MINIMUM STANDARDS FOR SCHOOL BUSES  
IN VIRGINIA. ]

#### 8 VAC 20-70-10. Definitions.

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

"Color-black" means federal standard No. 595, black.

"Color-yellow" means national school bus yellow SBMI SBMTC color standard 008.

"Nonconforming bus" means any vehicle designed to carry more than 10 passengers that is used to transport children to or from school or school-related activities that does not meet the federal standards, 49 CFR Part 571, specific to school buses. These vehicles are not approved for transporting students to and from school or school-related activities.

"School bus" means any motor vehicle described in this chapter as "Type A1 and A2," "Type B1 and B2," "Type C," or "Type D," which is designed and used for the transportation of pupils, which is painted yellow with the words "School Bus" in black letters of specified size on [ *the* ] front and rear, and which is equipped with the required warning devices [ as stated in § 46.2-100 of the Code of Virginia ].

Note: This definition includes school buses owned and operated by school boards, private contractors, local governments, and transit systems which that are used for the transportation of public school pupils.

"School bus Type A" means a conversion or body constructed upon a van type compact truck or a front section vehicle, with a gross vehicle weight rating of 10,000 pounds or less, designed for carrying more than four persons. Range from four to 20 passenger capacity.

"School bus Type B" means a conversion or body constructed and installed upon a van or front section vehicle chassis, or stripped chassis, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. Part of the engine is beneath or behind the windshield, or both, and beside the driver's seat. The entrance door is behind the front wheels. Range from 16 to 74 passenger capacity.

"School bus Type C" means a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels. Range from 34 to 64 passenger capacity.

"School bus Type D" means a body installed upon a chassis, with the engine mounted in the front, midship, or rear, with a



~~gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. The engine may be behind the windshield and beside the driver's seat; it may be at the rear of the bus behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels. Range from 72 to 84 passenger capacity.~~

~~"School activity vehicle" means any school bus as defined in this section with the modifications authorized in Part VII of this chapter (8 VAC 20-70-1510 et seq.). Type A, B, C, D school buses are recommended for transporting pupils to and from school activity events; however, a school activity vehicle may be used solely for extra-curricular activities, when deemed necessary and appropriate by the local school board.~~

~~Note: A standard or mini-size passenger van which has not been reconstructed to meet Virginia state and federal school vehicle construction standards does not meet this definition.~~

~~"Specially equipped bus" means a school bus designed, equipped, or modified to accommodate students with special needs.~~

~~"Type A school bus" means a van conversion or bus constructed utilizing a cutaway front-section vehicle with a left side driver's door. The entrance door is behind the front wheels. This definition includes two classifications. Type A1, with a Gross Vehicle Weight Rating (GVWR) less than or equal to 10,000 pounds; and Type A2, with a GVWR greater than 10,000 pounds.~~

~~"Type B school bus" means a bus with a body constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications: Type B1, with a GVWR less than or equal to 10,000 pounds; and Type B2, with a GVWR greater than 10,000 pounds.~~

~~"Type C school bus" means a bus with a body constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels.~~

~~"Type D school bus" means a bus with a body constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels.~~

~~"Undercoating modified test procedure" means test panels are to be prepared in accordance with paragraph 4.6.12 of TT-C-520a of the Federal Code, incorporated by reference, with modified procedure requiring that test be made on a 48-hour air cured film at thickness recommended by compound manufacturer.~~

**8 VAC 20-70-30. [ No change from proposed. ]**

**8 VAC 20-70-40. [ No change from proposed. ]**

**8 VAC 20-70-70. [ No change from proposed. ]**

**8 VAC 20-70-80. Loading or discharging pupils.**

When loading or discharging pupils on the highway, stops shall be made in the right-hand lane and shall be made only at designated points where the bus can be clearly seen for a safe distance from both directions. *Pupils shall be picked up and discharged only at designated school bus stops approved by the local school division except in the case of an emergency.* While stopped, the driver shall keep the school

bus warning devices in operation to warn approaching traffic to stop and allow pupils to cross the highway safely. Pupils who must cross the road shall be required to cross in front of the bus. They shall be required to walk to a point 10 feet or more in front of the bus, stop before reaching a position in line with the left side of the bus, and wait for a *hand* signal from the bus driver before starting across the highway.

On dual highways divided by a physical barrier, unpaved area, or five lane highway with turning lane, buses shall be routed so that pupils will be picked up and discharged on the side of the road on which they live. [ (See §§ 46.2-893 and 46.2-918 of the Code of Virginia.) ]

**8 VAC 20-70-90. Safety belts.**

Persons operating a school bus shall wear the appropriate safety belt system [ ~~in accordance with manufacturer's recommendations~~ ] while bus is in motion.

**8 VAC 20-70-100. Passenger restraint belts.**

Pupils riding in Type A school buses ~~required by federal law to be equipped with passenger restraint belts~~ shall wear them as ~~required by state or federal law~~ while the bus is in motion. See *Federal Motor Vehicle Safety [ Standard Standards ] No. 209 [ and 210 ]*.

**8 VAC 20-70-110. Pupil rider safety instruction.**

Pupil rider safety instruction shall be included in the school curriculum, including demonstration and practices of safety procedures.

1. At the Pre-K-1 grade levels, initial safety training shall occur during the first week of school [ ~~and with~~ ] additional training on a periodic basis during the year.
2. Emergency exit drills shall be practiced by all pupil riders at least twice a year, the first occurring during the first 30 instructional days ~~and the second in the second semester.~~ *Summer session evacuation drills should be performed as needed.*
3. A copy of bus rider safety rules shall be sent to parents at the beginning of the school year. The information shall include a request that parents or their designee accompany their young children to and from the bus stop.

**8 VAC 20-70-120. Insurance.**

[ ~~Section 22.1-190 of the Code of Virginia states that~~ ] Every vehicle used in transporting school pupils and personnel at public expense shall be covered by insurance that will provide financial assistance to pupils and personnel in case of injuries or deaths resulting from an accident [ ~~as stated in § 22.1-190 of the Code of Virginia~~ ]. ~~Insurance is required by law in the following minimum amounts:~~

1. Public liability or bodily injury, including death:
  - a. per person, or lower limit ..... \$ 50,000
  - b. per accident, or upper limit ..... \$200,000
2. Property damage liability ..... \$ 20,000
3. Uninsured motorists coverage — equal to aforesaid limits of liability

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4. Medical payment per person ..... \$ 1,000

## 8 VAC 20-70-130. Maintenance inspection.

All school buses and school activity vehicles used to transport public school pupils to and from school and school activity events shall be inspected and maintained by competent mechanics immediately before being used in the fall and at least once every 30 operating days or every 2,500 miles traveled [~~-, whichever occurs first~~]. The inspections and maintenance shall be conducted in accordance with provisions of the "Preventive Maintenance Manual for Virginia School [ Buses ] [~~Bus Personnel and School Administrators, 1993, March 2003~~]" and recorded on the prescribed inspection forms *or in a format approved by the Department of Education*. If the inspection and maintenance are not made in a shop operated by the school board or the local governing body, the school board shall designate one or more inspection centers to make the inspections and require a copy of the results of the inspections to be furnished to the division superintendent.

*Maintenance and service personnel shall be encouraged to attend approved workshops or training institutes and shall receive all necessary service and maintenance publications for equipment serviced.*

## 8 VAC 20-70-140. ~~Report~~ Crash/incident reporting.

A report, on forms or [~~on the in a~~] format furnished by the Department of Education, of any ~~accidents~~ *crashes or incidents* involving school buses, pupils, and personnel who ride school or activity buses (including injury or death while crossing the road, waiting at bus stops, etc.) shall be sent to the Pupil Transportation Service, Department of Education by the division superintendent or designee at least once a month. The report shall give the apparent cause of the ~~accident~~ *crash or incident* [~~;~~ and] the extent of injuries to pupils or others. The division superintendent or designee shall notify the Pupil Transportation Service of any school bus ~~accident~~ *crash or incident* involving serious injuries, requiring professional medical treatment, or death within the next working day from the date of the [~~accident~~ *crash or incident*].

*A crash [is an accident occurs] when property damage is \$1,000 or more or when persons are injured. An incident [is an accident occurs] when property damage is \$999 or less and there are no injured individuals.*

## 8 VAC 20-70-150. Route schedule.

All school buses in operation shall be ~~carefully~~ scheduled ~~on routes to schools to maximize safety and efficiency~~. The schedule shall show the time the bus starts in the morning, the time it leaves each point at which pupils are [~~taken on~~ *picked up*], and the time of arrival at school. One copy of such schedule shall be kept in the bus and one copy shall be kept in the office of the division superintendent or designee ~~of schools~~.

## 8 VAC 20-70-160. [ No change from proposed. ]

## 8 VAC 20-70-170. Railway crossings.

School buses shall stop, as required by law, at railway grade crossings. The 4-way hazard lights shall be activated when

approaching the railway grade crossing and deactivated before crossing the track. The bus driver shall *turn off all noisy equipment*, open the entrance door of the bus and determine when it is safe for the vehicle to cross the railroad tracks. The entrance door shall be closed when the bus is in motion. No stop need be made at any grade crossing where traffic is directed by a police officer or a green traffic-control signal [*as stated in § 46.2-886 of the Code of Virginia*].

## 8 VAC 20-70-190. [ No change from proposed. ]

## 8 VAC 20-70-200. [ No change from proposed. ]

## [ 8 VAC 20-70-210. Advertising material.

The use of posters, stickers, or advertising material of any kind is prohibited in or on school buses *unless permitted by law*. ]

## 8 VAC 20-70-220 through 8 VAC 20-70-270. [ No change from proposed. ]

## 8 VAC 20-70-280. Requirements for school bus drivers both for employment and continued employment.

*Sections 22.1-178, 46.2-339, and 46.2-340 of the Code of Virginia require drivers of school and activity buses shall to:*

1. Have a physical examination of a scope prescribed by the Board of Education with the advice of the Medical Society of Virginia and [~~furnish~~ *furnished on*] a form prescribed by the Board of Education showing the results of such examination.

a. No person shall drive a school bus unless that person is physically qualified to do so and has submitted a School Bus Driver's Application For Physician's Certificate signed by the applicant and the doctor *or a licensed nurse practitioner* for the applicable employment period.

b. ~~A person is physically qualified to drive a school bus if the individual:~~ *The physical form describes the basic physical qualifications for school bus drivers; however, the examining physician or licensed nurse practitioner shall make the final determination of the individual's physical capacity to operate a school bus based upon their assessment of the individual's overall physical condition.*

~~(1). Has no loss of a foot, a leg, a hand, or an arm which interferes with the ability to control and safely drive a school bus without reasonable accommodations;~~

~~(2). Has no impairment of the use of a foot, a leg, a hand, fingers, or an arm, and no other structural defect or limitation likely to interfere with the ability to control and safely drive a school bus without reasonable accommodations;~~

~~(3). Has no known medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control likely to interfere with the ability to control and safely drive a school bus without reasonable accommodations;~~

~~(4). Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency,~~

~~thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;~~

~~(5). Has no known medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with the ability to control and drive a school bus safely without reasonable accommodations;~~

~~(6). Has no known current clinical diagnosis of high blood pressure likely to interfere with the ability to operate a school bus safely without reasonable accommodations;~~

~~(7). Has no known medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which would interfere with the ability to control and operate a school bus safely without reasonable accommodations;~~

~~(8). Has no known medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a school bus without reasonable accommodations;~~

~~(9). Has no known mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with the ability to drive a school bus safely without reasonable accommodations;~~

~~(10). Has both distant and near visual acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses, and field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber;~~

~~(11). First perceives a forced whispered voice in the better ear at not less than five feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951; and~~

~~(12). Does not use an amphetamine, narcotic, or any habit forming drug without appropriate physician supervision.~~

2. Furnish a statement or copy of records from the Department of Motor Vehicles showing that the person, within the preceding five years, has not been convicted of a charge of driving under the influence of intoxicating liquors or drugs, *convicted of a charge of refusing to take a blood or breath test*, convicted of a felony, or assigned to any alcohol safety action program or driver alcohol rehabilitation program pursuant to § 18.2-271.1 of the Code of Virginia or, within the preceding 12 months, has not been convicted of two or more moving traffic violations or has not been required to attend a driver improvement clinic by the Commissioner of the Department of Motor Vehicles pursuant to § 46.2-497 of the Code of Virginia.

3. Furnish a statement signed by two reputable ~~residents of persons who reside in the school division or in the applicant's community~~ that the person is of good moral character.

4. Exhibit a license showing the person has successfully undertaken the examination prescribed by § 46.2-339 of the Code of Virginia.

5. ~~Have reached the age of~~ *Be at least 18 years old.*

6. Submit to testing for alcohol and controlled substances ~~which that~~ is in compliance with the Omnibus Transportation Employee Testing Act of 1991 (Public Law 102-143, Title V) [ ~~and the amendments as amended~~ ] *and is in compliance with 49 CFR Parts 40 and 382.*

**8 VAC 20-70-290. [ No change from proposed. ]**

**[ 8 VAC 20-70-300. Required documents.**

The documents required pursuant to 8 VAC 20-70-280 A and B shall be furnished annually prior to the anniversary date of the employment to operate a school bus. ]

**8 VAC 20-70-340. Highway driving.**

[ ~~Section 46.2-339 of the Code of Virginia requires that~~ ] No person shall drive a school or activity bus upon a highway in the Commonwealth unless such person has had a reasonable amount of experience in driving motor vehicles, and shall have passed a special examination indicating the ability to operate a school bus without endangering the safety of pupil passengers and persons using the highway [ *as stated in § 46.2-339 of the Code of Virginia* ]. To prepare for the examination required by this section, any person holding a valid operator's license and Commercial Driver's License (CDL) Instruction Permit issued under the provisions of § 46.2-325 of the Code of Virginia, may operate, under the direct supervision of a person holding a valid school bus license endorsement, a school bus ~~which that~~ contains no pupil passengers. The Department of Motor Vehicles is required to adopt such rules and regulations as may be necessary to provide for the examination of persons desiring to qualify to drive such buses in this Commonwealth and for the granting of permits to qualified applicants.

**8 VAC 20-70-350. Training.**

No person shall operate a school or activity bus transporting pupils unless the person ~~shall have~~ *has*:

1. Received classroom, demonstration, and behind-the-wheel instruction in accordance with ~~the minimum provisions of the "Virginia School Bus Driver Training Curriculum Guide."~~ *a program developed by the Department of Education pursuant to § 22.1-181 of the Code of Virginia.*

2. Completed a minimum of [ ~~20~~ 24 ] classroom hours and [ ~~20~~ 24 ] hours of behind-the-wheel training. A minimum of 10 of the [ ~~20~~ 24 ] hours of behind-the-wheel time shall involve the operation of a bus with pupils on board while under the direct supervision of a designated bus driver trainer. *Drivers of Type D buses must complete eight additional hours of training behind-the-wheel. [ All drivers*

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*shall receive training in the operation of a Type D bus and transportation of students with special needs. ]*

~~[ Any driver who transports students with disabilities shall receive an additional six hours of appropriate instruction, training and demonstration from an approved instructor using Department of Education approved curriculum. ]~~

The superintendent or his designee shall maintain a record showing that the applicant has completed the training and has been approved to operate a school or activity bus.

## **8 VAC 20-70-360. In-service training.**

[ In-service training (at least two hours before opening of schools and at least two hours during the second half of the school year) devoted to improving the skills, attitudes, and knowledge including orientation to maximize benefits of using safety programs and safety components shall be provided to all school or activity bus drivers.

~~Prior to the beginning of each school year, school divisions shall determine the amount of training and a schedule that is needed for experienced drivers and new drivers. ]~~

## **8 VAC 20-70-370. [ No change from proposed. ]**

## **8 VAC 20-70-380. Pre-trip safety inspection.**

The drivers of school and activity buses shall perform a [ daily ] pre-trip safety inspection of the vehicle [ immediately ] prior to transporting children. The items checked and recorded shall be at least equal to the pre-trip inspection procedure as prescribed by the Department of Education.

## **8 VAC 20-70-390 through 8 VAC 20-70-440. [ No change from proposed. ]**

## **8 VAC 20-70-460. Specifications.**

*It is the intent of the Board of Education to accommodate new equipment and technology that will better facilitate the safe and efficient transportation of students. When a new technology, piece of equipment, or component is desired to be applied to the school bus, it must have the approval of the Virginia Department of Education and must meet the following criteria:*

- 1. The technology, equipment, or component shall not compromise the effectiveness or integrity of any major safety system.*
- 2. The technology, equipment, or component shall not diminish the safety of the interior of the bus.*
- 3. The technology, equipment, or component shall not create additional risk to students who are boarding or exiting the bus or are in or near the school bus loading zone.*
- 4. The technology, equipment, or component shall not require undue additional activity or responsibility for the driver.*
- 5. The technology, equipment, or component shall generally increase efficiency or safety, or both, of the bus, generally provide for a safer or more pleasant experience for the occupants and pedestrians in the vicinity of the bus, or shall*

*generally assist the driver and make his many tasks easier to perform.*

Buses and school activity vehicles must conform to the specifications relative to construction and design effective on the date of procurement. Any variation from the specifications, in the form of additional equipment or changes in style of equipment, without prior approval of the ~~Pupil Transportation Service~~, Department of Education, is prohibited. *The Department of Education shall issue [ guidelines on the ] specifications and standards for public school buses to reflect desired technology or safety improvements for the then current model year.*

## **8 VAC 20-70-470 through 8 VAC 20-70-1510. [ No change from proposed. ]**

### DOCUMENTS INCORPORATED BY REFERENCE

~~American National Standard 224.5 1951, American National Standards Institute.~~

~~American National Standard 226.1, Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, American National Standards Institute.~~

~~ASTM Standard D4956 90, American Society for Testing and Materials.~~

~~Federal Specification TT-C 520(b), Specifications of bus undercoating.~~

~~Preventive Maintenance Manual for Virginia School Bus Personnel and School Administrators, 1983 Buses, March 2003, Virginia Department of Education.~~

~~School Bus Manufacturer's Standards for Fuel Tanks.~~

~~School Bus Manufacturer's Standards for Heating Systems.~~

~~SAE Standard J180 for Bus Alternatives, Society of Automotive Engineers.~~

~~Current Standards of the Tire and Rim Association.~~

~~Virginia School Bus Driver Training Curriculum Guide, 1977.~~

VA.R. Doc. No. R01-171; Filed November 24, 2003, 8:18 a.m.

## **TITLE 12. HEALTH**

### **DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

Title of Regulations: **12 VAC 30-50. Medical and Remedial Amount, Duration, and Scope of Services (amending 12 VAC 30-50-130, 12 VAC 30-50-226, 12 VAC 30-50-420, 12 VAC 30-50-430, and 12 VAC 30-50-510).**

**12 VAC 30-60. Standards Established and Methods Used to Assure High Quality of Care (amending 12 VAC 30-60-61, 12 VAC 30-60-143, and 12 VAC 30-60-147).**

**12 VAC 30-130. Amount, Duration and Scope of Selected Services (amending 12 VAC 30-130-565; repealing 12 VAC 30-130-550 and 12 VAC 30-130-570).**

**Statutory Authority:** §§ 32.1-324 and 32.1-325 of the Code of Virginia.

**Effective Date:** February 1, 2004.

**Agency Contact:** Catherine Hancock, Analyst, Policy Division, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4272, FAX (804) 786-1680, or e-mail [chancock@dmass.state.va.us](mailto:chancock@dmass.state.va.us).

**Summary:**

*The amendments (i) eliminate the requirement that providers make services available 24-hours per day and accept all patients regardless of their ability to pay; (ii) remove the requirement that case management services be coupled with mental health support services; (iii) add needed minimum staff qualifications; (iv) remove the requirement for a history of hospitalizations from the service eligibility criteria; (v) clarify that mental health support services may be rendered in order to maintain recipients in their communities; (vi) revise services definitions; (vii) clarify and revise provider qualifications; (viii) modify annual service limits as appropriate; and (ix) modify provider licensing requirements as appropriate.*

*Amendments to the proposed regulation (i) change language from "assistive" to "assertive" community treatment; (ii) allow providers of mental health support services to also be licensed as Intensive Community Treatment (ICT) or Program of Assertive Community Treatment (PACT) providers; (iii) include case management activities as part of ICT; (iv) correct the billing units for mental health support services to 1 to 2.99 hours; (v) change language from "chemical addiction" to "substance use disorder" for ICT services; (vi) redefine the place of service for ICT, and (vii) change language from "addiction" to "substance abuse" for substance abuse treatment services for pregnant women.*

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

**REGISTRAR'S NOTICE:** The proposed regulation was adopted as published in 19:20 VA.R. 2931-2959 June 16, 2003, with the changes identified below. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length; however, the sections that have changed since publication of the proposed regulation are set out.

**12 VAC 30-50-130. [ No change from proposed. ]**

**12 VAC 30-50-226. Community mental health services.**

A. Definitions. The following words and terms, when used in these regulations, shall have the following meanings unless the context clearly indicates otherwise:

*"Certified prescriber" means an employee of the local community services board or its designee who is skilled in the assessment and treatment of mental illness and who has completed a certification program approved by DMHMRSAS.*

*"Clinical experience" means practical experience in providing direct services to individuals with mental illness or mental retardation or the provision of direct geriatric services or special education services. Experience may include supervised internships, practicums, and field experience.*

"Code" means the Code of Virginia.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"DMHMRSAS" means Department of Mental Health, Mental Retardation and Substance Abuse Services consistent with Chapter 1 (§ 37.1-39 et seq.) of Title 37.1 of the Code of Virginia.

*"Human services field" means social work, gerontology, psychology, psychiatric rehabilitation, special education, sociology, counseling, vocational rehabilitation, and human services counseling or other degrees deemed equivalent by DMAS.*

"Individual" means the patient, client, or recipient of services set out herein.

"Individual service plan" or "ISP" means a comprehensive and regularly updated statement specific to the individual being treated containing, but not necessarily limited to, his treatment or training needs, his goals and measurable objectives to meet the identified needs, services to be provided with the recommended frequency to accomplish the measurable goals and objectives, and estimated timetable for achieving the goals and objectives. ~~Such~~ *The provider shall include the individual in the development of the ISP. To the extent that the individual's condition requires assistance for participation, assistance shall be provided. The ISP shall be maintained up to date updated as the needs and progress of the individual changes.*

*"Licensed Mental Health Professional" or "LMHP" means an individual licensed in Virginia as a physician, a clinical psychologist, a professional counselor, a clinical social worker, or a psychiatric clinical nurse specialist.*

*"Qualified mental health professional" or "QMHP" means a clinician in the [ ~~health professions~~ human services field ] who is trained and experienced in providing psychiatric or mental health services to individuals who have a psychiatric diagnosis. If the QMHP is also one of the defined licensed mental health professionals, the QMHP may perform the services designated for the Licensed Mental Health Professionals unless it is specifically prohibited by their licenses. These QMHPs may be either a:*

- 1. Physician who is a doctor of medicine or osteopathy and is licensed in Virginia;*
- 2. Psychiatrist who is a doctor of medicine or osteopathy, specializing in psychiatry and is licensed in Virginia;*
- 3. Psychologist who has a master's degree in psychology from an accredited college or university with at least one year of clinical experience;*
- 4. Social worker who has a master's or bachelor's degree from a school of social work accredited or approved by the*

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*Council on Social Work Education and has at least one year of clinical experience;*

*5. Registered nurse who is licensed as a registered nurse in the Commonwealth and has at least one year of clinical experience; or*

*6. Mental health worker who has at least:*

*a. A bachelor's degree in human services or a related field from an accredited college and who has at least one year of clinical experience;*

*b. Registered Psychiatric Rehabilitation Provider (RPRP) registered with the International Association of Psychosocial Rehabilitation Services (IAPSRs) as of January 1, 2001;*

*c. A bachelor's degree from an accredited college in an unrelated field with an associate's degree in a human services field. The individual must also have three years clinical experience;*

*d. A bachelor's degree from an accredited college and certification by the International Association of Psychosocial Rehabilitation Services (IAPSRs) as a Certified Psychiatric Rehabilitation Practitioner (CPRP);*

*e. A bachelor's degree from an accredited college in an unrelated field that includes at least 15 semester credits (or equivalent) in a human services field. The individual must also have three years clinical experience; or*

*f. Four years clinical experience.*

*"Qualified paraprofessional in mental health" or "QPPMH" means an individual who meets at least one of the following criteria:*

*1. Registered with the International Association of Psychosocial Rehabilitation Services (IAPSRs) as an Associate Psychiatric Rehabilitation Provider (APRP), as of January 1, 2001;*

*2. Has an associate's degree in one of the following related fields (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, human services counseling) and has at least one year of experience providing direct services to persons with a diagnosis of mental illness;*

*3. An associate's or higher degree, in an unrelated field and at least three years experience providing direct services to persons with a diagnosis of mental illness, gerontology clients, or special education clients. The experience may include supervised internships, practicums and field experience.*

*4. A minimum of 90 hours classroom training in behavioral health and 12 weeks of experience under the direct personal supervision of a QMHP providing services to persons with mental illness and at least one year of clinical experience (including the 12 weeks of supervised experience).*

*5. College credits (from an accredited college) earned toward a bachelor's degree in a human service field that*

*is equivalent to an associate's degree and one year's clinical experience.*

*6. Licensure by the Commonwealth as a practical nurse with at least one year of clinical experience.*

**B. Mental health services.** The following services, with their definitions, shall be covered: day treatment/partial hospitalization, psychosocial rehabilitation, crisis services, intensive community treatment (ICT), and mental health supports. Staff travel time shall not be included in billable time for reimbursement.

1. Day treatment/partial hospitalization services shall be provided in sessions of two or more consecutive hours per day, which may be scheduled multiple times per week, to groups of individuals in a nonresidential setting. These services, limited annually to 780 units, include the major diagnostic, medical, psychiatric, psychosocial and psychoeducational treatment modalities designed for individuals who require coordinated, intensive, comprehensive, and multidisciplinary treatment but who do not require inpatient treatment. *One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day.*

*a. Day treatment/partial hospitalization services shall be time limited interventions that are more intensive than outpatient services and are required to stabilize an individual's psychiatric condition. The services are delivered when the individual is at risk of psychiatric hospitalization or is transitioning from a psychiatric hospitalization to the community.*

*b. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:*

*(1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness or isolation from social supports;*

*(2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;*

*(3) Exhibit behavior that requires repeated interventions or monitoring by the mental health, social services, or judicial system; or*

*(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.*

*c. Individuals shall be discharged from this service when they are no longer in an acute psychiatric state and other less intensive services may achieve psychiatric stabilization.*

d. Admission and services for time periods longer than 90 calendar days must be authorized based upon a face-to-face evaluation by a physician, psychiatrist, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or psychiatric clinical nurse specialist.

2. Psychosocial rehabilitation shall be provided in sessions of at least two or more consecutive hours per day to groups of individuals in a nonresidential setting. These services, limited annually to 936 units, include assessment, education to teach the patient about his the diagnosed mental illness and appropriate medications to avoid complication and relapse, opportunities to learn and use independent living skills and to enhance social and interpersonal skills within a supportive and normalizing program structure and environment. One unit of service is defined as a minimum of two but less than four hours on a given day. Two units are defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day.

[ a. ] Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Services are provided to individuals: (i) who without these services would be unable to remain in the community or (ii) who meet at least two of the following criteria on a continuing or intermittent basis:

[ (1) a. ] Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of psychiatric hospitalization, homelessness, or isolation from social supports;

[ (2) b. ] Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

[ (3) c. ] Exhibit such inappropriate behavior that repeated interventions by the mental health, social services, or judicial system are necessary; or

[ (4) d. ] Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or significantly inappropriate social behavior.

3. Crisis intervention shall provide immediate mental health care, available 24 hours a day, seven days per week, to assist individuals who are experiencing acute psychiatric dysfunction requiring immediate clinical attention. This service's objectives shall be to prevent exacerbation of a condition, to prevent injury to the client or others, and to provide treatment in the context of the least restrictive setting. Crisis intervention activities, limited annually to 180 hours, shall include assessing the crisis situation, providing short-term counseling designed to stabilize the individual, providing access to further immediate assessment and follow-up, and linking the individual and family with ongoing care to prevent future crises. Crisis intervention services may include office visits, home visits, preadmission screenings, telephone contacts, and other client-related activities for the prevention of institutionalization.

a. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from an acute crisis of a psychiatric nature that puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:

(1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of psychiatric hospitalization, homelessness, or isolation from social supports;

(2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

(3) Exhibit such inappropriate behavior that immediate interventions by mental health, social services, or the judicial system are necessary; or

(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or significantly inappropriate social behavior.

b. The annual limit for crisis intervention is 720 units per year. A unit shall equal 15 minutes.

4. Intensive community treatment (ICT), initially covered for a maximum of 26 weeks based on an initial assessment with continuation reauthorized for an additional 26 weeks annually based on written assessment and certification of need by a qualified mental health provider (QMHP), shall be defined as medical psychotherapy, psychiatric assessment, [ and ] medication management [ , and case management activities ] offered to outpatients outside the clinic, hospital, or office setting for individuals who [ will not or cannot be served in the clinic setting ] are best served in the community]. The annual unit limit shall be 130 units with a unit equaling one hour. To qualify for ICT, the individual must meet at least one of the following criteria:

a. The individual must be at high risk for psychiatric hospitalization or becoming or remaining homeless due to mental illness or require intervention by the mental health or criminal justice system due to inappropriate social behavior.

b. The individual has a history (three months or more) of a need for intensive mental health treatment or treatment for [ co-occurring ] serious mental illness and [ chemical addiction substance use disorder ] and demonstrates a resistance to seek out and utilize appropriate treatment options.

(1) An assessment that documents eligibility and the need for this service must be completed prior to the initiation of services. This assessment must be maintained in the individual's records.

(2) A service plan must be initiated at the time of admission and must be fully developed within 30 days of the initiation of services.

5. Crisis stabilization services for nonhospitalized individuals shall provide direct mental health care to

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individuals experiencing an acute psychiatric crisis which may jeopardize their current community living situation. Authorization may be for up to a 15-day period per crisis episode following a documented face-to-face assessment by a QMHP which is reviewed and approved by a ~~licensed physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or a certified psychiatric registered nurse~~ *an LMHP* within 72 hours. The maximum limit on this service is up to eight hours (with a unit being one hour) per day up to 60 days annually. The goals of crisis stabilization programs shall be to avert hospitalization or rehospitalization, provide normative environments with a high assurance of safety and security for crisis intervention, stabilize individuals in psychiatric crisis, and mobilize the resources of the community support system and family members and others for on-going maintenance and rehabilitation. The services must be documented in the individual's records as having been provided consistent with the ISP in order to receive Medicaid reimbursement. The crisis stabilization program shall provide to recipients, as appropriate, psychiatric assessment including medication evaluation, treatment planning, symptom and behavior management, and individual and group counseling. This service may be provided in any of the following settings, but shall not be limited to: (i) the home of a recipient who lives with family or other primary caregiver; (ii) the home of a recipient who lives independently; or (iii) community-based programs licensed by DMHMRSAS to provide residential services but which are not institutions for mental disease (IMDs). *This service shall not be reimbursed for (i) recipients with medical conditions that require hospital care; (ii) recipients with primary diagnosis of substance abuse; or (iii) recipients with psychiatric conditions that cannot be managed in the community (i.e., recipients who are of imminent danger to themselves or others). Services must be documented through daily notes and a daily log of times spent in the delivery of services. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from an acute crisis of a psychiatric nature that puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:*

- a. Experience difficulty in establishing and maintaining normal interpersonal relationships to such a degree that the individual is at risk of psychiatric hospitalization, homelessness, or isolation from social supports;*
- b. Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;*
- c. Exhibit such inappropriate behavior that immediate interventions by the mental health, social services, or judicial system are necessary; or*
- d. Exhibit difficulty in cognitive ability such that the individual is unable to recognize personal danger or significantly inappropriate social behavior.*

[ 5- 6. ] Mental health support services shall be defined as training and supports to enable individuals to achieve and

maintain community stability and independence in the most appropriate, least restrictive environment. These services may be authorized for six consecutive months. ~~Continuation of services may be authorized at six-month intervals or following any break in service by a QMHP based on a documented assessment and documentation of continuing need. The monthly limit on services shall be 31 units.~~ This program shall provide the following services in order to be reimbursed by Medicaid: training in or reinforcement of functional skills and appropriate behavior related to the individual's health and safety, activities of daily living, and use of community resources; assistance with medication management; and monitoring health, nutrition, and physical condition.

*a. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Services are provided to individuals who without these services would be unable to remain in the community. The individual must have two of the following criteria on a continuing or intermittent basis:*

- (1) Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that the individual is at risk of psychiatric hospitalization or homelessness or isolation from social supports;*
- (2) Require help in basic living skills such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized;*
- (3) Exhibit such inappropriate behavior that repeated interventions by the mental health, social services, or judicial system are necessary; or*
- (4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.*

*b. The individual must demonstrate functional impairments in major life activities. This may include individuals with a dual diagnosis of either mental illness and mental retardation, or mental illness and substance abuse disorder.*

*c. The yearly limit for mental health support services is 372 units. [ ~~A unit equals one hour~~ One unit is one hour but less than three hours ].*

## **12 VAC 30-50-420. [ No change from proposed. ]**

### **12 VAC 30-50-430. Case management services for youth at risk of serious emotional disturbance.**

A. Target group: Medicaid eligible individuals who meet the DMHMRSAS definition of youth at risk of serious emotional disturbance.

1. An active client shall mean an individual for whom there is a plan of care in effect which requires regular direct or client-related contacts or communication or activity with the client, family, service providers, significant others and others including at least one face-to-face contact every



90-days. Billing can be submitted for an active client only for months in which direct or client-related contacts, activity or communications occur.

2. There shall be no maximum service limits for case management services ~~except case management services for individuals residing in institutions or medical facilities. For these individuals, reimbursement for case management shall be limited to thirty days immediately preceding discharge. Case management for institutionalized individuals may be billed for no more than two pre-discharge periods in 12 months services must not be billed for individuals who are in institutions for mental disease.~~

B. Services will be provided in the entire state.

C. Comparability of services: Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to provide services without regard to the requirements of § 1902(a)(10)(B) of the Act.

D. Definition of services: Mental health services. Case management services assist youth at risk of serious emotional disturbance in accessing needed medical, psychiatric, social, educational, vocational, and other supports essential to meeting basic needs. Services to be provided include:

1. Assessment and planning services, to include developing an Individual Service Plan;
2. Linking the individual directly to services and supports specified in the treatment/services plan;
3. Assisting the individual directly for the purpose of locating, developing or obtaining needed service and resources;
4. Coordinating services and service planning with other agencies and providers involved with the individual;
5. Enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills, and use vocational, civic, and recreational services;
6. Making collateral contacts which are nontherapy contacts with an individual's significant others to promote treatment and/or community adjustment;
7. Following up and monitoring to assess ongoing progress and ensuring services are delivered; and
8. Education and counseling which guides the client and develops a supportive relationship that promotes the service plan.

E. Qualifications of providers.

1. ~~Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to limit case management providers, to the community services boards only, to enable them to provide services to serious/chronically mentally ill or mentally retarded individuals without regard to the requirements of § 1902(a)(10)(B) of the Act. To qualify as a provider of case management services to youth at risk of serious emotional disturbance, the provider of the services must meet certain the following criteria. These criteria shall be:~~

~~a. The provider must guarantee that clients have access to emergency services on a 24-hour basis;~~

~~b. The provider must demonstrate the ability to serve individuals in need of comprehensive services regardless of the individual's ability to pay or eligibility for Medicaid reimbursement;~~

~~e.a. The provider must have the administrative and financial management capacity to meet state and federal requirements regarding its capacity for administrative and financial management;~~

~~e.b. The provider must have the ability to document and maintain individual case records in accordance with state and federal requirements;~~

~~e.c. The provider must provide services shall be in accordance with the Virginia Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services; and~~

~~f.d. The provider must be certified as a mental health case management agency licensed as a provider of case management services by the DMHMRSAS; and~~

~~e. Persons providing case management services must have knowledge of:~~

~~(1) Services, systems, and programs available in the community including primary health care, support services, eligibility criteria and intake processes, generic community resources, and mental health, mental retardation, and substance abuse treatment programs;~~

~~(2) The nature of serious mental illness, mental retardation and/or substance abuse depending on the population served, including clinical and developmental issues;~~

~~(3) Different types of assessments, including functional assessments, and their uses in service planning;~~

~~(4) Treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning, and service coordination;~~

~~(5) The service planning process and major components of a service plan;~~

~~(6) The use of medications in the care or treatment of the population served; and~~

~~(7) All applicable federal and state laws, state regulations, and local ordinances.~~

~~f. Persons providing case management services must have skills in:~~

~~(1) Identifying and documenting an individual's need for resources, services, and other supports;~~

~~(2) Using information from assessments, evaluations, observation, and interviews to develop individual service plans;~~

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~~(3) Identifying services and resources within the community and established service system to meet the individual's needs; and documenting how resources, services, and natural supports, such as family, can be utilized to achieve an individual's personal rehabilitative/rehabilitative and life goals; and~~

~~(4) Coordinating the provision of services by diverse public and private providers.~~

~~g. Persons providing case management services must have abilities to:~~

~~(1) Work as team members, maintaining effective inter- and intra-agency working relationships;~~

~~(2) Work independently performing position duties under general supervision; and~~

~~(3) Engage and sustain ongoing relationships with individuals receiving services.~~

~~2.F. Providers may bill Medicaid for mental health case management to youth at risk of serious emotional disturbance only when the services are provided by qualified mental health case managers. The case manager must possess a combination of mental health work experience or relevant education which indicates that the individual possesses the following knowledge, skills, and abilities. The incumbent must have at entry level the following knowledge, skills and abilities. These must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).~~

~~a. Knowledge of:~~

~~(1) The nature of serious mental illness in adults and serious emotional disturbance in children and adolescents~~

~~(2) Treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning and service coordination~~

~~(3) Different types of assessments, including functional assessment, and their uses in service planning~~

~~(4) Consumer's rights~~

~~(5) Local community resources and service delivery systems, including support services (e.g. housing, financial, social welfare, dental, educational, transportation, communication, recreational, vocational, legal/advocacy), eligibility criteria and intake processes, termination criteria and procedures, and generic community resources (e.g. churches, clubs, self help groups)~~

~~(6) Types of mental health programs and services~~

~~(7) Effective oral, written and interpersonal communication principles and techniques~~

~~(8) General principles of record documentation~~

~~(9) The service planning process and major components of a service plan~~

~~b. Skills in:~~

~~(1) Interviewing~~

~~(2) Observing, recording and reporting on an individual's functioning~~

~~(3) Identifying and documenting a consumer's needs for resources, services and other supports~~

~~(4) Using information from assessments, evaluations, observation and interviews to develop service plans~~

~~(5) Identifying services within the community and established service system to meet the individual's needs~~

~~(6) Formulating, writing and implementing individualized service plans to promote goal attainment for persons with serious mental illness and emotional disturbances~~

~~(7) Negotiating with consumers and service providers~~

~~(8) Coordinating the provision of services by diverse public and private providers~~

~~(9) Identifying community resources and organizations and coordinating resources and activities~~

~~(10) Using assessment tools (e.g. level of function scale, life profile scale)~~

~~c. Abilities to:~~

~~(1) Demonstrate a positive regard for consumers and their families (e.g. treating consumers as individuals, allowing risk taking, avoiding stereotypes of people with mental illness, respecting consumers' and families' privacy, believing consumers are valuable members of society)~~

~~(2) Be persistent and remain objective~~

~~(3) Work as a team member, maintaining effective inter- and intra-agency working relationships~~

~~(4) Work independently, performing position duties under general supervision~~

~~(5) Communicate effectively, verbally and in writing~~

~~(6) Establish and maintain ongoing supportive relationships~~

~~F.G. The state assures that the provision of case management services will not restrict an individual's free choice of providers in violation of § 1902(a)(23) of the Act.~~

~~1. Eligible recipients will have free choice of the providers of case management services.~~

~~2. Eligible recipients will have free choice of the providers of other medical care under the plan.~~

~~G.H. Payment for case management services under the plan [ does must ] not duplicate payments made to public agencies~~

or private entities under other program authorities for this same purpose.

*I. Case management may not be billed concurrently with intensive community treatment services, treatment foster care case management services, or intensive in-home services for children and adolescents.*

**12 VAC 30-50-510. Requirements and limits applicable to specific services: expanded prenatal care services.**

A. Comparability of services: Services are not comparable in amount, duration and scope. Authority of § 9501(b) of COBRA 1985 allows an exception to provide service to pregnant women without regard to the requirements of § 1902(a)(10)(B).

B. Definition of services: Expanded prenatal care services will offer a more comprehensive prenatal care services package to improve pregnancy outcome. The expanded prenatal care services provider may perform the following services:

1. Patient education. Includes six classes of education for pregnant women in a planned, organized teaching environment including but not limited to topics such as body changes, danger signals, substance abuse, labor and delivery information, and courses such as planned parenthood, Lamaze, smoking cessation, and child rearing. Instruction must be rendered by Medicaid certified providers who have appropriate education, license, or certification.

2. Homemaker. Includes those services necessary to maintain household routine for pregnant women, primarily in third trimester, who need bed rest. Services include, but are not limited to, light housekeeping, child care, laundry, shopping, and meal preparation. Must be rendered by Medicaid certified providers.

3. Nutrition. Includes nutritional assessment of dietary habits, and nutritional counseling and counseling follow-up. All pregnant women are expected to receive basic nutrition information from their medical care providers or the WIC Program. Must be provided by a Registered Dietitian (R.D.) or a person with a master's degree in nutrition, maternal and child health, or clinical dietetics with experience in public health, maternal and child nutrition, or clinical dietetics.

4. Blood glucose meters. Effective on and after July 1, 1993, blood glucose test products shall be provided when they are determined by the physician to be medically necessary for pregnant women suffering from a condition of diabetes which is likely to negatively affect their pregnancy outcomes. The women authorized to receive a blood glucose meter must also be referred for nutritional counseling. Such products shall be provided by Medicaid enrolled durable medical equipment providers.

5. Residential substance abuse treatment services for pregnant and postpartum women. Includes comprehensive, intensive residential treatment for pregnant and postpartum women to improve pregnancy outcomes by eliminating the substance abuse problem. Must be provided consistent with standards established to assure high quality of care in 12 VAC 30-60-40 et seq. Residential substance abuse treatment services for pregnant and postpartum women

shall provide intensive intervention services in residential facilities other than inpatient facilities and shall be provided to pregnant and postpartum women (up to 60 days postpartum) with serious substance abuse disorders, for the purposes of improving the pregnancy outcome, treating the substance abuse disorder, strengthening the maternal relationship with existing children and the infant, and achieving and maintaining a sober and drug-free lifestyle. The woman may keep her infant and other dependent children with her at the treatment center. The daily rate is inclusive of all services which are provided to the pregnant woman in the program. A unit of service shall be one day. ~~The maximum number of units to be covered for one adult in her lifetime is 330 days of continuous service per pregnancy is 300 days, not to exceed 60 days postpartum. The lifetime limit may only be provided during one course of treatment.~~ These services must be reauthorized every 90 days and after any absence of less than 72 hours which was not first authorized by the program director. The program director must document the reason for granting permission for any absences in the clinical record of the recipient. An unauthorized absence of more than 72 hours shall terminate Medicaid reimbursement for this service. Unauthorized hours absent from treatment shall be included in this lifetime service limit.

✚ This type of treatment shall provide the following types of services or activities in order to be eligible to receive reimbursement by Medicaid:

a. Substance abuse rehabilitation, counseling and treatment must include, but is not necessarily limited to, education about the impact of alcohol and other drugs on the fetus and on the maternal relationship; smoking cessation classes if needed; education about relapse prevention to recognize personal and environmental cues which may trigger a return to the use of alcohol or other drugs; and the integration of urine toxicology screens and other toxicology screens, as appropriate, to monitor intake of illicit drugs and alcohol and provide information for counseling.

b. Training about pregnancy and fetal development shall be provided at a level and in a manner comprehensible by the participating women to include, but is not necessarily limited to, the impact of alcohol and other drugs on fetal development, normal physical changes associated with pregnancy as well as training in normal gynecological functions, personal nutrition, delivery expectations, and infant nutrition.

c. Initial and ongoing assessments shall be provided specifically for substance abuse, including, but not limited to, psychiatric and psychological assessments.

d. Symptom and behavior management as appropriate for co-existing mental illness shall be provided, including medication management and ongoing psychological treatment.

e. Personal health care training and assistance shall be provided. Such training shall include:

(1) Educational services and referral services for testing, counseling, and management of HIV, provided

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as described in 42 USC § 300x-24(b)(6)(A) and (B), including early intervention services as defined in 42 USC § 300x-24(b)(7) and in coordination with the programs identified in 45 CFR 96.128;

(2) Educational services and referral services for testing, counseling, and management of tuberculosis, including tuberculosis services as described in 42 USC § 300x-24(a)(2) (1992) and in coordination with the programs identified in 45 CFR 96.127; and

(3) Education services and referral services for testing, counseling, and management of hepatitis.

f. Case coordination with providers of primary medical care shall be provided, including obstetrical/gynecological services for the recipient.

g. Training in decision-making, anger management and conflict resolution shall be provided.

h. Extensive discharge planning shall be provided in collaboration with the recipient, any appropriate significant others, and representatives of appropriate service agencies.

6. ~~Day~~ Substance abuse *day* treatment for pregnant and postpartum women. Includes comprehensive, intensive day treatment for pregnant and postpartum women to improve pregnancy outcomes by eliminating the substance abuse problem. Must be provided consistent with the standards established to assure high quality of care in 12 VAC 30-60.

Substance abuse day treatment services for pregnant and postpartum women shall provide intensive intervention services at a central location lasting two or more consecutive hours per day, which may be scheduled multiple times per week, to pregnant and postpartum women (up to 60 days postpartum) with serious substance abuse problems for the purposes of improving the pregnancy outcome, treating the substance abuse disorder, and achieving and maintaining a sober and drug-free lifestyle. The pregnant woman may keep her infant and other dependent children with her at the treatment center. One unit of service shall equal two but no more than 3.99 hours on a given day. Two units of service shall equal at least four but no more than 6.99 hours on a given day. Three units of service shall equal seven or more hours on a given day. The ~~lifetime~~ limit on this service shall be ~~440~~ 400 units ~~in a 12-month period per pregnancy, not to exceed 60 days post partum. The lifetime limit may only be provided during one course of treatment.~~ Services must be reauthorized every 90 days and after any absence of five consecutive days from scheduled treatment without staff permission. More than two episodes of five-day absences from scheduled treatment without prior permission from the program director or one absence exceeding seven days of scheduled treatment without prior permission from the program director shall terminate Medicaid funding for this service. The program director must document the reason for granting permission for any absences in the clinical record of the recipient. Unauthorized hours absent from treatment shall be included in the lifetime service limit. In order to be eligible to receive Medicaid payment the following types of services shall be provided:

a. Substance abuse rehabilitation, counseling and treatment shall be provided, including education about the impact of alcohol and other drugs on the fetus and on the maternal relationship, smoking cessation classes if needed; relapse prevention to recognize personal and environmental cues which may trigger a return to the use of alcohol or other drugs; and the integration of urine toxicology screens and other toxicology screens, as appropriate, to monitor intake of illicit drugs and alcohol and provide information for counseling.

b. Training about pregnancy and fetal development shall be provided at a level and in a manner comprehensible by the participating women to include, but not necessarily be limited to, the impact of alcohol and other drugs on fetal development; normal physical changes associated with pregnancy, as well as training in normal gynecological functions; personal nutrition; delivery expectations; and infant nutrition.

c. Initial and ongoing assessments shall be provided specifically for substance abuse, including psychiatric and psychological assessments.

d. Symptom and behavior management as appropriate for co-existing mental illness shall be provided, including medication management and ongoing psychological treatment.

e. Personal health care training and assistance shall be provided. Such training shall include:

(1) Educational services and referral services for testing, counseling, and management of HIV, provided as described in 42 USC § 300x-24(b)(6)(A) and (B), including early intervention services as defined in 42 USC § 300x-24(b)(7) and in coordination with the programs identified in 45 CFR 96.128;

(2) Educational services and referral services for testing, counseling, and management of tuberculosis, including tuberculosis services as described in 42 USC § 300x-24(a)(2) (1992) and in coordination with the programs identified in 45 CFR 96.127; and

(3) Educational services and referral services for testing, counseling, and management of hepatitis.

f. Case coordination with providers of primary medical care shall be provided, including obstetrics and gynecology services for the recipient.

g. Training in decision-making, anger management and conflict resolution shall be provided.

h. Extensive discharge planning shall be provided in collaboration with the recipient, any appropriate significant others, as well as representatives of appropriate service agencies.

## C. Qualified providers.

1. Any duly enrolled provider which the department determines to be qualified who has signed an agreement may provide expanded prenatal care services.

2. The qualified providers will provide prenatal care services regardless of their capacity to provide any other services under the Plan.

3. Providers of substance abuse treatment services must be licensed and approved by the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS). Substance abuse services providers shall be required to meet the standards and criteria established by DMHMRSAS, and the following additional requirements:

a. The provider shall ensure that recipients have access to emergency services on a 24-hour basis seven days per week, 365 days per year, either directly or via an on-call system.

b. Services must be authorized following face-to-face evaluation/diagnostic assessment conducted by one of the following professionals who must not be the same individual providing nonmedical clinical supervision:

(1) A counselor who has completed master's level training in either psychology, social work, counseling or rehabilitation who is also either certified as a substance abuse counselor by the Board of Counselors, as a certified addictions counselor by the Substance Abuse Certification Alliance of Virginia, or who holds any certification from the National Association of Alcoholism and Drug Abuse Counselors.

(2) A professional licensed by the appropriate board of the Virginia Department of Health Professions as either a professional counselor, clinical social worker, registered nurse, clinical psychologist, or physician who demonstrates competencies in all of the following areas of addiction counseling: clinical evaluation; treatment planning; referral; service coordination; counseling; client, family, and community education; documentation; professional and ethical responsibilities; or as a licensed substance abuse professional.

(3) A professional certified as either a clinical supervisor by the Substance Abuse Certification Alliance of Virginia or as a master addiction counselor by the National Association of Alcoholism and Drug Abuse Counselors.

c. A provider of substance abuse treatment services for pregnant and postpartum women must meet the following requirements for day treatment services for pregnant and postpartum women:

(1) Medical care must be coordinated by a nurse case manager who is a registered nurse licensed by the Board of Nursing and who demonstrates competency in the following areas:

- (a) Health assessment;
- (b) Mental health;
- (c) [ ~~Addiction~~ Substance abuse ];
- (d) Obstetrics and gynecology;
- (e) Case management;

- (f) Nutrition;
- (g) Cultural differences; and
- (h) Counseling.

(2) The nurse case manager shall be responsible for coordinating the provision of all immediate primary care and shall establish and maintain communication and case coordination between the women in the program and necessary medical services, specifically with each obstetrician providing services to the women. In addition, the nurse case manager shall be responsible for establishing and maintaining communication and consultation linkages to high-risk obstetrical units, including regular conferences concerning the status of the woman and recommendations for current and future medical treatment.

**12 VAC 30-60-61. [ No change from proposed. ]**

**12 VAC 30-60-143. Mental health services utilization criteria.**

A. Utilization reviews shall include determinations that providers meet all the requirements of Virginia state regulations found in ~~12 VAC 30-50-95 through 12 VAC 30-50-340~~; the following requirements:

- 1. The provider shall meet the federal and state requirements for administrative and financial management capacity.
- 2. The provider shall document and maintain individual case records in accordance with state and federal requirements.
- 3. The provider shall ensure eligible recipients have free choice of providers of mental health services and other medical care under the Individual Service Plan.

B. Day treatment/partial hospitalization services shall be provided following a diagnostic assessment ~~when~~ and be authorized by the physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or ~~certified psychiatric nurse, and in accordance with licensed clinical nurse specialist-psychiatric~~. An ISP ~~which~~ shall be fully completed by either the LMHP or the QMHP as defined at 12 VAC 30-50-226 within 30 days of service initiation.

- 1. The enrolled provider of day treatment/partial hospitalization shall be licensed by DMHMRSAS as providers of day treatment services.
- 2. Services shall be provided by an LMHP, a QMHP, or a qualified paraprofessional under the supervision of a QMHP or an LMHP as defined at 12 VAC 30-50-226.
- ~~2-~~ 3. The program shall operate a minimum of two continuous hours in a 24-hour period. ~~One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day.~~

~~3-~~ 4. Individuals shall be discharged from this service ~~when they are no longer in an acute psychiatric state or when~~

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~~other less intensive services may achieve or maintain psychiatric stabilization. Admission and services longer than 90 calendar days must be authorized based upon a face-to-face evaluation by a physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or certified psychiatric nurse.~~

~~4. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral or emotional illness which results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:~~

~~a. Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness because of conflicts with family or community.~~

~~b. Require help in basic living skills such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized.~~

~~c. Exhibit such inappropriate behavior that repeated interventions by the mental health, social services, or judicial system are necessary.~~

~~d. Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.~~

C. Psychosocial rehabilitation services shall be provided to those individuals who have experienced long-term or repeated psychiatric hospitalization, or who ~~lack daily living skills experience difficulty in activities of daily living and interpersonal skills, or whose support system is limited or nonexistent, or who are unable to function in the community without intensive intervention or when long-term services are needed to maintain the individual in the community.~~

~~1. Psychosocial rehabilitation services shall be provided following an assessment which clearly documents the need for services and in accordance with. The assessment shall be completed by an LMHP, or a QMHP, and approved by a LMHP within 30 days of admission to services. An ISP which shall be fully completed by the LMHP or the QMHP within 30 days of service initiation. Every three months, the LMHP or the QMHP must review, modify as appropriate, and update the ISP.~~

~~2. Psychosocial rehabilitation services of any individual that continue more than six months must be reviewed by an LMHP who must document the continued need for the service. The ISP shall be rewritten at least annually.~~

~~3. The enrolled provider of psychosocial rehabilitation services shall be licensed by DMHMRSAS as a provider of psychosocial rehabilitation or clubhouse services.~~

~~4. Psychosocial rehabilitation services may be provided by an LMHP, a QMHP, or a qualified paraprofessional under the supervision of a QMHP or an LMHP.~~

~~5. The program shall operate a minimum of two continuous hours in a 24-hour period. One unit of service is~~

~~defined as a minimum of two but less than four hours on a given day. Two units are defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day.~~

~~6. Time allocated for field trips may be used to calculate time and units if the goal is to provide training in an integrated setting, and to increase the client's understanding or ability to access community resources.~~

~~5. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral or emotional illness which results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:~~

~~a. Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness because of conflicts with family or community.~~

~~b. Require help in basic living skills such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized.~~

~~c. Exhibit such inappropriate behavior that repeated interventions by the mental health, social services or judicial system are necessary.~~

~~d. Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.~~

D. Admission to crisis intervention services is indicated following a marked reduction in the individual's psychiatric, adaptive or behavioral functioning or an extreme increase in personal distress. ~~Crisis intervention may be the initial contact with a client.~~

~~1. The provider of crisis intervention services shall be licensed as a provider of outpatient Program services by DMHMRSAS.~~

~~2. Client-related activities provided in association with a face-to-face contact are reimbursable.~~

~~3. An Individual Service Plan (ISP) shall not be required for newly admitted individuals to receive this service. Inclusion of crisis intervention as a service on the ISP shall not be required for the service to be provided on an emergency basis.~~

~~4. For individuals receiving scheduled, short-term counseling as part of the crisis intervention service, an ISP must be developed or revised to reflect the short-term counseling goals by the fourth face-to-face contact.~~

~~5. Reimbursement shall be provided for short-term crisis counseling contacts occurring within a 30-day period from the time of the first face-to-face crisis contact. Other than the annual service limits, there are no restrictions (regarding number of contacts or a given time period to be covered) for reimbursement for unscheduled crisis contacts.~~

6. Crisis intervention services may be provided to eligible individuals outside of the clinic and billed, provided the provision of out-of-clinic services is clinically/programmatically appropriate. Travel by staff to provide out-of-clinic services is not reimbursable. Crisis intervention may involve contacts with the family or significant others. *If other clinic services are billed at the same time as crisis intervention, documentation must clearly support the separation of the services with distinct treatment goals.*

7. *An LMHP, a QMHP, or a certified prescriber must conduct a face-to-face assessment. If the QMHP performs the assessment, it must be reviewed and approved by an LMHP or a certified prescriber within 72 hours of the face-to-face assessment. The assessment shall document the need for and the anticipated duration of the crisis service. Crisis intervention will be provided by an LMHP, a certified prescriber, or a QMHP.*

8. *Crisis intervention shall not require an ISP.*

9. *For an admission to a freestanding inpatient psychiatric facility for individuals younger than age 21, federal regulations (42 CFR 441.152) require certification of the admission by an independent team. The independent team must include mental health professionals, including a physician. Preadmission screenings cannot be billed unless the requirement for an independent team, with a physician's signature, is met.*

10. *Services must be documented through daily notes and a daily log of time spent in the delivery of services.*

## E. Case management services (pursuant to 12 VAC 30-50-226).

1. Reimbursement shall be provided only for "active" case management clients, as defined. An active client for case management shall mean an individual for whom there is a plan of care in effect which requires regular direct or client-related contacts or activity or communication with the client or families, significant others, service providers, and others including a minimum of one face-to-face client contact within a 90-day period. Billing can be submitted only for months in which direct or client-related contacts, activity or communications occur.

2. The Medicaid eligible individual shall meet the DMHMRSAS criteria of serious mental illness, serious emotional disturbance in children and adolescents, or youth at risk of serious emotional disturbance.

3. There shall be no maximum service limits for case management services. *Case management shall not be billed for persons in institutions for mental disease.*

4. The ISP must document the need for case management and be fully completed within 30 days of initiation of the service, and the case manager shall review the ISP every three months. The review will be due by the last day of the third month following the month in which the last review was completed. A grace period will be granted up to the last day of the fourth month following the month of the last review. When the review was completed in a grace period, the next subsequent review shall be scheduled three months from

the month the review was due and not the date of actual review.

5. The ISP shall be updated at least annually.

6. *The provider of case management services shall be licensed by DMHMRSAS as a provider of case management services.*

## F. Intensive community treatment (ICT) for adults.

1. An assessment which documents eligibility and need for this service shall be completed by the LMHP or the QMHP prior to the initiation of services. This assessment must be maintained in the individual's records.

2. *A An individual service plan, based on the needs as determined by the assessment, must be initiated at the time of admission and must be fully developed by the LMHP or the QMHP and approved by the LMHP within 30 days of the initiation of services.*

3. *ICT may be billed if the client is brought to the facility by ICT staff to see the psychiatrist. Documentation must be present to support this intervention.*

4. *The enrolled ICT provider shall be licensed by the DMHMRSAS as a provider of intensive community services or as a program of [assistive assertive] community treatment, and must provide and make available emergency services 24-hours per day, seven days per week, 365 days per year, either directly or on call.*

5. *ICT services must be documented through a daily log of time spent in the delivery of services and a description of the activities/services provided. There must also be at least a weekly note documenting progress or lack of progress toward goals and objectives as outlined on the ISP.*

## G. Crisis stabilization services.

1. This service must be authorized following a face-to-face assessment by an LMHP, a certified prescriber, or a QMHP. This assessment must be reviewed and approved by a licensed mental health professional within 72 hours of the assessment.

2. The assessment documents *must document* the need for ~~service~~ *crisis stabilization services* and anticipated duration of need.

3. The Individual Service Plan (ISP) *is must be* developed or revised within ~~24 hours~~ *10 business days of the approved* assessment or reassessment. *The LMHP, certified prescriber, or QMHP shall develop the ISP.*

4. Room and board, custodial care, and general supervision are not components of this service.

5. Clinic option services are not billable at the same time as crisis stabilization services *are provided with the exception of clinic visits for medication management. Medication management visits may be billed at the same time that crisis stabilization services are provided but documentation must clearly support the separation of the services with distinct treatment goals.*

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# Final Regulations

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6. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to an acute crisis of a psychiatric nature which puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:

~~a. Experiencing difficulty in maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness because of conflicts with family or community;~~

~~b. Experiencing difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized;~~

~~c. Exhibiting such inappropriate behavior that immediate interventions by mental health and other agencies are necessary; or~~

~~d. Exhibiting difficulty in cognitive ability such that the individual is unable to recognize personal danger or recognize significantly inappropriate social behavior.~~

7. Providers of crisis stabilization shall be licensed by DMHMRSAS as providers of outpatient services.

## H. Mental health support services.

~~1. The individual receiving mental health support services must have an active case management plan in effect which includes monitoring and assessment of the provision of mental health support services. The individual responsible for the case management plan and for the provision of case management services shall not be the provider of mental health support services nor the immediate supervisor of the staff person providing mental health support services.~~

~~2. There shall be a documented assessment/evaluation prior to the initiation or reauthorization of services. The assessment/evaluation must have been completed by a QMHP no more than 30 days prior to the initiation or reauthorization of services.~~

~~3. The ISP must be developed within 30 days of the initiation of services and must indicate the specific supports and services to be provided and the goals and objectives to be accomplished.~~

~~4. The ISP must be reviewed every three months, modified as appropriate, and must be updated and rewritten at least annually.~~

1. At admission, an appropriate face-to-face assessment must be made and documented by the LMHP or the QMHP, indicating that service needs can best be met through mental health support services. The assessment must be performed by the LMHP, or the QMHP, and approved by the LMHP, within 30 days of the date of admission. The LMHP or the QMHP will complete the ISP within 30 days of the admission to this service. The ISP must indicate the specific supports and services to be provided and the goals and objectives to be accomplished. The LMHP or QMHP will supervise the care if delivered by the qualified paraprofessional.

2. Every three months, the LMHP or the QMHP must review, modify as appropriate, and update the ISP. The ISP must be rewritten at least annually.

5. 3. Only direct face-to-face contacts and services to individuals shall be reimbursable.

6. 4. Any services provided to the client which that are strictly academic in nature shall not be reimbursable billable. These include, but are not limited to, such basic educational programs as instruction in reading, science, mathematics, or GED.

7. 5. Any services provided to clients which that are strictly vocational in nature shall not be reimbursable billable. However, support activities and activities directly related to assisting a client to cope with a mental illness to the degree necessary to develop appropriate behaviors for operating in an overall work environment shall be reimbursable billable.

8. 6. Room and board, custodial care, and general supervision are not components of this service.

9. 7. This service is not reimbursable billable for individuals who reside in any domiciliary care facilities such as ACRs or group homes or nursing facilities where staff are expected to provide such services under facility licensure requirements.

10. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral or emotional illness which results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:

~~a. Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness because of conflicts with family or community.~~

~~b. Require help in basic living skills such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized.~~

~~c. Exhibit such inappropriate behavior that repeated interventions by the mental health, social services or judicial system are necessary.~~

~~d. Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.~~

8. Provider qualifications. The enrolled provider of mental health support services must be licensed by DMHMRSAS as a provider of supportive in-home services [ , intensive community treatment, or as a program of assertive community treatment ]. Individuals employed or contracted by the provider to provide mental health support services must have training in the characteristics of mental illness and appropriate interventions, training strategies, and support methods for persons with mental illness and functional limitations.

9. Mental health support services, which continue for six consecutive months, must be reviewed and renewed at the



end of the six-month period of authorization by an LMHP who must document the continued need for the services.

10. Mental health support services must be documented through a daily log of time involved in the delivery of services and a minimum of a weekly summary note of services provided.

**12 VAC 30-60-147. [ No change from proposed. ]**

**12 VAC 30-130-550. [ No change from proposed ].**

**12 VAC 30-130-565. [ No change from proposed ].**

**12 VAC 30-130-570. [ No change from proposed ].**

DOCUMENTS INCORPORATED BY REFERENCE

Virginia Medicaid Nursing Home Manual, Department of Medical Assistance Services.

Virginia Medicaid Rehabilitation Manual, Department of Medical Assistance Services.

Virginia Medicaid Hospice Manual, Department of Medical Assistance Services.

Virginia Medicaid School Division Manual, Department of Medical Assistance Services.

*ASAM Patient Placement Criteria for the Treatment of Substance-Related Disorders, ASAM PPC-2R, Second Edition, revised 2001, American Society of Addiction Medicine.*

VA.R. Doc. No. R02-164; Filed November 17, 2003, 2:30 p.m.

**TITLE 16. LABOR AND EMPLOYMENT**

**DEPARTMENT OF LABOR AND INDUSTRY**

**Safety and Health Codes Board**

REGISTRAR'S NOTICE: The following regulation is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **16 VAC 25-85-1904. Federal Identical Recording and Reporting Occupational Injuries and Illnesses (29 CFR Part 1904) (amending 16 VAC 25-85-1904.29; repealing 16 VAC 25-85-1904.12).**

Statutory Authority: § 40.1-22 of the Code of Virginia.

Effective Date: January 15, 2004.

Summary:

*Federal OSHA has deleted two provisions of the Occupational Injury and Illness Recording and Reporting*

*Requirements ("Recordkeeping") rule published on January 19, 2001. The first provision deleted is § 1904.12, which required employers to check the musculoskeletal disorder (MSD) column on the OSHA 300 Log if an employee experienced a work-related MSD. The second provision amended § 1904.29(b)(7)(vi) by deleting the MSD requirement that stated that MSDs are not considered privacy concern cases.*

*Since publication of the recordkeeping rule in January 2001, the effective date of these provisions has been delayed by federal OSHA and also by the board at its June 13, 2003, meeting. As a result, the requirements deleted by this final rule have never been in effect. (68 FR 38601)*

Agency Contact: John Crisanti, VOSH Planning Manager, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418, e-mail [jjc@doli.state.va.us](mailto:jjc@doli.state.va.us).

Note on Incorporation by Reference

Pursuant to § 2.2-4103 of the Code of Virginia, Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR Part 1904.10, is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, Richmond, Virginia 23219.

On November 5, 2003, the Safety and Health Codes Board adopted an identical version of federal OSHA's revised final rule for Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904.12 and 1904.29, with an effective date of January 15, 2004.

The text of the amendments to 29 CFR 1904, Occupational Injury and Illness Recording and Reporting Requirements, can be found in the June 30, 2003, issue of the Federal Register, Volume 68, Issue 125, pages 38601-38607.

When the regulations, as set forth in the amendments to the Occupational Injury and Illness Recording and Reporting Requirements, 16 VAC 25-85-1904.29(b)(7)(vi), are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
January 1, 2004	January 15, 2004

VA.R. Doc. No. R04-53; Filed November 25, 2003, 10:05 a.m.



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# Final Regulations

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## TITLE 22. SOCIAL SERVICES

### DEPARTMENT OF REHABILITATIVE SERVICES

**REGISTRAR'S NOTICE:** The following regulatory action is exempt from the Administrative Process Act in accordance with (i) § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved and (ii) § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The Department of Rehabilitative Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 22 VAC 30-20. Provision of Vocational Rehabilitation Services (amending 22 VAC 30-20-90).

**Statutory Authority:** § 51.5-14 of the Code of Virginia.

**Effective Date:** January 15, 2004.

**Summary:**

*Legislation enacted during the 2003 Session of the General Assembly abolished the Board of Rehabilitative Services effective July 1, 2003 (Chapters 57 and 73 of the 2003 Acts of Assembly), and placed the authority of the board with the State Rehabilitation Council.*

*The requirement that public safety officers receive preference is no longer contained in the federal Rehabilitation Act regulations and 34 CFR 361.36(d)(2) specifically prohibits this factor. The amendments to this regulation reflect those changes.*

**Agency Contact:** Elizabeth Smith, Policy and Planning Director, Department of Rehabilitative Services, 8004 Franklin Farms Drive, P.O. Box K-300, Richmond, VA 23288-0300, telephone (804) 662-7071, FAX (804) 662-7696 or e-mail [smithee@drs.state.va.us](mailto:smithee@drs.state.va.us).

**22 VAC 30-20-90. Order of selection for services.**

A. In the event that the full range of vocational rehabilitation services cannot be provided to all eligible individuals who apply for services because of insufficient resources, an order of selection system may be implemented by the commissioner following consultation with the State Rehabilitation Council ~~and the board~~. The order of selection shall determine those persons to be provided services. It shall be the policy of the department to encourage referrals and applications of all persons with disabilities and, to the extent resources permit, provide services to all eligible persons.

The following order of selection is implemented when services cannot be provided to all eligible persons:

1. Person eligible and presently receiving services under an individualized plan for employment.
2. Those persons referred and needing diagnostic services to determine eligibility.

3. Persons determined to be eligible for services shall be served according to the following order of priorities:

- a. Priority I. An individual with a most significant disability in accordance with the definition in 22 VAC 30-20-10.
- b. Priority II. An individual with a significant disability that results in serious functional limitations in two functional capacities.
- c. Priority III. An individual with a significant disability that results in a serious functional limitation in one functional capacity.
- d. Priority IV. Other persons determined to be disabled, in order of eligibility determination.

~~In each priority, preference shall be given to providing services to disabled public safety officers disabled in the line of duty.~~

B. An order of selection may not be based on any other factors, including (i) any duration of residency requirement, provided the individual is present in the state; (ii) type of disability; (iii) age, gender, race, color, or national origin; (iv) source of referral; (v) type of expected employment outcome; (vi) the need for specific services or anticipated cost of services required by the individual; or (vii) the income level of an individual or an individual's family.

C. In administering the order of selection, the designated state unit must (i) implement the order of selection on a statewide basis; (ii) notify all eligible individuals of the priority categories in a state's order of selection, their assignment to a particular category, and their right to appeal their category assignment; (iii) continue to provide all needed services to any eligible individual who has begun to receive services under an individualized plan for employment prior to the effective date of the order of selection, irrespective of the severity of the individual's disability; and (iv) ensure that its funding arrangements for providing services under the state plan, including third-party arrangements and awards under the establishment authority, are consistent with the order of selection. If any funding arrangements are inconsistent with the order of selection, the designated state unit must renegotiate these funding arrangements so that they are consistent with the order of selection.

D. Consultation with the State Rehabilitation Council must include (i) the need to establish an order of selection, including any reevaluation of the need; (ii) priority categories of the particular order of selection; (iii) criteria for determining individuals with the most significant disabilities; and (iv) administration of the order of selection.

VA.R. Doc. No. R04-46; Filed November 19, 2003, 2:47 p.m.



# EMERGENCY REGULATIONS

## TITLE 8. EDUCATION

### STATE BOARD OF EDUCATION

**Title of Regulation:** 8 VAC 20-680. Regulations Governing the General Achievement Diploma (adding 8 VAC 20-680-10).

**Statutory Authority:** §§ 22.1-253.13:4 and 22.1-254.2 of the Code of Virginia.

**Effective Dates:** November 7, 2003, through November 6, 2004.

**Agency Contact:** Charles Finley, Assistant Superintendent for Accountability, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 786-9421, FAX (804) 225-2524, or e-mail cfinley@mail.vak12ed.edu.

**Preamble:**

*The General Assembly in House Bill 1464 (Chapter 688, 2003 Acts of Assembly) amended and reenacted §§ 22.1-253.13:4 and 22.1-254.2 of the Code of Virginia relating to the creation of the general achievement diploma.*

*Note: The term "diploma candidate" is used in the emergency regulation to mean a person who may be working toward a diploma, but who is not currently enrolled in school. This definition is consistent with the intent of the Board of Education and the enabling legislation. The text of the permanent regulations will clarify the meaning of "diploma candidate" in order to eliminate any confusion in school divisions.*

*The proposed regulation increases the options for individuals to earn a diploma. This could have a positive impact on the welfare of Virginians.*

**CHAPTER 680.  
REGULATIONS GOVERNING THE GENERAL  
ACHIEVEMENT DIPLOMA.**

**8 VAC 20-680-10. Requirements for the General Achievement Diploma.**

*A. The General Achievement Diploma is intended to provide a diploma option for high school dropouts and individuals who exit high school without a diploma. It should not be a first option for high school students.*

*B. Individuals who are at least 18 years of age and not enrolled in public school or not otherwise meeting the compulsory school attendance requirements set forth in the Code of Virginia § 22.1-254 shall be eligible to earn the General Achievement Diploma. Diploma candidates may be individuals who are of the age<sup>1</sup> to enroll in a public school whether they choose to enroll or not; or individuals who because of their age are not eligible to enroll in a public school.*

*C. The required number of standard units of credit may be earned by enrolling in:*

- 1. A public school if the individual meets the age requirements;*

- 2. A community college or other institution of higher education;*
- 3. An adult high school program; or*
- 4. Correspondence, distance learning, and online courses.*

*D. Diploma candidates shall participate in GED preparation.*

*E. Credit and assessment requirements for graduation with a General Achievement Diploma:*

<i>Discipline Area</i>	<i>Standard Units of Credit Required</i>	<i>Assessment Required</i>
<i>English</i>	4	
<i>Mathematics<sup>2</sup></i>	3	
<i>Science<sup>3</sup></i>	2	
<i>History and Social Sciences<sup>4</sup></i>	2	
<i>Electives<sup>5</sup></i>	9	
<b>TOTAL</b>	20	<i>Achieve a passing score on the GED examination</i>

<sup>1</sup>*A person of school age is one who has not reached twenty years of age on or before August 1 of the school year (§ 22.1-1) or any individual through 21 years of age who is eligible for mandated services in a program of special education designed to educate and train children with disabilities (§ 22.1-213).*

<sup>2</sup>*Courses completed to satisfy this requirement shall include content in mathematics courses that incorporate or exceed the content of courses approved by the board to satisfy any other board-recognized diploma.*

<sup>3</sup>*Courses completed to satisfy this requirement shall include content in science courses that incorporate or exceed the content of courses approved by the board to satisfy any other board-recognized diploma.*

<sup>4</sup>*Courses completed to satisfy this requirement shall include one unit of credit in Virginia and U.S. History and one unit of credit in Virginia and U.S. Government in courses that incorporate or exceed the content of courses approved by the board to satisfy any other board-recognized diploma.*

<sup>5</sup>*Courses shall include at least two sequential electives in an area of concentration or specialization, which may include career and technical education and training.*

/s/ Mark R. Warner  
Governor  
Date: October 31, 2003

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# GENERAL NOTICES/ERRATA

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## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Total Maximum Daily Load (TMDL) - Matadequin Creek

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) for Matadequin Creek in Hanover County, Virginia. The subject stream segments are identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for bacteria and pH. The bacteria and pH impairments addressed are located from the confluence of Parsleys Creek to the confluence of the Pamunkey River, for a total of 5.1 river miles.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The public meeting on the development of the Matadequin Creek TMDL will be held on Thursday, January 22, 2004, 7 p.m. at 4428 Mechanicsville Turnpike in the Eastern Hanover Volunteer Company #3 meeting room. The building is located on Rt. 360 (Mechanicsville Turnpike) on the east bound lane, approximately 1/4 mile east of the Rt. 627 (Pole Green Road) intersection, in Mechanicsville, Virginia.

The public comment period for this phase of the TMDL development will end on February 22, 2004. Information pertaining to TMDL development is available upon request or can be found on DEQ's website at <http://www.deq.state.va.us/tmdl/>. Written comments should include the name, address, and telephone number of the person submitting the comments. Questions or information requests should be addressed to Mark Alling, Department of Environmental Quality, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5021, FAX (804) 527-5106, or e-mail [msalling@deq.state.va.us](mailto:msalling@deq.state.va.us).

### Total Maximum Daily Load (TMDL) - Mechumps Creek

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) for Mechumps Creek in Hanover County, Virginia. The subject stream segments are identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for bacteria and pH. The bacteria and pH impairments addressed are located on Mechumps Creek from the confluence of Slayden Creek downstream to the confluence with the Pamunkey River, a total of 5.69 river miles.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The public meeting on the development of the Mechumps Creek TMDLs will be held on Tuesday, January 27, 2004, 7 p.m. at 13226 Courthouse Road in Hanover Fire & EMS Administration Building. The building is located on Rt. 301 approximately 1/4 mile north of the intersection of Rt. 54 in Hanover, Virginia.

The public comment period for this phase of the TMDL development will end on February 27, 2004. Information pertaining to TMDL development is available upon request or can be found on DEQ's website at <http://www.deq.state.va.us/tmdl/>. Written comments should include the name, address, and telephone number of the person submitting the comments. Questions or information requests should be addressed to Mark Alling, Department of Environmental Quality, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5021, FAX (804) 527-5106, or e-mail [msalling@deq.state.va.us](mailto:msalling@deq.state.va.us).

### Total Maximum Daily Loads (TMDLs) - Tuckahoe Creek (Goochland and Henrico Counties), Little Tuckahoe Creek (Goochland Co.), and Deep Run (Henrico Co.), Virginia

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) for Tuckahoe Creek (Goochland and Henrico Counties), Little Tuckahoe Creek (Goochland Co.), and Deep Run (Henrico Co.), Virginia. The subject stream segments are identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for bacteria and dissolved oxygen. The bacteria and dissolved oxygen impairments addressed are located from the headwaters of Little Tuckahoe Creek to the confluence of Tuckahoe Creek (for a total of 5.25 river miles), Tuckahoe Creek from the confluence of Little Tuckahoe Creek to the James River (for a total of 8.7 river miles), and the headwaters of Deep Run to the low water line of the impoundment at mile 1.47 (for a total of 4.49 river miles).

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The public meeting on the development of the Tuckahoe Creek, Little Tuckahoe Creek, and Deep Run TMDLs will be held on Tuesday, January 20, 2004, 7 p.m. at 4949-A Cox Road in the Department of Environmental Quality - Piedmont Regional Office. The building is located on Cox Road approximately 1/4 mile north of the intersection of Nuckols Road, in Glen Allen, Virginia. Turn right into the DEQ parking area. Enter the building through the third door from the street.

The public comment period for this phase of the TMDL development will end on February 20, 2004. Information pertaining to TMDL development is available upon request or can be found on DEQ's website at <http://www.deq.state.va.us/tmdl/>. Written comments should include the name, address, and telephone number of the person submitting the comments. Questions or information

requests should be addressed to Mark Alling, Department of Environmental Quality, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5021, FAX (804) 527-5106, or e-mail [msalling@deq.state.va.us](mailto:msalling@deq.state.va.us).

## **Total Maximum Daily Loads (TMDLs) - White Oak Swamp Creek and Fourmile Creek**

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) for White Oak Swamp Creek and Fourmile Creek, located in eastern Henrico County, Virginia. The subject stream segments are identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for bacteria and pH. The bacteria and pH impairments on White Oak Swamp begin at White Oak Swamp Creek and continue downstream to the confluence with the Chickahominy River, for a total of 6.51 river miles. The bacteria and pH impairments on Fourmile Creek begin from its headwaters to the mouth at the James River, for a total of 8.69 river miles.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The public meeting on the development of the White Oak Swamp and Fourmile Creek TMDLs will be held on Thursday, January 29, 2004, 7 p.m. at 1001 N. Laburnum Avenue in the Fairfield Area Library meeting room. The building is located on Laburnum Avenue, just south of the intersection of Laburnum Avenue and Creighton Road. For more specific directions, visit <http://www.co.henrico.va.us/library/directions.htm>.

The public comment period for this phase of the TMDL development will end on February 22, 2004. Information pertaining to TMDL development is available upon request or can be found on DEQ's website at <http://www.deq.state.va.us/tmdl/>. Written comments should include the name, address, and telephone number of the person submitting the comments. Questions or information requests should be addressed to Mark Alling, Department of Environmental Quality, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5021, FAX (804) 527-5106, or e-mail [msalling@deq.state.va.us](mailto:msalling@deq.state.va.us).

## **STATE LOTTERY DEPARTMENT**

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on November 21, 2003. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

### Director's Order Number Sixty-Six (03)

Virginia's Instant Game Lottery 260; "21," (effective 11/17/03)

### Director's Order Number Sixty-Seven (03)

Virginia's Instant Game Lottery 262; "Hot Hand," (effective 11/17/03)

## **STATE WATER CONTROL BOARD**

### **Proposed Consent Special Order Brunswick County School Board**

The State Water Control Board proposes to issue a consent special order to the Brunswick County School Board to resolve certain alleged violations of environmental laws and regulations occurring at their Meherrin-Powellton and Sturgeon Elementary School facilities. The proposed order requires the Brunswick County School Board to execute corrective action and pay a \$2,700 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments related to the proposed consent special order. Comments should be addressed to Frank Lupini, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295; or sent to the email address of [felupini@deq.state.va.us](mailto:felupini@deq.state.va.us). All comments received by e-mail must include the name, address and phone number of the person making the comment. A copy of the order may be obtained in person or by mail from the above office.

### **Public Participation Procedures for Water Quality Management Planning**

Notice is hereby given that the State Water Control Board seeks comment on proposed changes to the Public Participation Procedures for Water Quality Management Planning.

Summary: In May 2002, the State Water Control Board approved the "Water Quality Management Planning Public Participation Guidelines Guidance Manual." Since then, staff has made several changes to that approved document. These changes are presented for public comment in the following "Draft Public Participation Procedures for Water Quality Management Planning."

The document sets forth the public participation procedures that the board should follow in connection with development of Total Maximum Daily Loads (TMDLs), 305(b)/303(d) integrated reports, and the 303(e) Water Quality Management Plans (WQMPs). The procedures provide the public and stakeholders with an adequate opportunity to participate in the development and implementation of these water quality management planning programs. The applicability of these procedures is intended for those Water Quality Management programs that are not covered by the provisions of the Administrative Process Act.

The proposed staff changes to the manual include, but are not limited to, the following:

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# General Notices/Errata

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- 1) Clarify the difference between WQMPs and the WQMP regulation (9 VAC 25-720),
- 2) Clarify the difference between TMDLs (i.e., pollutant allocations) and TMDL reports,
- 3) Propose that the board approve the TMDL report as the plan for achieving attainment of water quality goals for impaired waters and approve inclusion of the TMDL in the appropriate WQMP,
- 4) Propose that the board adopt some TMDL Waste Load Allocations (WLA) as part of 9 VAC 25-720, the Water Quality Planning Regulation, and
- 5) Add a reference to the right to petition (§ 2.2-4006 B) subsequent to the TMDL WLAs being adopted as regulations.

A copy of the full text of these procedures is available electronically at:  
<http://www.deq.state.va.us/tmdl/pdf/wqmppp.pdf>.

The electronic copy is in PDF format and may be read online or downloaded. Also, hard copies are available upon request.

Anyone wishing to submit written comments may do so by mail or by e-mail to the contact person. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by January 30, 2004. For additional information on this document, please contact Mr. Charles Martin at telephone (804) 698-4462, or e-mail [chmartin@deq.state.va.us](mailto:chmartin@deq.state.va.us).

## Forms for Filing Material for Publication in the Virginia Register of Regulations

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**Internet:** Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://register.state.va.us>.

### FORMS:

NOTICE of INTENDED REGULATORY ACTION-RR01  
NOTICE of COMMENT PERIOD-RR02  
PROPOSED (Transmittal Sheet)-RR03  
FINAL (Transmittal Sheet)-RR04  
EMERGENCY (Transmittal Sheet)-RR05  
NOTICE of MEETING-RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS-RR08  
RESPONSE TO PETITION FOR RULEMAKING-RR13  
FAST-TRACK RULEMAKING ACTION-RR14

## ERRATA

### COMMONWEALTH TRANSPORTATION BOARD

**Title of Regulation:** 24 VAC 30-71. Minimum Standards of Entrances to State Highways.

**Publication:** 20:4 VA.R. 352-363 November 3, 2003.

**Correction to Final Regulation:**

On page 356, in Table 1 of 24 VAC 30-71-130, delete the asterisks in the fourth row after "4 lane" and add the following fifth row to the English measurements table:

[ 4 Lane ** Major Road (Divided - 18 ft. Median)	325 ft.	390 ft.	455 ft.	520 ft.	580 ft.	645 ft.	710 ft. ]
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### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

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# CALENDAR OF EVENTS

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## Symbol Key

- † Indicates entries since last publication of the *Virginia Register*  
♿ Location accessible to persons with disabilities  
☎ Teletype (TTY)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at [www.vipnet.org](http://www.vipnet.org) or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

## EXECUTIVE

### BOARD OF ACCOUNTANCY

† **December 16, 2003 - 10:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Suite 696, Richmond, Virginia.♿  
(Interpreter for the deaf provided upon request)

A meeting of the Enforcement Committee to discuss and review open cases.

**Contact:** Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail [boa@boa.state.va.us](mailto:boa@boa.state.va.us).

† **January 6, 2004 - 10 a.m.** -- Open Meeting  
Holiday Inn-Richmond, 6531 West Broad Street, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring the board's attention. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the American with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail [boa@boa.state.va.us](mailto:boa@boa.state.va.us).

† **February 6, 2004 - 10 a.m.** -- Open Meeting  
Holiday Inn-Richmond, 6531 West Broad Street, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to discuss general business matters including complaint cases. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring

special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the American with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail [boa@boa.state.va.us](mailto:boa@boa.state.va.us).

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia Corn Board

**December 16, 2003 - 9 a.m.** -- Open Meeting  
Wallace Manor, 3821 North Courthouse Road, Providence Forge, Virginia♿

The board will hear and approve previous meeting minutes, review checkoff revenues, and review the financial status resulting from the sale of the 2003 Virginia Corn crop. Reports will be heard from the chairman, board member representation to the U.S. Grains Council, the National Corn Growers' Association, and the Virginia Corn Growers' Association. The nomination and election of 2004 officers will take place at this meeting. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Philip T. Hickman at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail [phickman@vdacs.state.va.us](mailto:phickman@vdacs.state.va.us).

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# Calendar of Events

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## Virginia Irish Potato Board

† **January 12, 2004 - 7 p.m.** -- Open Meeting  
Eastern Shore Agricultural Research and Extension Center,  
Research Drive, Painter, Virginia. ♿

A meeting to read and approve the minutes of the last meeting. In addition, the board will review its financial statement and discuss promotion, research, and education programs that may benefit the Irish potato industry. The board will review the annual budget and review and evaluate grant proposals for fiscal year 2004. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Butch Nottingham, Program Manager, Department of Agriculture and Consumer Services, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867, FAX (757) 787-5973.

## ALCOHOLIC BEVERAGE CONTROL BOARD

**December 22, 2003 - 9 a.m.** -- Open Meeting  
Department of Alcoholic Beverage Control, 2901 Hermitage  
Road, Richmond, Virginia. ♿

A meeting of the executive staff to receive and discuss reports and activities from staff members and to consider other matters not yet determined.

**Contact:** W. Curtis Coleburn, III, Secretary to the Board, Department of Alcoholic Beverage Control, P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4442, e-mail [wccolen@abc.state.va.us](mailto:wccolen@abc.state.va.us).

## BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

† **December 15, 2003 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ♿, e-mail [APELSCIDLA@dpor.state.va.us](mailto:APELSCIDLA@dpor.state.va.us).

**December 15, 2003 - 1 p.m.** -- Open Meeting  
**December 22, 2003 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Room 453, Richmond,  
Virginia. ♿

An informal fact-finding conference.

**Contact:** Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ♿, e-mail [APELSCIDLA@dpor.state.va.us](mailto:APELSCIDLA@dpor.state.va.us).

## ART AND ARCHITECTURAL REVIEW BOARD

**January 9, 2004 - 10 a.m.** -- Open Meeting  
Science Museum of Virginia, 2500 West Broad Street,  
Richmond, VA, 23220. ♿

A monthly meeting to review projects submitted by state agencies.

**Contact:** Richard L. Ford, AIA Chairman, 101 Shockoe Slip, 3rd Floor, Richmond, VA 23219, telephone (804) 648-5040, FAX (804) 225-0329, toll free (804) 786-6152, or e-mail [rford@comarchs.com](mailto:rford@comarchs.com).

## VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

**January 7, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupation Regulation, 3600  
West Broad Street, 4th Floor, Room 453, Richmond,  
Virginia. ♿

A meeting to conduct an informal fact-finding conference.

**Contact:** David Dick, Assistant Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., 4th Floor, Room 453, Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY ♿, e-mail [asbestos@dpor.state.va.us](mailto:asbestos@dpor.state.va.us).

**February 18, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupation Regulation, 3600  
West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business.

**Contact:** David Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY ♿, e-mail [asbestos@dpor.state.va.us](mailto:asbestos@dpor.state.va.us).

## COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

### State Executive Council


**December 31, 2003 - 9 a.m.** -- Open Meeting  
Department of Social Services, 730 East Broad Street, Lower  
Level Room 3, Richmond, Virginia. ♿




A monthly council meeting. For traveling directions, please call (804) 692-1100.

**Contact:** Alan G. Saunders, Director, Office of Comprehensive Services, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9815, FAX (804) 662-9831, e-mail ags992@central.dss.state.va.us.


## BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

**February 19, 2004 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A quarterly business meeting to include regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.


**Contact:** Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.

## BOARD FOR BARBERS AND COSMETOLOGY


**December 15, 2003 - 9 a.m.** -- Open Meeting  
**† March 15, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail barberscosmo@dpor.state.va.us.

**† January 12, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 


An meeting to conduct an informal fact-finding conference.

**Contact:** William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8575, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail barbercosmo@dpor.state.va.us.


## BOARD FOR BRANCH PILOTS

**† December 15, 2003 - 9:30 a.m.** -- Open Meeting  
Virginia Port Authority, 600 World Trade Center, Board Room, Norfolk, Virginia.


A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail branchpilots@dpor.state.va.us.

## CEMETERY BOARD

**† December 23, 2003 - 9 a.m.** -- Open Meeting  
**† January 21, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 

A meeting to conduct an informal fact-finding conference.

**Contact:** Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail oneal@dpor.state.va.us.

## CHILD DAY-CARE COUNCIL

**January 2, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Child Day-Care Council intends to amend regulations entitled **22 VAC 15-30, Standards for Licensed Child Day Centers**. The purpose of the proposed action is to provide more protection for children in care, be less intrusive and burdensome for providers, and clarify the language. Changes were made throughout the regulation as appropriate. Topics covered by the regulation include administration, staff qualifications and training, physical plant, staffing and supervision, programs, special care provisions and emergencies, and special services.

Statutory Authority: §§ 63.2-1734 and 63.2-1735 of the Code of Virginia.

Public comments may be submitted until January 2, 2004, to Gail Johnson, Chair, Child Day-Care Council, 730 East Broad Street, 7th Floor, Richmond, VA 23219.

**Contact:** Wenda Singer, Program Development Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2201, FAX (804) 692-2370 or e-mail wxs2@dss.state.va.us.

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# Calendar of Events

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**January 2, 2004** - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Child Day-Care Council intends to repeal regulations entitled **22 VAC 15-50, Regulation for Criminal Record Checks for Child Welfare Agencies**, and adopt regulations entitled **22 VAC 15-51, Background Checks for Licensed Child Day Centers**. The purpose of the proposed action is to repeal the current regulation for criminal background checks in order to promulgate a new regulation that establishes background checks for licensed child care centers in compliance with the Code of Virginia. A background check is a sworn statement or affirmation, a criminal history record check, and a child protective services central registry check.

Statutory Authority: §§ 63.2-1734 and 63.2-1735 of the Code of Virginia.


Public comments may be submitted until January 2, 2004.


**Contact:** Wenda Singer, Program Development Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2201, FAX (804) 692-2370 or e-mail [wxs2@dss.state.va.us](mailto:wxs2@dss.state.va.us).

## STATE BOARD FOR COMMUNITY COLLEGES


**January 21, 2004 - 1:30 p.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Godwin-Hamel Board Room, 15th Floor, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

Committees will meet as follows: Academic and Student Affairs, Audit, and Budget and Finance will meet at 1:30 p.m.; Facilities and Personnel Committees will meet at 3 p.m.

**Contact:** D. Susan Hayden, Director of Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 


**January 22, 2004 - 8:30 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Godwin-Hamel Board Room, 15th Floor, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A regular meeting. Public comment may be received at the beginning of the meeting upon notification at least five working days prior to the meeting.

**Contact:** D. Susan Hayden, Director of Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

## COMPENSATION BOARD

**December 17, 2003 - 11 a.m.** -- Open Meeting  
**January 13, 2004 - 2 p.m.** -- Open Meeting  
**† January 21, 2004 - 11 a.m.** -- Open Meeting

Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia. 

A monthly board meeting.

**Contact:** Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail [cwaddell@scb.state.va.us](mailto:cwaddell@scb.state.va.us).

## DEPARTMENT OF CONSERVATION AND RECREATION

**† December 17, 2003 - 1 p.m.** -- Open Meeting  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.

The first organizational meeting of the Invasive Species Council.

**Contact:** Thomas Smith, Director, Division of Natural Heritage, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4554, FAX (804) 371-2674, e-mail [tsmith@dcr.state.va.us](mailto:tsmith@dcr.state.va.us).


## Virginia Soil and Water Conservation Board

**January 23, 2004 - 11 a.m.** -- Open Meeting  
Natural Resources Conservation Service, 1606 Santa Rosa Road, Richmond, Virginia.

A regular business meeting. Following the regular business meeting, the board will conduct a hearing regarding an appeal filed under the Agricultural Stewardship Act.

**Contact:** Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail [leonapp@dcr.state.va.us](mailto:leonapp@dcr.state.va.us).

## BOARD FOR CONTRACTORS

**† December 18, 2003 - 1 p.m.** -- Open Meeting  
**January 6, 2004 - 9 a.m.** -- Open Meeting  
**January 13, 2004 - 9 a.m.** -- Open Meeting  
**† January 15, 2004 - 9 a.m.** -- Open Meeting  
**January 27, 2004 - 9 a.m.** -- Open Meeting  
**February 3, 2004 - 9 a.m.** -- Open Meeting  
**February 10, 2004 - 9 a.m.** -- Open Meeting  
**February 11, 2004 - 1:30 p.m.** -- Open Meeting  
**† February 18, 2004 - 9 a.m.** -- Open Meeting  
**February 24, 2004 - 9 a.m.** -- Open Meeting  
**† March 9, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

**January 7, 2004 - 2 p.m.** -- Open Meeting  
City of Virginia Beach, Department of Economic Development, 222 Central Park Avenue, Suite 1000, Virginia Beach, VA.

Informal fact-finding conferences. Persons desiring to participate in the meeting and requiring special

accommodations or interpretive services should contact the department at (804) 367-0946 at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail [contractors@dpor.state.va.us](mailto:contractors@dpor.state.va.us).

**February 11, 2004 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Tradesman and Education Committee to conduct committee business. The department fully complies with the Americans with Disabilities Act.

**Contact:** Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail [contractors@dpor.state.va.us](mailto:contractors@dpor.state.va.us).

## BOARD OF DENTISTRY

† **January 9, 2004 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

The Special Conference Committee will meet to hold informal conferences. There will not be a public comment period.

**Contact:** Cheri Emma-Leigh, Operations Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail [Cheri.Emma-Leigh@dhp.state.va.us](mailto:Cheri.Emma-Leigh@dhp.state.va.us).

## DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

**December 18, 2003 - 11 a.m.** -- Open Meeting  
Department of General Services, 8th Street Office Building, 3rd Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to review requests submitted by localities to use design-build or construction management type contracts. Contact the Division of Engineering and Buildings to confirm the meeting. Board rules and regulations can be obtained online at [www.dgs.state.va.us](http://www.dgs.state.va.us) under the DGS Forms, Form # DGS-30-904.

**Contact:** Freddie M. Adcock, Administrative Assistant, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY ☎, e-mail [fadcock@dgs.state.va.us](mailto:fadcock@dgs.state.va.us).

## VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

† **January 9, 2004 - 10 a.m.** -- Open Meeting  
Troutman Sanders, LLP, 222 Central Park Drive, Suite 2000, Virginia Beach, Virginia. ♿

A quarterly meeting of the Virginia Commission on Military Bases.

**Contact:** Cynthia H. Arrington, Communications Manager, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218, telephone (804) 225-3743, FAX (804) 786-1121, e-mail [carrington@yesvirginia.org](mailto:carrington@yesvirginia.org).

## BOARD OF EDUCATION

**January 7, 2004 - 9 a.m.** -- Open Meeting  
**February 25, 2004 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Conference Rooms C and D, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the board. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency 72 hours in advance. Public comment will be received.

**Contact:** Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail [mroberts@mail.vak12ed.edu](mailto:mroberts@mail.vak12ed.edu).

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**January 7, 2004 - 11:30 a.m.** -- Public Hearing  
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia.

**February 2, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to adopt regulations entitled **8 VAC 20-670, Regulations Governing the Operation of Private Day Schools for Students with Disabilities**. Private day schools for students with disabilities are currently regulated by the Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits, which also covers private career schools. The purpose of these planned regulations is to separate the current complex and intertwined regulations. It is intended that revised regulations for the career schools and new regulations for the private day schools for students with disabilities be promulgated to provide clarity and specificity for each type of school.

Statutory Authority: §§ 22.1-16 and 22.1-321 of the Code of Virginia.

**Contact:** Carolyn Hodgins, Specialist, Private Day Schools, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-4551 or FAX (804) 225-2524.

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# Calendar of Events

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**January 7, 2004 - 11:45 a.m.** -- Public Hearing  
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia.

**February 2, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to amend regulations entitled **8 VAC 20-340, Regulations Governing Driver Education**. The purpose of the proposed action is to require a minimum number of miles driven during the behind-the-wheel phase of driver education instruction pursuant to amendments to § 22.1-205 of the 2001 Acts of Assembly.

Statutory Authority: §§ 22.1-16, 22.1-205 and 46.2-334 of the Code of Virginia.

**Contact:** Vanessa Wigand, Specialist in Driver Education, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-3300 or FAX (804) 225-2524.

## DEPARTMENT OF EDUCATION

### Advisory Board on Teacher Education and Licensure

**January 26, 2004 - 9 a.m.** -- Open Meeting

**† March 15, 2004 - 9 a.m.** -- Open Meeting  
Sheraton Richmond West, 6624 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Advisory Board on Teacher Education and Licensure. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last minute changes in time or location. Persons requesting the services of an interpreter for the deaf are asked to do so at least 72 hours in advance so that the appropriate arrangements may be made.

**Contact:** Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail [mroberts@mail.vak12ed.edu](mailto:mroberts@mail.vak12ed.edu).

## DEPARTMENT OF EMPLOYMENT DISPUTE RESOLUTION

**† December 16, 2003 - 10 a.m.** -- Open Meeting  
State Capitol, House Room 4, Richmond, Virginia.

A meeting of the VADRA Council to discuss policy and implementation, potential pilots and updates from subcommittees.

**Contact:** Marsha Heath, Administrative and Program Specialist, Department of Employment Dispute Resolution, 830 E. Main St., Suite 400, Richmond, VA 23219, telephone (804) 225-3715, FAX (804) 225-3717, toll-free (888) 232-3842, e-mail [vadra@edr.virginia.gov](mailto:vadra@edr.virginia.gov).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

**† December 16, 2003 - 7 p.m.** -- Public Hearing  
Samuels Public Library, 538 Villa Avenue, Front Royal, Virginia.

A public hearing to receive comments on the Warren County Sanitary Landfill's proposed corrective action plan, which details the methods to be used to remediate a release to groundwater, and corrective action monitoring program, which sets standard procedures for the sampling, analysis, and statistical review of groundwater data during the corrective action process. The public comment period closes on December 31, 2003.

**Contact:** Geoff Christe, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4283, e-mail [gxchriste@deq.state.va.us](mailto:gxchriste@deq.state.va.us).

**December 16, 2003 - 7 p.m.** -- Open Meeting  
Hollins University, Babcock Auditorium, 7916 Williamson Road, Roanoke, Virginia.

The final public meeting on the development of bacteria TMDLs for five stream segments in the Tinker Creek watershed. The public notice may be found in the Virginia Register on November 17, 2003. The public comment period closes on January 17, 2004.

**Contact:** Jason Hill, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, e-mail [jrhill@deq.state.va.us](mailto:jrhill@deq.state.va.us).

**December 16, 2003 - 7 p.m.** -- Open Meeting  
Lucketts Community Center, 42361 Lucketts Road, Leesburg, Virginia.


The first of two public meetings on the development of the bacteria TMDL for an approximately 4.75-mile segment located in Loudoun County. The public notice may be found in the Virginia Register on December 1, 2003. The public comment period will end on January 14, 2003.

**Contact:** Katherine Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, e-mail [kebennett@deq.state.va.us](mailto:kebennett@deq.state.va.us).

**† December 17, 2003 - 7 p.m.** -- Public Hearing  
Pamunkey Regional Library, 721 Main Street, West Point, Virginia.


A public hearing to receive comments on the draft amendment for the Mann #2 Industrial Landfill permit for the facility's groundwater monitoring program.

**Contact:** Geoff Christe, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4283, e-mail [gxchriste@deq.state.va.us](mailto:gxchriste@deq.state.va.us).

**December 18, 2003 - 7 p.m.** -- Open Meeting  
Neersville Fire and Rescue Building, 11762 Harpers Ferry Road, Hillsboro, Virginia. 


The first of two public meetings on the development of a bacteria TMDL for an approximately 3.52-mile segment of Piney Run located in Loudoun County. The public notice may be found in the Virginia Register on December 1, 2003. The comment period closes on January 13, 2004.

**Contact:** Katherine Bennett, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3896, FAX (703) 583-3841, e-mail [kebennett@deq.state.va.us](mailto:kebennett@deq.state.va.us).

**December 18, 2003 - 7 p.m.** -- Open Meeting  
The Community and Hospitality Center, 52 Franklin Street, Rocky Mount, Virginia. 


The final public meeting on the development of the Blackwater River benthics TMDL. The public notice may be found in the Virginia Register on November 17, 2003. The public comment period closes on January 18, 2004.

**Contact:** Jason Hill, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, e-mail [jrhill@deq.state.va.us](mailto:jrhill@deq.state.va.us).

**† January 20, 2004 - 7 p.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 


A public meeting on the development of the bacteria and dissolved oxygen TMDL for Tuckahoe Creek, Little Tuckahoe Creek and Deep Run in Henrico County. The public notice will be published in the Virginia Register on December 15, 2003, and the public comment period closes on February 20, 2004.

**Contact:** Mark Alling, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5021, FAX (804) 527-5106, e-mail [msalling@deq.state.va.us](mailto:msalling@deq.state.va.us).

**† January 22, 2004 - 7 p.m.** -- Open Meeting  
Hanover Volunteer Company #3, 4428 Mechanicsville Turnpike, Meeting Room, Mechanicsville, Virginia. 

A public meeting on the development of bacteria and pH TMDLs for Matadequin Creek in Hanover County. The public notice will be published in the Virginia Register on December 15, 2003, and the public comment period closes on February 22, 2004.


**Contact:** Mark Alling, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5021, FAX (804) 527-5106, e-mail [msalling@deq.state.va.us](mailto:msalling@deq.state.va.us).

**† January 29, 2004 - 7 p.m.** -- Open Meeting  
Fairfield Area Library, 1001 North Laburnum Avenue, Richmond, Virginia. 

A meeting on the development of bacteria and pH TMDLs for White Oak Swamp Creek and Fourmile Creek in Henrico County. The public notice will be published in the Virginia Register on December 15, 2003, and the public comment period closes on February 22, 2004.

**Contact:** Mark Alling, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5021, FAX (804) 527-5106, e-mail [msalling@deq.state.va.us](mailto:msalling@deq.state.va.us).


## VIRGINIA FIRE SERVICES BOARD

**December 17, 2003 - 10:30 a.m.** -- CANCELED  
State Forestry Building, Fontaine Business Park, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the Code Change and Development Subcommittee. For more details please contact Jennifer Cole at the Virginia Department of Fire Programs.

**Contact:** Jennifer Cole, VFSB Clerk, Department of Fire Programs, 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail [jcole@vdfp.state.va.us](mailto:jcole@vdfp.state.va.us).


## BOARD OF FORESTRY

**† December 15, 2003 - 10 a.m.** -- Open Meeting  
Department of Forestry, Central Office, 900 Natural Resources Drive, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)


A business meeting.

**Contact:** Donna S. Hoy, Administrative Staff Specialist, Department of Forestry, 900 Natural Resources Dr., Suite 800, Charlottesville, VA, telephone (434) 977-6555, FAX (434) 977-7749, (434) 977-6555/TTY , e-mail [hoyd@dof.state.va.us](mailto:hoyd@dof.state.va.us).

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**December 16, 2003 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to hear possible violations of the laws and regulations governing the practice of funeral service.

**Contact:** Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail [elizabeth.young@dhp.state.va.us](mailto:elizabeth.young@dhp.state.va.us).

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# Calendar of Events

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## DEPARTMENT OF GENERAL SERVICES

**December 17, 2003 - 2 p.m.** -- Public Hearing  
Department of General Services, 805 E. Broad Street, Third Floor, Training Room, Richmond, VA.


Public comment is being solicited on the Secretary of Administration's proposed changes to the Commonwealth of Virginia Construction and Professional Services Manual, Chapter 11, Section 1102.0 Construction Management Procedures, Procedures for Utilization Construction Management (CM) Contracts.

**Contact:** Rhonda M. Bishton, Executive Administrative Assistant, Department of General Services, 805 E. Broad Street, Room 101, Richmond, VA 23219, telephone (804) 225-3871, FAX (804) 371-7934, or e-mail rbishton@dgs.state.va.us.


## BOARD FOR GEOLOGY

**January 6, 2004 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 


A meeting to conduct board business.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail geology@dpor.state.va.us.


## GEORGE MASON UNIVERSITY

**January 28, 2004 - 9 a.m.** -- Open Meeting  
George Mason University, Mason Hall, Fairfax, Virginia. 


A meeting of the Board of Visitors. The agenda will be published 10 days prior to the meeting.

**Contact:** Mary Roper, Secretary, pro tem, George Mason University, MSN 3A1, George Mason University, 4400 University Dr., Fairfax, VA 22030, telephone (703) 993-8703, (703) 993-8707/TTY , e-mail mroper@gmu.edu.

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT


† **January 20, 2004 - 10 a.m.** -- Open Meeting  
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia. 

A general business meeting.

**Contact:** Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY , e-mail scalhoun@dhcd.state.va.us.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT


### State Building Code Technical Review Board

† **December 19, 2003 - 10 a.m.** -- Open Meeting  
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


The Review Board conducts hearings concerning disputes under the enforcement of the state building and fire regulations. The board also considers interpretations of the codes and makes recommendations to the Board of Housing and Community Development for future changes to the codes.

**Contact:** Vernon Hodge, Secretary, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7150.

## JAMESTOWN-YORKTOWN FOUNDATION


**January 9, 2004 - Noon** -- Open Meeting  
The Library of Virginia, 800 East Broad Street, Rooms A and B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Jamestown 2007 Steering Committee.


**Contact:** Stacey Ruckman, Jamestown 2007 Executive Assistant, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4659, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY , e-mail sruckman@jyf.state.va.us.

## DEPARTMENT OF LABOR AND INDUSTRY


### Migrant and Seasonal Farmworkers Board

**January 28, 2004 - 10 a.m.** -- Open Meeting  
Virginia State University, Agriculture Building, Petersburg, Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

**Contact:** Betty B. Jenkins, Board Administrator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2391, FAX (804) 371-6524, (804) 786-2376/TTY , e-mail bbj@doli.state.va.us.

## STATE LIBRARY BOARD

**January 23, 2004 - 8:15 a.m.** -- Open Meeting  
† **March 15, 2004 - 8:15 a.m.** -- Open Meeting  
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

Meetings of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:

8:15 - 9:15 a.m. - Public Library Development Committee  
Publications and Educational Services Committee  
Records Management Committee

9:30 - 10:30 a.m. - Archival and Information Services  
Committee  
Collection Management Services Committee  
Legislative and Finance Committee

10:30 a.m. - Library Board

**Contact:** Jean H. Taylor, Executive Secretary to the Librarian,  
The Library of Virginia, 800 E. Broad St., Richmond, VA  
23219-2000, telephone (804) 692-3535, FAX (804) 692-3594,  
(804) 692-3976/TTY ☎, e-mail jtaylor@lva.lib.va.us.

## COMMISSION ON LOCAL GOVERNMENT

† **January 12, 2004 - 10 a.m.** -- Open Meeting  
The Jackson Center, 501 North 2nd Street, First Floor Board  
Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided  
upon request)

A regular meeting to consider such matters as may be  
presented.

**Contact:** Ted McCormack, Associate Director, Commission  
on Local Government, 501 N. 2nd St., Richmond, VA 23219,  
telephone (804) 786-6508, FAX (804) 371-7090, (800) 828-  
1120/TTY ☎, e-mail tmccormack@dhcd.state.va.us.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† **December 16, 2003 - 10 a.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad  
Street, Board Room, Richmond, Virginia.

A meeting of the PDL Implementation Advisory Group.

**Contact:** Adrienne T. Fegans, Program Operations  
Administrator, Department of Medical Assistance Services,  
600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone  
(804) 786-4112, FAX (804) 371-4981, (800) 343-0634/TTY ☎,  
e-mail afegans@dmas.state.va.us.

**December 16, 2003 - 4 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad  
Street, 13th Floor Board Room, Richmond, Virginia. ♿

A meeting of the Medicaid Physicians Advisory Committee  
to discuss physician issues in the Medicaid system.

**Contact:** Chris Schroeder, Department of Medical Assistance  
Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219,  
telephone (804) 371-0552, FAX (804) 371-4981, (800) 343-  
0634/TTY ☎, e-mail cschroed@dmas.state.va.us.

**December 17, 2003 - 1 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad  
Street, Suite 1300, Richmond, Virginia. ♿

A meeting of the Medicaid Transportation Advisory  
Committee to provide a forum for ongoing input and  
communication with transportation providers, health care

providers, and recipients regarding the Medicaid  
nonemergency brokerage transportation program.

**Contact:** Robert Knox, Transportation Supervisor,  
Department of Medical Assistance Services, 600 E. Broad St.,  
Suite 1300, Richmond, VA 23219, telephone (804) 371-8854,  
FAX (804) 786-1680, (800) 343-0634/TTY ☎, e-mail  
Rknox@dmas.state.va.us.

† **January 6, 2004 - 1 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad  
Street, Board Room, Richmond, Virginia.

A meeting of the Virginia Pharmacy and Therapeutics  
Committee.

**Contact:** Adrienne T. Fegans, Program Operations  
Administrator, Department of Medical Assistance Services,  
600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone  
(804) 786-4112, FAX (804) 371-4981, (800) 343-0634/TTY ☎,  
e-mail afegans@dmas.state.va.us.

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**January 16, 2004** - Public comments may be submitted until  
this date.

Notice is hereby given in accordance with § 2.2-4007 that  
the Department of Medical Assistance Services intends to  
amend regulations entitled **12 VAC 30-130, Amount,  
Duration and Scope of Selected Services**. The purpose  
of the proposed action is to set reasonable limits on the  
amounts of money nursing facility residents may spend on  
noncovered medical care.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of  
Virginia.

Public comments may be submitted until January 16, 2004, to  
James Cohen, Director, Program Support, Department of  
Medical Assistance Services, 600 East Broad Street, Suite  
1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator,  
Department of Medical Assistance Services, 600 E. Broad St.,  
Suite 1300, Richmond, VA 23219, telephone (804) 786-7959,  
FAX (804) 786-1680 or e-mail vsimmons@dmas.state.va.us.

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**January 16, 2004** - Public comments may be submitted until  
this date.

Notice is hereby given in accordance with § 2.2-4007 that  
the Department of Medical Assistance Services intends to  
amend regulations entitled **12 VAC 30-80, Methods and  
Standards for Establishing Payment Rates; Other Types  
of Care**. The purpose of the proposed action is to limit  
outpatient hospital costs that are allowable for  
reimbursement to 80% and to establish a prospective  
methodology to reimburse rehab agencies.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of  
Virginia.

Public comments may be submitted until January 16, 2004, to  
Steve Ford, Manager, Division of Provider Reimbursement,

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## Calendar of Events

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Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail vsimmons@dmas.state.va.us.

### BOARD OF MEDICINE

**December 16, 2003 - 2 p.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.

The Ad Hoc Committee on House Bill 1706 (2003) will develop recommended guidelines for ethical practice pursuant to House Bill 1706. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.state.va.us.

**December 17, 2003 - 9:15 a.m.** -- Open Meeting  
Clarion Hotel, 3315 Ordway Drive, Roanoke, Virginia.

**February 4, 2004 - 9 a.m.** -- Open Meeting  
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

An informal conference committee meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

**Contact:** Peggy Sadler or Renee Dixon, Staff, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail Peggy.Sadler@dhp.state.va.us.

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† **January 22, 2004 - 8:15 a.m.** -- Public Hearing  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.

**February 13, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic.** The purpose of the proposed action is to increase fees by \$77 per licensee for a biennial renewal, with other associated fees increased by a like amount. This regulatory action will replace the emergency regulations in effect since July 15, 2003. The fee increase is necessary because of a substantial increase in the number of disciplinary proceedings related to implementation of HB1441 of the 2003 Session of the General Assembly.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until February 13, 2004, to William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Profession, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

### Advisory Board on Occupational Therapy

**February 11, 2004 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia ♿

The board will consider issues related to the regulation of occupational therapy. Public comment will be received at the beginning of the meeting.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.state.va.us.

### DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

**December 18, 2003 - 10 a.m.** -- Public Hearing  
Jefferson Building, 1220 Bank Street, 8th Floor Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the Synar Annual Report for the Substance Abuse Prevention and Treatment Block Grant Application for Federal Fiscal Year 2003. Copies of the report are available for review at the Office of Substance Abuse Services, Jefferson Building, Room 818, and at each community services board office. Comments may be made at the hearing or in writing no later than December 19, 2003, to the Office of the Commissioner, DMHMRSAS, P.O. Box 1797, Richmond, VA 23218. Any person wishing to make a presentation at the hearing should contact Sterling Deal, Ph.D. Copies of the presentation should be filed at the time of the hearing.

**Contact:** Sterling Deal, Ph.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-2148, FAX (804) 786-4320, (804) 371-8977/TTY ☎, e-mail sdeal@dmhmrsas.state.va.us.

### STATE MILK COMMISSION

**December 16, 2003 - 10:30 a.m.** -- Open Meeting  
Department of Agriculture and Consumer Services, 1100 Bank Street, 1st Floor Board Room, Richmond, Virginia. ♿

A regular meeting of the commission to consider industry issues, distributor licensing, base transfers, and reports




from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify the agency meeting contact at least five working days prior to the meeting date so that suitable arrangements can be made.


**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Washington Bldg., 1100 Bank Street, Suite 1019, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, or e-mail ewilson@smc.state.va.us.

## DEPARTMENT OF MINES, MINERALS AND ENERGY


### Virginia Gas and Oil Board

† **December 16, 2003 - 9 a.m.** -- Open Meeting  
Virginia Highlands Community College, Southwest Virginia Higher Education Center, Abingdon, Virginia.  (Interpreter for the deaf provided upon request)


A regularly scheduled meeting to consider petitions filed by applicants. The public may address the board on individual items as they are called for hearing. Special accommodations for the disabled will be made available at the hearing on request. Anyone needing special accommodations for the December hearing should contact the Department of Mines, Minerals and Energy, Division of Gas and Oil, at 276-676-5423 or call the Virginia Relay Center TTY/TDD 1-800-828-1120 or 1140 by December 12th. The deadline for filing of petitions to the board for the January 2004 hearing is 5 p.m., December 19, 2003, with the hearing scheduled for 9 a.m. on Tuesday, January 20, 2004, at the Southwest Virginia Higher Education Center, Abingdon, Virginia.


**Contact:** Bob Wilson, Division Director, Department of Mines, Minerals and Energy, Abingdon, VA 24212, telephone (276) 676-5423, FAX (804) 692-3237, (800) 828-1120/TTY , e-mail bob.wilson@dmme.virginia.gov.

## VIRGINIA MUSEUM OF FINE ARTS


**December 18, 2003 - 2 p.m.** -- Open Meeting  
Virginia Museum of Fine Arts, Main Lobby Conference Room, 2800 Grove Avenue, Richmond, Virginia. 

A meeting of the Collections Committee for staff to discuss procedures with the committee. Public comment will not be received.


**Contact:** Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY , e-mail sbroyles@vmfa.state.va.us.

**January 6, 2004 - 8 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, Main Lobby Conference Room, 2800 Grove Avenue, Richmond, Virginia. 


A meeting for staff to update the Executive Committee. Public comment will not be received.

**Contact:** Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY , e-mail sbroyles@vmfa.state.va.us.

## BOARD OF NURSING

**December 16, 2003 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Rooms 3 and 4, Richmond, Virginia. 


A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

**Contact:** Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.


**January 26, 2004 - 9 a.m.** -- Open Meeting

**January 28, 2004 - 9 a.m.** -- Open Meeting


**January 29, 2004 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 


A panel of the board will conduct formal hearings with licensees or certificate holders. Public comment will not be received.

**Contact:** Jay P. Douglas, M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

**January 27, 2004 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A general business meeting including committee reports, consideration of regulatory action, and disciplinary case decisions as presented on the agenda. Public comment will be received at 11 a.m.

**Contact:** Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail jay.douglas@dhp.state.va.us.

**February 18, 2004 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Joint Boards of Nursing and Medicine.

**Contact:** Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, e-mail nursebd@dhp.state.va.us.

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# Calendar of Events

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† **January 27, 2004 - 11 a.m.** -- Public Hearing  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 2, Richmond, Virginia.

**February 13, 2004** - Public comments may be submitted until  
this date.


Notice is hereby given in accordance with § 2.2-4007 of the  
Code of Virginia that the Board of Medicine intends to  
amend regulations entitled **18 VAC 90-20, Regulations  
Governing the Practice of Nursing**. The purpose of the  
proposed action is to increase certain fees for registered  
and licensed practical nurses to provide sufficient funding  
for an increased disciplinary caseload related to mandated  
reporting of misconduct and to offset the decrease in  
revenue related to Virginia's entry into the Nurse Licensure  
Compact in January 2005. The biennial renewal fee will  
increase from \$70 to \$95, and other fees associated with  
the renewal fee will increase accordingly.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of  
Virginia.


Public comments may be submitted until February 13, 2004,  
to Jay Douglas, R.N., Executive Director, Board of Nursing,  
6603 West Broad Street, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator,  
Department of Health Profession, 6603 W. Broad St.,  
Richmond, VA 23230, telephone (804) 662-9918, FAX (804)  
662-9114 or e-mail [elaine.yeatts@dhp.state.va.us](mailto:elaine.yeatts@dhp.state.va.us).


## BOARD FOR OPTICIANS

**January 9, 2004 - 9:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of  
regulatory issues as may be presented on the agenda. The  
meeting is open to the public; however, a portion of the  
board's business may be discussed in closed session.  
Public comment will be heard at the beginning of the  
meeting. Persons desiring to participate in the meeting and  
requiring special accommodations or interpreter services  
should contact the department at least 10 days prior to the  
meeting so that suitable arrangements can be made. The  
department fully complies with the Americans with  
Disabilities Act.


**Contact:** William H. Ferguson, II, Executive Director, Board  
for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917,  
telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-  
9753/TTY , e-mail [opticians@dpor.state.va.us](mailto:opticians@dpor.state.va.us).

## BOARD OF PHARMACY


**December 18, 2003 - 9 a.m.** -- Open Meeting  
**January 15, 2004 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Conference Room 3, Richmond, Virginia. 

A Special Conference Committee will discuss disciplinary  
matters. Public comments will not be received.

**Contact:** Elizabeth Scott Russell, RPh., Executive Director,  
Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond,  
VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.

† **January 14, 2004 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia. 


The board will consider such regulatory and disciplinary  
matters as may be presented on the agenda. Public  
comment will be received at the beginning of the meeting.

**Contact:** Elizabeth Scott Russell, RPh, Executive Director,  
Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th  
Floor, Richmond, VA 23230-1712, telephone (804) 662-9911,  
FAX (804) 662-9313, (804) 662-7197/TTY , e-mail  
[scotti.russell@dhp.state.va.us](mailto:scotti.russell@dhp.state.va.us).


## BOARD OF PHYSICAL THERAPY

† **December 15, 2003 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Richmond, Virginia. 


The Board of Physical Therapy will convene to hear  
possible violations of the laws and regulations governing the  
practice of physical therapy.

**Contact:** Elizabeth Young, Executive Director, Board of  
Physical Therapy, 6603 W. Broad St., 5th Floor, Richmond,  
VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-  
9523, (804) 662-7197/TTY , e-mail  
[elizabeth.young@dhp.state.va.us](mailto:elizabeth.young@dhp.state.va.us).


## BOARD OF PSYCHOLOGY

**January 13, 2004 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6603 West Broad Street,  
5th Floor, Board Room 4, Richmond, Virginia. 

A board business meeting and informal conference.

**Contact:** Evelyn B. Brown, Executive Director, Board of  
Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor,  
Richmond, VA 23230-1712, telephone (804) 662-9913, FAX  
(804) 662-9943, (804) 662-7197/TTY , e-mail  
[evelyn.brown@dhp.state.va.us](mailto:evelyn.brown@dhp.state.va.us).

## REAL ESTATE BOARD

**December 16, 2003 - 10 a.m.** -- Open Meeting  
† **January 22, 2004 - 2:30 p.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia.  (Interpreter for  
the deaf provided upon request)

An informal fact-finding conference.

**Contact:** Karen W. O'Neal, Regulatory Programs  
Coordinator, Department of Professional and Occupational  
Regulation, 3600 W. Broad St., Richmond, VA 23230,

telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail [oneal@dpor.state.va.us](mailto:oneal@dpor.state.va.us).

**December 17, 2003 - 9 a.m.** -- Open Meeting

**December 18, 2003 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Informal fact-finding conferences. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Ilona LaPaglia, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2394, FAX (804) 367-0194, (804) 367-9753/TTY ☎, e-mail [amaker@dpor.state.va.us](mailto:amaker@dpor.state.va.us).

## VIRGINIA RESOURCES AUTHORITY

† **January 13, 2004 - 9 a.m.** -- Open Meeting

† **February 10, 2004 - 9 a.m.** -- Open Meeting

Eighth and Main Building, 707 East Main Street, 2nd Floor, Richmond, Virginia. ♿

A regular meeting of the Board of Directors to (i) review and, if appropriate, approve the minutes from the most recent monthly meeting; (ii) review the authority's operations for the prior month; (iii) review applications for loans submitted to the authority for approval; (iv) consider loan commitments for approval and ratification under its various programs; (v) approve the issuance of any bonds; (vi) review the results of any bond sale; and (vii) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Directors may also meet immediately before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting and any committee meetings will be available at the offices of the authority one week prior to the date of the meeting. Any person who needs any accommodation in order to participate in the meeting should contact the authority at least 10 days before the meeting so that suitable arrangements can be made.

**Contact:** Bonnie R. C. McRae, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail [bmcrac@vra.state.va.us](mailto:bmcrac@vra.state.va.us).

## VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

**December 16, 2003 - 11 a.m.** -- Open Meeting

Department of Business Assistance, 707 East Main Street, 3rd Floor, Richmond, Virginia. ♿

A meeting to review applications for loans submitted to the authority for approval and general business of the board. Meeting time is subject to change depending upon the agenda of the board.

**Contact:** Scott E. Parsons, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8254, FAX (804) 225-3384, e-mail [sparsons@dba.state.va.us](mailto:sparsons@dba.state.va.us).

## STATE BOARD OF SOCIAL SERVICES

### Reproposed

**December 17, 2003** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled **22 VAC 40-295, Temporary Assistance for Needy Families**. The purpose of the proposed action is to provide the rules for qualifying for TANF assistance. The regulation establishes rules pertaining to the assistance unit, income eligibility criteria, processing time frames, advance notice requirements, procedures for intentional program violations, the collection of overpaid TANF assistance, emergency assistance, and criteria for determining the availability of child care.

Statutory Authority: § 63.2-217 of the Code of Virginia.

**Contact:** Mark L. Golden, TANF Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1731, FAX (804) 225-2321 or e-mail [mxg2@dss.state.va.us](mailto:mxg2@dss.state.va.us).

## COUNCIL ON TECHNOLOGY SERVICES

**December 18, 2003 - 3 p.m.** -- Open Meeting

Department of Rehabilitative Services, 8004 Franklin Farms Drive, Lee Building, Rooms 101, 103, and 105, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular monthly meeting of the Security Workgroup. Agenda and details can be found at [www.cots.state.va.us](http://www.cots.state.va.us).

**Contact:** Jenny Hunter, COTS Executive Director, Council on Technology Services, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail [jhunter@gov.state.va.us](mailto:jhunter@gov.state.va.us).

## COMMONWEALTH TRANSPORTATION BOARD

† **December 18, 2003 - 10 a.m.** -- Open Meeting

Virginia Department of Transportation, Bristol District Auditorium, Bonham Road, Bristol, Virginia.

A work session of the I-81 PPTA Panel Advisory Committee to continue to review and evaluate the two detailed proposals submitted for improvements to I-81. The meeting will last until 3 p.m. The panel consists of 11 members, four of whom are members of the Commonwealth Transportation Board.

**Contact:** Katherine Tracy, Virginia Department of Transportation, Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-3090, FAX (804) 225-4700, e-mail [katherine.tracy@virginiadot.org](mailto:katherine.tracy@virginiadot.org).

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# Calendar of Events

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**December 18, 2003 - 11 a.m.** -- Open Meeting

NOTE: CHANGE IN MEETING LOCATION.

Monroe Towers, 101 N. 14th Street, Conference Room, Richmond, Virginia. ♿

A work session of the VTran 2025 Multi-modal Transportation Policy Committee, the chair and five members of which are members of the Commonwealth Transportation Board.

**Contact:** Katherine Tracy, Virginia Department of Transportation, Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-3090, FAX (804) 225-4700, e-mail katherine.tracy@virginiadot.org.

## TREASURY BOARD

**December 17, 2003 - 9 a.m.** -- Open Meeting

Department of the Treasury, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. ♿

A regular meeting.

**Contact:** Melissa Mayes, Treasury Board Secretary, Department of the Treasury, 101 N. 14th St., 3rd Floor, Treasury Board Room, Richmond, VA 23219, telephone (804) 371-6011, FAX (804) 225-3187, e-mail melissa.mayes@trs.state.va.us.

## DEPARTMENT OF THE TREASURY

**February 1, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of the Treasury intends to adopt regulations entitled **1 VAC 75-40, Unclaimed Property Administrative Review Process**. The purpose of the proposed action is to allow any person asserting ownership of unclaimed property or any holder of unclaimed property who is aggrieved by a decision of the administrator of the Uniform Disposition of Unclaimed Property Act the opportunity to file an application for an administrative review of the administrator's decision, all in compliance with § 55-210.27 of the Code of Virginia.

Statutory Authority: § 55-210-27 of the Code of Virginia.

**Contact:** Vicki D. Bridgeman, Director of Unclaimed Property, James Monroe Bldg., 101 N. 14th St., 4th Floor, Richmond, VA 23219, telephone (804) 225-3156, FAX (804) 786-4653 or e-mail vicki.bridgeman@trs.state.va.us.

## DEPARTMENT OF VETERANS SERVICES

**December 16, 2003 - 1 p.m.** -- Open Meeting

Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ♿

A meeting of the Joint Leadership Council.

**Contact:** Geneva M. Claybrook, Executive Services Liaison, Department of Veterans Services, P.O. Box 6129, Roanoke,

VA 24017, telephone (540) 857-6974, FAX (549) 857-6954, e-mail gclaybrook@vcc1.us.

† **January 12, 2004 - 1 p.m.** -- Open Meeting

Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ♿

A meeting of the Board of Veterans Services. Subcommittees will also meet. Times to be announced for subcommittees.

**Contact:** Geneva M. Claybrook, Executive Services Liaison, Department of Veterans Services, P.O. Box 6129, Roanoke, VA 24017, telephone (540) 857-6974, FAX (540) 857-6954, toll-free (800) 220-8387, e-mail gclaybrook@vcc1.us.

## STATE WATER CONTROL BOARD

**January 7, 2004 - 2 p.m.** -- Open Meeting

State Capitol, House Room 4, Richmond, Virginia. ♿

A public meeting to receive comments on the Notice of Intended Regulatory Action (NOIRA) to amend the Water Quality Standards (9 VAC 25-260) for Chesapeake Bay and Tidal Waters Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a and Designated Uses. The NOIRA will be published in the Virginia Register on November 17, 2003. The public comment period closes on January 15, 2004.

**Contact:** Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4522, e-mail emdaub@deq.state.va.us.

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**January 13, 2004 - 10 a.m.** -- Public Hearing

Department of Environmental Quality, 4949-A Cox Road, Glen Allen, Virginia.

**January 30, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled **9 VAC 25-151, Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges Associated with Industrial Activity**. The purpose of the proposed action is to reissue the existing storm water industrial activity permit that expires on June 30, 2004. This general permit regulation governs the discharge of storm water from facilities with regulated industrial activities to surface waters.

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

**Contact:** Burt Tuxford, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032 or e-mail brtuxford@deq.state.va.us.

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**January 13, 2004 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, 4949-A Cox Road, Glen Allen, Virginia.

**January 30, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled **9 VAC 25-180, Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges From Construction Sites**. The purpose of the proposed action is to reissue the existing storm water construction general permit that expires on June 30, 2004. This general permit regulation governs the discharge of storm water from construction sites to surface waters.

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

**Contact:** Burt Tuxford, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032 or e-mail [brtuxford@deq.state.va.us](mailto:brtuxford@deq.state.va.us).

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**January 13, 2004 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, 4949-A Cox Road, Glen Allen, Virginia.


**January 30, 2004** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled **9 VAC 25-190, Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining**. The purpose of the proposed action is to reissue a general discharge permit for discharges from nonmetallic mineral mining operations.


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

**Contact:** Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032 or e-mail [mgregory@deq.state.va.us](mailto:mgregory@deq.state.va.us).

### **BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS**


† **March 9, 2004 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

**Contact:** David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail [waterwasteoper@dpor.state.va.us](mailto:waterwasteoper@dpor.state.va.us).

## **INDEPENDENT**

### **STATE LOTTERY BOARD**


**December 17, 2003 - 9:30 a.m.** -- Open Meeting  
Virginia Lottery, 900 East Main Street, 13th Floor, Richmond, Virginia. 

A regular meeting for consideration of upcoming lottery games and to conduct routine business. There will be an opportunity for public comment shortly after the meeting is convened.


**Contact:** Frank S. Ferguson, Director, Legislative and Regulatory Affairs, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7901, FAX (804) 692-7905, e-mail [fferguson@valottery.state.va.us](mailto:fferguson@valottery.state.va.us).


### **VIRGINIA RETIREMENT SYSTEM**

NOTE: CHANGE IN MEETING TIME.


**December 17, 2003 - 2 p.m.** -- Open Meeting  
Bank of America Building, 1111 East Main Street, 4th Floor Conference Room, Richmond, Virginia. 


The regular meeting of the Investment Advisory Committee of the VRS Board of Trustees. No public comment will be received at the meeting.

**Contact:** Phyllis Henderson, Investment Department Administrative Assistant, Virginia Retirement System, 1111 East Main Street, Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail [phenderson@vrs.state.va.us](mailto:phenderson@vrs.state.va.us).


† **December 17, 2003 - 1 p.m.** -- Open Meeting  
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

The regular meeting of the Benefits and Actuarial Committee. No public comment will be received at the meeting.

**Contact:** LaShaunda B. King, Administrative Staff Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail [lking@vrs.state.va.us](mailto:lking@vrs.state.va.us).

**December 18, 2003 - 9 a.m.** -- Open Meeting  
Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Board of Trustees. No public comment will be received.

**Contact:** Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail [dkestner@vrs.state.va.us](mailto:dkestner@vrs.state.va.us).

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# Calendar of Events

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## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### December 15

- † Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
- Barbers and Cosmetology, Board for
- † Branch Pilots, Board for
- † Forestry, Board of
- † Physical Therapy, Board of

#### December 16

- † Accountancy, Board of
- Agriculture and Consumer Services, Department of
  - Virginia Corn Board
- † Employment Dispute Resolution, Department of
- † Environmental Quality, Department of
- † Funeral Directors and Embalmers, Board of
- † Medical Assistance Services, Department of
- Medicine, Board of
- Milk Commission, State
- † Mines, Minerals and Energy, Department of
  - Virginia Gas and Oil Board
- Nursing, Board of
- Real Estate Board
- Small Business Financing Authority, Virginia
- † Veterans Services, Department of

#### December 17

- Compensation Board
- † Conservation and Recreation, Department of
- Lottery Board, State
- Medical Assistance Services, Department of
- † Medicine, Board of
- Real Estate Board
- † Retirement System, Virginia
- Treasury, Board

#### December 18

- † Contractors, Board for
- Design-Build/Construction Management Review Board
- Environmental Quality, Department of
- Museum of Fine Arts, Virginia
- Pharmacy, Board of
- Real Estate Board
- Retirement System, Virginia
- Technology Services, Council on
- † Transportation Board, Commonwealth

#### December 19

- † Housing and Community Development, Department of
  - State Building Code Technical Review Board

#### December 22

- Alcoholic Beverage Control Board
- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for

#### December 23

- † Cemetery Board

#### December 31

- At-Risk Youth and Families, Comprehensive Services for
  - State Executive Council

#### January 6, 2004

- † Accountancy, Board of
- Contractors, Board for
- Geology, Board for
- † Medical Assistance Services, Department of
- Museum of Fine Arts, Virginia

#### January 7

- † Asbestos, Lead, and Home Inspectors, Virginia Board for
- Contractor, Board for
- Education, Board of
- Water Control Board, State

#### January 9

- † Art and Architectural Review Board
- † Dentistry, Board of
- † Economic Development Partnership, Virginia
- Jamestown-Yorktown Foundation
- Opticians, Board for

#### January 12

- † Agriculture and Consumer Services, Department of
  - Virginia Irish Potato Board
- † Barbers and Cosmetology, Board for
- † Local Government, Commission on
- † Veterans Services, Board of

#### January 13

- Compensation Board
- Contractors, Board for
- Psychology, Board of
- † Resources Authority, Virginia

#### January 14

- † Pharmacy, Board of

#### January 15

- † Contractors, Board for
- Pharmacy, Board of

#### January 20

- † Environmental Quality, Department of
- † Housing and Community Development, Board of

#### January 21

- † Cemetery Board
- Community Colleges, State Board for
- † Compensation Board

#### January 22

- Community Colleges, State Board for
- † Environmental Quality, Department of
- † Real Estate Board

#### January 23

- Conservation and Recreation, Department of
  - Virginia Soil and Water Conservation Board
- Library Board, State

#### January 26

- Education, Department of
  - Advisory Board on Teacher Education and Licensure
- Nursing, Board of

#### January 27

- Contractors, Board for
- Nursing, Board of

#### January 28

- George Mason University
- Labor and Industry, Department of
  - Migrant and Seasonal Farmworkers Board
- Nursing, Board of

#### January 29

- † Environmental Quality, Department of
- Nursing, Board of

**February 3**

Contractors, Board for

**February 4**

Medicine, Board of

**February 6**

† Accountancy, Board of

**February 10**

Contractors, Board for

† Resources Authority, Virginia

**February 11**

Contractors, Board for

Medicine, Board of

- Advisory Board on Occupational Therapy

**February 18**

Asbestos, Lead, and Home Inspectors, Virginia Board for

† Contractors, Board for

Nursing and Medicine, Joints Boards for

**February 19**

Audiology and Speech-Language Pathology, Board of

**February 24**

Contractors, Board for

**February 25**

Education, Board of

**March 9**

† Contractors, Board for

† Waterworks and Wastewater Works Operators, Board for

**March 15**

† Barbers and Cosmetology, Board for

† Education, Board of

- Advisory Board on Teacher Education and Licensure

† Library Board, State

## PUBLIC HEARINGS

**December 16**

† Environmental Quality, Department of

**December 17**

† Environmental Quality, Department of

† General Services, Department of

**December 18**

Mental Health, Mental Retardation and Substance Abuse  
Services, Department of

**January 7**

Education, Board of

**January 13**

Water Control Board, State

**January 22**

† Medicine, Board of

**January 27**

† Nursing, Board of

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