

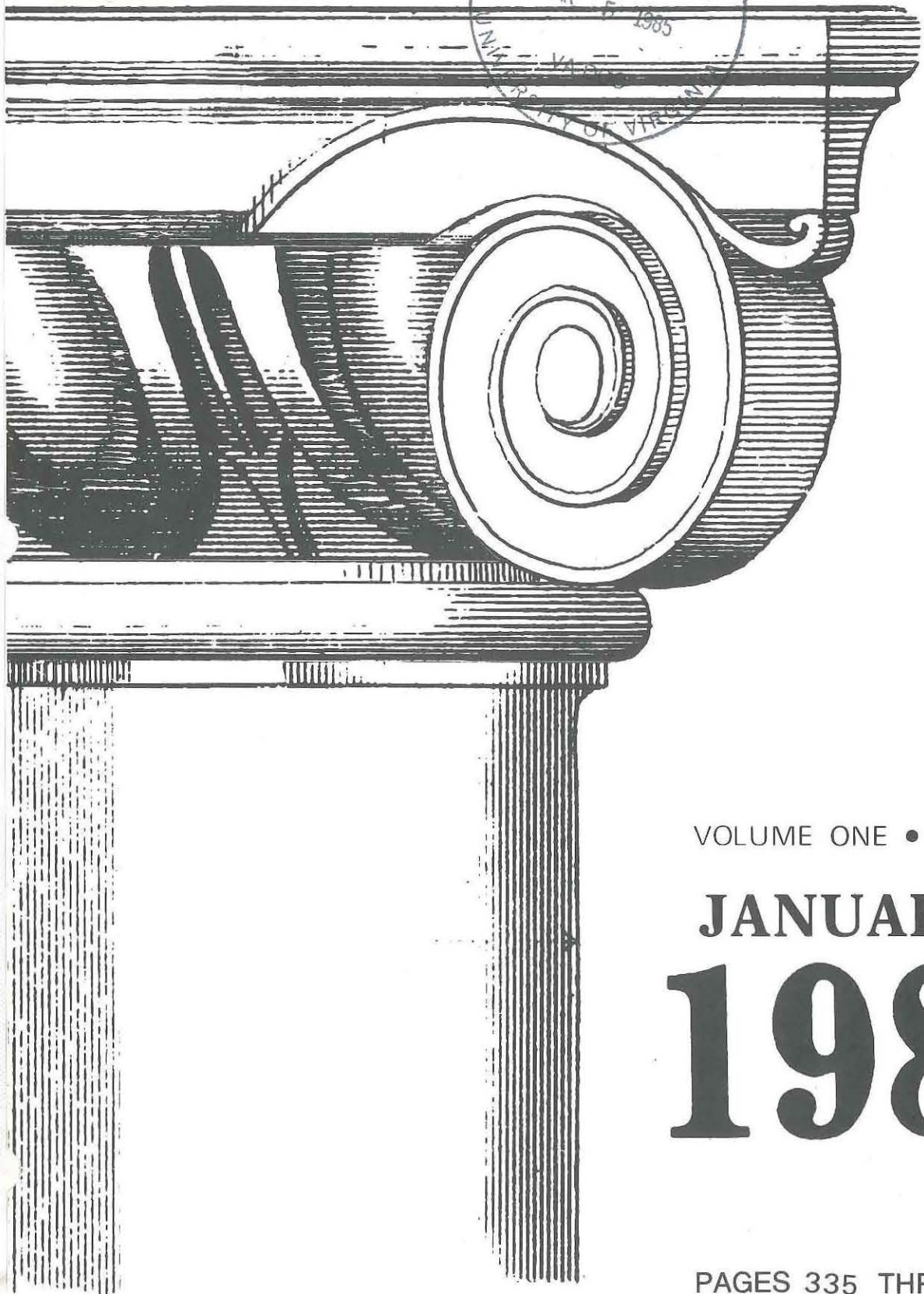
5/R26/1-8

# THE VIRGINIA REGISTER

OF REGULATIONS

VA  
DOC

*R*



VOLUME ONE • ISSUE EIGHT

JANUARY 21

# 1985

PAGES 335 THROUGH 398

# INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

## VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment are required by law to be published in the *Virginia Register of Regulations*.

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the Virginia Tax Bulletin issued monthly by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions, or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative Committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and

require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before final action is taken.

## EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

## CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. 1:3 VA.R. 75-77 November 12, 1984 refers to Volume 1, Issue 3, pages 75 through 77 of the *Virginia Register* issued on November 12, 1984.

Virginia Register of Regulations. Published bi-weekly, with an index published quarterly by the Commonwealth of Virginia, Virginia Code Commission, P.O. Box 3-AG, Richmond, Virginia 23208, pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14:2 et seq.) of the Code of Virginia. Subscriptions \$85 per year, postpaid to points in the U.S., 3rd-Class postage paid at Richmond, Virginia and individual copies \$4 each. Direct all mail to Registrar of Regulations, P.O. Box 3-AG, Richmond, Virginia 23208, Telephone (804) 786-3591.

Members of the Virginia Code Commission: Theodore V. Morrison, Jr., Chairman, Delegate; Dudley J. Ernack, Jr., Vice Chairman Senator; A. L. Philpott, Speaker of the House of Delegates; James P. Jones, Senator; Russell M. Carneal, Circuit Judge; John Wingo Knowles, Retired Circuit Judge; William G. Broadus, Chief Deputy Attorney General; John A. Banks, Jr., Secretary, Director of the Division of Legislative Services.

Staff of the Virginia Register: Joan W. Smith, Registrar of Regulations; Ann M. Brown, Assistant Registrar of Regulations.

**Citizen Participation in the Rule-Making Process**

As required by the Administrative Process Act, each agency of the Commonwealth is required to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations.

Citizens may participate in the process by which administrative regulations are adopted, amended, or repealed by submitting data or views on proposed regulations either orally or in writing, to the proposing agency (see General Notices and Calendar of Events section of the *Virginia Register*).

**How to Follow State Agency Regulatory Action in the Virginia Register**

Under the provisions of the Administrative Process Act, state agencies must publish in the *Virginia Register* the full text of proposed rules and regulations, if substantive, as well as a summary statement.

In addition, the agency is required to provide a public comment period and hold a public hearing. A notice of hearing will be published sixty days prior to the hearing. Such notices are published in the CALENDAR OF EVENTS section of the *Virginia Register*. Proposed regulations and adopted regulations are published in separate sections of the *Virginia Register*.

All executive orders and comments on regulations issued by the Governor are published under the GOVERNOR section.

The CALENDAR OF EVENTS section not only contains the notices of public comment periods and hearings but also all notices of meetings required to be open under the provisions of the Freedom of Information Act.

*VIRGINIA REGISTER OF REGULATIONS*  
**PUBLICATION DEADLINES AND SCHEDULES**

ISSUE DATE	MATERIAL SUBMITTED BY 4:30 p.m. Friday	Will be included in PUBLICATION MAILED on Friday
Oct. 15 .....	Sept. 28 .....	Oct. 12
Oct. 29 .....	Oct. 12 .....	Oct. 26
Nov. 12 .....	Oct. 26 .....	Nov. 9
Nov. 26 .....	Nov. 9 .....	Nov. 23
Dec. 10 .....	Nov. 23 .....	Dec. 7
Dec. 24 .....	Dec. 7 .....	Dec. 21
Jan. 7 .....	Dec. 21 .....	Jan. 4
Jan. 21 .....	Jan. 4 .....	Jan. 18
		Quarterly Index
Feb. 4 .....	Jan. 18 .....	Feb. 1
Feb. 18 .....	Feb. 1 .....	Feb. 15
Mar. 4 .....	Feb. 15 .....	Mar. 1
Mar. 18 .....	Mar. 1 .....	Mar. 15
Apr. 1 .....	Mar. 15 .....	Mar. 29
Apr. 15 .....	Mar. 29 .....	Apr. 12
		Quarterly Index
Apr. 29 .....	Apr. 12 .....	Apr. 26
May 13 .....	Apr. 26 .....	May 10
May 27 .....	May 10 .....	May 24
June 10 .....	May 24 .....	June 7
June 24 .....	June 7 .....	June 21
July 8 .....	June 21 .....	July 5
		Quarterly Index
July 22 .....	July 5 .....	July 19
Aug. 5 .....	July 19 .....	Aug. 2
Aug. 19 .....	Aug. 2 .....	Aug. 16
Sept. 2 .....	Aug. 16 .....	Aug. 30
Sept. 16 .....	Aug. 30 .....	Sept. 13
Sept. 30 .....	Sept. 13 .....	Sept. 27
		Quarterly Index

# TABLE OF CONTENTS

## PROPOSED REGULATIONS

### DEPARTMENT OF SOCIAL SERVICES

#### Division of Licensing Programs

Standards and Regulations for Licensed Homes for Adults (VR 615-22-02) .....	336
Appendix A to Standards and Regulations for Licensed Homes for Adults. Nonambulatory Residents in Homes for Adults .....	363
Appendix B to Standards and Regulations for Licensed Homes for Adults .....	364
Survey .....	367

## FINAL REGULATIONS

### VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Regulations Pertaining to Declaration of Small Whorled Pogonia as an Endangered Plant Species (VR 115-04-01) .....	370
Regulations Pertaining to Rules and Regulations for the Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine (VR 115-04-02) .....	370

### STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Guidelines for Public Participation in the Development and Promulgation of Regulations (VR 380-01-1) .....	370
--	-----

### VIRGINIA MARINE RESOURCES COMMISSION

Regulation Pertaining to the Taking of Striped Bass (VR 450-01-0029) .....	372
Regulation Pertaining to Close Public Oyster Rocks, Pocomoke Sound (VR 450-01-8411) .....	374
Regulation Pertaining to Piankatank River Management Area (VR 450-01-8412) .....	374

## GENERAL NOTICES/ERRATA

Notices of Intended Regulatory Action .....	377
General Notices .....	381

### Hazardous Waste Facility Siting Board - Draft Criteria:

A Study Document of Options for Siting Criteria for Hazardous Waste Facilities in Virginia .....	381
--	-----

### Department of Health - Public Notice

Amendments to State Plan for Medical Assistance (Medicaid) .....	383
--	-----

## CALENDAR OF EVENTS

Executive Open Meetings and Public Hearings .....	384
Legislative Meetings (No meetings were submitted for this issue)	
Chronological list of meetings .....	396

---

# 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.

### DEPARTMENT OF SOCIAL SERVICES Division of Licensing Programs

Title of Regulation: VR 615-22-02. Standards and Regulations for Licensed Homes for Adults.

Statutory Authority: § 63.1-182.1 of the Code of Virginia.

#### Summary:

Virginia Code, Title 63.1, Chapter 9, § 63.1-182.1, provides the statutory basis for promulgation of standards protecting resident rights in homes for adults. The State Board of Social Services has approved proposed amendments for a 60-day public comment period.

The amendments to the Standards incorporate new statutory requirements dealing with resident rights; delete general licensure procedures; and delete standards regulating kitchen equipment as duplicating newly promulgated Health Department standards. The amendments address the following issues which will affect licensed homes for adults: development of policies and procedures protecting resident rights; personal care and supervision; staff training; records and documentation; care and supervision of restrained residents; and discharge policies.

#### TABLE OF CONTENTS

##### PART I - INTRODUCTION

- Article 1. Definitions
- Article 2. Legal Base

##### PART II - MANAGEMENT AND PERSONNEL

- Article 1. The Licensee
- Article 2. The Administrator
- Article 3. Personnel

##### PART III - ADMISSION AND DISCHARGE POLICIES

- Article 1. Admission Policies
- Article 2. Discharge Policies

##### PART IV - SERVICES

- Article 1. Resident Rights
- Article 2. Personal Care and Supervision
- Article 3. Health Care
- Article 4. Medication
- Article 5. Food Service
- Article 6. Activities
- Article 7. Visitation
- Article 8. Mail

##### Article 9. Transportation

##### PART V - RECORDS

- Article 1. General Requirements
- Article 2. Resident Records
- Article 3. Agreements
- Article 4. Employee Records

##### PART VI - BUILDINGS AND GROUNDS

- Article 1. Buildings
- Article 2. Grounds

##### PART VII - FURNISHINGS, EQUIPMENT AND SUPPLIES

- Article 1. Telephone
- Article 2. Signaling Devices
- Article 3. First Aid and Emergency Supplies
- Article 4. Living and Sleeping Areas

##### PART VIII - HOUSEKEEPING AND MAINTENANCE

##### PART IX - FIRE AND EMERGENCY PROTECTION

##### PART X - ADDITIONAL REQUIREMENT WITH RESPECT TO PUBLIC HOMES

##### APPENDIX A - NONAMBULATORY RESIDENTS IN HOMES FOR ADULTS

##### APPENDIX B - RESIDENT ACTIVITIES

VR 615-22-02. Standards and Regulations for Licensed Home for Adults.

#### PART I INTRODUCTION

- Article 1.  
Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Administrator" means the licensee or a person designated by the licensee who oversees the day-to-day operation of the facility, including compliance with all Standards and Regulations for Licensed Homes for Adults.

"Administer" means to open a container of medicine, to remove the prescribed dosage and to give it to the resident for whom it is prescribed.

\*"Ambulatory" means the condition of a person who is

physically and mentally capable of making an exit from a building in an emergency. This includes the ascent and descent of stairs, without the assistance of another person or without being dependent on the use of any device, such as, but not limited to, a wheelchair, walker or leg prosthesis. The determination of whether a person is ambulatory shall be based on information contained in the medical report. (See § 5.7.2.b.5)

"Bedfast" means the condition of a person, as certified by a physician, who is confined or restricted to bed for a prolonged or indefinite period of time. Persons for whom a physician has prescribed bedrest because of a short term illness (e.g. cold, flu, virus, etc.) are not considered to be bedfast. No person who is bedfast shall be admitted for care. Residents who become bedfast may remain in care providing the provisions of §§ 3.8 and 5.14 of these Standards and Regulations are met.

"Day-care center for adults" means a facility, which is either operated for profit or which desires licensure, for four or more aged, infirm or disabled adults, which is operated during a part of the day only, which provides supplementary care and protection of individuals who reside elsewhere except (i) a facility or portion of a facility licensed by the State Board of Health or the State Hospital Board, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage (Virginia Code § 63.1-172C). Day-care centers for adults are subject to licensure by a different set of standards.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee of the Virginia Department of Social Services, acting as the authorized agent in carrying out the duties specified in the Virginia Code.

"Director" means the Director of the Virginia Department of Social Services, also known as the Commissioner of Social Services.

"Discharge" means a planned, facility-initiated termination of services for a resident which results in a change of address for the resident.

"Distribute" means to give a container of medicine to a resident for whom it is prescribed so that he may take his own medicine from the container.

"Emergency" means a situation where the resident's behavior is unmanageable to the degree an immediate danger is presented to the safety of the resident or others.

"Essential activities of daily living" means eating, walking, ascent and descent of stairs, dressing, all aspects of personal hygiene and grooming, administering medication which would normally be self-administered, getting in and out of bed, management of personal affairs,

control of visitors, use of telephone, arranging for transportation, reading, writing, etc.

"Homes for adults" means any place, establishment, or institution, public or private, including any day-care center for adults, operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled, except (i) a facility or portion of a facility licensed by the State Board of Health or the State Hospital Board, but including any portion of such facility not so licensed, and (ii) the home or residence of any individual who cares for or maintains only persons related to him by blood or marriage. (Virginia Code § 63.1-172A)

"Human subject research" means any medical or psychological research which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subject's or subjects' needs but does not include (i) the conduct of biological studies exclusively utilizing tissue or fluids after their removal or withdrawal from a human subject in the course of standard medical practice, (ii) epidemiological investigations, or (iii) medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated or to improve the quality of the subject's life. (Virginia Code § 37.1-234)

"Independent living environment" means one in which the resident or residents perform all essential activities of daily living for themselves without requiring the assistance of any staff member in the home for adults.

"Household members" means any person domiciled in a home for adults other than residents or staff.

"Legal guardian" means an individual who has legal control and management of the person, or the property, or of both the person and the property of the resident. A legal guardian is appointed by a court. A legal guardian of the person is appointed to see that the resident has proper care and supervision in keeping with his/her needs. A legal guardian of the property is appointed to manage the financial affairs in the best interest of the resident.

"Licensee" means any person, association, partnership or corporation to whom the license is issued.

"Maintenance and care" means protection, general supervision and oversight of the physical and mental well-being of the aged, infirm or disabled individual (Virginia Code § 63.1-172B). This includes assistance with the activities of daily living which the recipient has difficulty performing.

"Nonambulatory" means the condition of a person who, because of physical or mental impairment, must be led or carried by another person, or is dependent on the

# Proposed Regulations

---

use of a device, such as, but not limited to, a walker, wheelchair or leg prosthesis to make an exit from a building in an emergency. The determination of whether a person is nonambulatory shall be based on information contained in the medical report. (See § 5.7.2.b.5) Persons who are nonambulatory may be accepted for care and residents who become nonambulatory may remain in care providing the provisions of § 3.9 of these Standards and Regulations are met.

"Nursing and convalescent care" means care given because of prolonged illness or defect, or during recovery from injury or disease, which includes any and all of the nursing procedures commonly employed in waiting on the sick such as administration of medicines, preparation of special diets, giving of bedside care, application of dressings and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine. (Health Laws of Virginia, Rules and Regulations, Chapter III, Licensure of Convalescent and Nursing Homes, Part I, Section I,B,1, Virginia Department of Health)

"Payee" means an individual other than the legal guardian who has been designated to receive and administer funds belonging to a resident in a home for adults. A payee is not a legal guardian unless so appointed by the court.

"Post-hospitalized person" means any aged, infirm or disabled adult who is being discharged from a state program for the mentally ill or mentally retarded and for whom direct placement is sought in a home for adults by the state facility, local welfare/social services department, local community mental health and mental retardation services board, family, legal guardian, or any other responsible party.

"Relocation" means a planned, facility or resident-initiated housing reassignment of a resident, either temporary or permanent, within the licensed home for adults.

"Resident" means any aged, infirm, or disabled adult residing in a home for adults for the purpose of receiving maintenance and care. family member or any other individual who has arranged for the care of the resident and assumed this responsibility. The responsible person/party may or may not be related to the resident. A responsible person/party is not a legal guardian unless so appointed by the court.

"Sponsor" means an individual, association, ★ partnership or corporation having responsibility for planning and operating a facility subject to licensure. The licensee is the sponsor of a home for adults. The sponsor may not, in all cases, be the owner of the physical plant (buildings) and/or real estate in or on which the home for adults is located. In these instances the term "sponsor" as defined here and used in these Standards and Regulations is considered to be the person, partnership, association or corporation who owns the enterprise less the physical

plant and/or real estate.

"Transfer" means temporary resident or facility-initiated removal of a resident from the home for purposes of medical or other special care treatment.

"Withdrawal" means a planned resident or resident representative-initiated termination of services which results in a change of address for the resident.

\*As used in these Standards and Regulations these are not medical definitions. They are related to the placement of aged, infirm, or disabled adults in appropriate buildings with regard to fire safety and their ability to evacuate buildings in an emergency.

A: Article 2.  
Legal Base.

§ 1.2. Virginia Code Chapter 9, Title 63.1, sets forth the responsibility of the Department of Social Services for the licensure of homes for adults, including the responsibility of the State Board of Social Services for the development of regulations containing minimum standards and requirements.

It is a misdemeanor to operate a home for adults without a license or to serve more residents than the maximum number stipulated on the license. (Virginia Code § 63.1-182)

## C: The License

1. A license to operate a home is issued to a specific person or organization for an exact location which will be indicated on the license.
2. The home shall be operated and conducted in the name of the sponsor or in such name as shall be designated on the application and as indicated on the license.
3. The license expires automatically and is not transferable when there is a change of sponsorship or location.
4. Only one license will be issued when:
  - a. There is more than one building under the same sponsorship on one piece of property; or
  - b. There are buildings under the same sponsorship on adjoining pieces of property and services and/or facilities are shared.
5. Separate licenses are required for facilities maintained on separate pieces of property that do not have a common boundary even though they may be operated under the same management and may share services and/or facilities.

# Proposed Regulations

6. The current license shall be posted at all times at a place in the building that is conspicuous to the public.

7. An annual license is one issued to a home for adults when the activities, services and facilities meet substantially the minimum standards and requirements for a license that are set forth in these Standards and Regulations and any additional requirements that may be specified in Title 62-1, Chapter 9, Code of Virginia. The annual license is effective for twelve months unless it is sooner revoked or surrendered.

8. a. When an annual license expires, a provisional license may be issued for no more than six months if the applicant is temporarily unable to comply with all of the requirements. The provisional license and any renewals thereof shall not exceed six months in duration.

The Director may issue a provisional license and permit renewals thereof for a period no longer than twelve months with the approval of the State Fire Marshal in order to permit the applicant to comply with the fire safety standards established in accordance with Section 27-72 of the Code.

b. At the discretion of the Director, a conditional license may be issued to an applicant to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements. Such conditional license may be renewed, but the issuance of a conditional license and any renewals thereof shall be for no longer a period than six successive months. The Director may issue to any applicant a conditional license and permit renewals thereof for a period no longer than twelve successive months with the approval of the State Fire Marshal when such applicant is purchasing an existing licensed home for adults in order to permit the applicant to comply with fire safety standards as established in accordance with Section 27-72 of the Code.

9. The terms of any license issued include the operating name of the home for adults, the name of the individual, the partnership, the association, or the corporation to whom the license is issued, the physical location, the maximum number of persons to be accepted for care, and the period of time for which the license is effective.

The terms of the license may include other limitations which the Commissioner may prescribe within the context of these Standards and Regulations.

The provisional license cites the standards with which the licensee is not in compliance.

The conditional license cites the standards with which the licensee must demonstrate compliance when operation begins.

## D. Pre-application Consultation

Upon request, the Department's representative will provide consultation to any person seeking information about obtaining a license for a home for adults. The purpose of such consultation is:

1. To explain standards and regulations;
2. To help the potential applicant to explore the operational demands of a licensed home for adults;
3. To provide assistance in locating sources of information and technical assistance;
4. To provide an on-site visit to a proposed facility, upon request;
5. To provide an opportunity to review plans for proposed construction;
6. To make referrals to appropriate agencies, such as Department of Health, State Fire Marshal, local fire department, and local building officials.

## E. The Application

1. The application for a license to operate a home for adults shall be obtained from the Virginia Department of Welfare.

2. The application, together with all required information, shall be submitted to the Department at least two (2) months in advance of the planned opening date.

This is required in order that a determination of compliance with the provisions of Chapter 9, Title 62-1, Code of Virginia, and with the Standards and Regulations for Licensed Homes for Adults as set forth herein may be made.

Among other things, such information shall be sufficient to enable the Department's representative to determine, during the subsequent investigation, the financial capability of the applicant, the character and reputation of the applicant, including the officers and agents of any association, partnership or corporation, as mandated by Section 62-1-176, Code of Virginia. (See Section I.F.)

## F. The Investigation

1. Following receipt of the application, the Department's representative will make an on-site inspection of the proposed facility and an investigation of the proposed services, as well as an investigation of the character, reputation and financial responsibility of the applicant.

2. Applicants and licensees shall at all times afford



# Proposed Regulations

---

the representatives of the Director reasonable opportunity to inspect all of their facilities, books and records, and to interview their agents and employees and any person living in such facilities. (Section 63.1-177a, Code of Virginia)

## 3. Inspections and Reports of Other Agencies:

a. When applicable at the time of the original application, the applicant shall submit a Certificate of Occupancy for a home for adults, obtained from the local building official.

2. When the original application is received, and at least annually thereafter, the Department will request from the local health department and inspection and report as to the environmental health conditions of the facility. This will include a request for approval of any water supply or sewage disposal system which may serve the facility.

e. When the original application is received, and at least annually thereafter, the Department will request an inspection and report as to the fire officials and State fire officials, where applicable.

## G. Allowable Variance

1. The Department has the sole authority to waive either temporarily or permanently a standard or regulation when in the Department's opinion:

a. Enforcement will create an undue hardship;

b. The standard is not specifically required by statute or by the regulations of another government agency; and

e. Resident care would not be adversely affected.

2. Any request for an allowable variance shall be submitted in writing to the Regional Office from which the home's license to operate is issued.

3. The denial of a request for a variance is not appealable.

## H. Notice to the Applicant of Commissioner's Action

Upon completion of the investigation of the application for a license, the applicant will be notified in writing of the Commissioner's decision.

If the license is issued, an accompanying letter will cite any areas of non-compliance with standards. This letter will also include any limitations on the license and may contain recommendations.

If a license is denied, the letter will state the reasons for the denial and will set forth the applicant's right to an administrative hearing.

## I. Procedures for Renewal of Annual, Provisional or Conditional License

In order to renew an annual, provisional or conditional license, the licensee must complete the renewal application and return it, together with any required attachments to the Department. In order to assure timely processing, the renewal application should be completed and returned within ten (10) days after it is received from the Department.

The procedure for investigation and issuance or denial of the license as set forth in Sections F and H above will be followed.

## J. Early Compliance (Replacement of a Provisional or Conditional License With an Annual License)

1. A provisional or conditional license may be voided and an annual license issued when all of the following conditions exist:

a. A facility is currently operating under the terms of a provisional or conditional license;

b. The facility complies with all standards and regulations listed on the face of the provisional or conditional license, well in advance of the expiration date of the provisional or conditional license and no additional areas of non-compliance exist;

c. Compliance has been verified by an on-site observation by the Department representative or by written evidence provided by the licensee;

d. All other terms of the license remain the same.

2. A request to void a provisional or conditional license and to issue an annual license must be made in writing by the licensee, to the Regional Office of the Virginia Department of Welfare from which the home's license to operate is issued.

3. If the request is approved by the Department, the effective date of the new annual license will be the same as the beginning date of the provisional or conditional license.

## K. Situations Requiring a New Application

A new application must be filed in the following circumstances:

1. Change of sponsorship;

2. Change of location.

## L. Modification

1. The conditions of the license may be modified during the effective dates of the license with respect

# Proposed Regulations

to increasing or decreasing the capacity, changing the name of the facility when there is no change in sponsorship or location, or because of other conditions caused by changes in staff, program, or facilities.

2. The licensee shall report to the Department any contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license. (This does not mean the Department has to approve changes in staff or program unless they affect the terms of the license or continuing eligibility.)

3. This report shall be submitted, in writing, by the licensee, to the regional office of the Virginia Department of Social Services from which the home's license to operate is issued.

4. The Department will then determine whether such changes may be approved and the license modified accordingly or whether a new application must be filed.

5. Request for modification shall not be used in situations which clearly require a new application. (See Section I,K)

## M: Visitation

The Department's representative will make announced and unannounced visits during the effective dates of the license in order to determine continued compliance with Standards and Regulations.

## N: Complaint Investigation

The Department has the responsibility to investigate any complaints regarding alleged violations of Standards and Regulations for Licensed Homes for Adults and/or provisions of Chapter 9, Title 63-1, Code of Virginia.

## O: Revocation

Any license may be revoked for failure to maintain these Standards and Regulations or for violation of the provisions of Chapter 9, Title 63-1, Code of Virginia.

## P: Appeals

The applicant/licensee has the right to request an administrative hearing regarding any denial or revocation of a license, in accordance with the provisions of the Administrative Process Act, Title 9, Chapter 1-1-1, Section 9-6.14-11 - 9-6.14-14.

Following the receipt of the final order which transmits the Department's decision after the administrative hearing, the applicant/licensee has the right to appeal to a court of record in accordance with Section 63-1-180, Code of Virginia.

## PART II MANAGEMENT AND PERSONNEL

### A: Article 1. The Licensee.

§ 2.1. 1. The licensee shall be responsible for complying with all Standards and Regulations for Licensed Homes for Adults.

§ 2.2. 2. The licensee shall meet the following requirements:

1. a. The licensee shall give evidence of financial responsibility.

2. b. The licensee shall be of good character and reputation.

3. c. The licensee shall be able to protect the physical and mental well-being of residents.

4. d. The licensee shall keep such records and make such reports as required by these Standards and Regulations for Licensed Homes for Adults. Such records and reports may be inspected at any reasonable time in order to determine compliance with these Standards and Regulations.

5. e. The licensee shall meet the qualifications of the administrator if he assumes those duties.

§ 2.3. 3. A home for adults sponsored by a religious organization, a corporation or a voluntary association shall be controlled by a governing board of directors that shall fulfill the duties of the licensee.

### B: Article 2. The Administrator.

§ 2.4. 1. Each home shall have an administrator. This does not prohibit the administrator from serving more than one facility.

§ 2.5. 2. Qualification of administrator.

A. a. The administrator shall be at least 18 years of age.

B. b. He shall be able to read, to write, and to understand these Standards and Regulations.

C. c. He shall be able to perform the duties and to assume the responsibilities required by these Standards and Regulations.

D. d. Any person who assumes the duties of the administrator after the effective date of these Standards and Regulation January 1, 1980, shall be a high school graduate or shall have a General Education Development Certificate (G.E.D.), or shall have completed one full year of successful experience

# Proposed Regulations

---

in caring for adults in a group care facility, such as a home for adults, a nursing home, a hospital or a day-care center for adults.

E. e. He shall meet the requirements stipulated for all staff in § 2.10.

## § 2.6. ~~3~~. Duties of the administrator.

It shall be the duty of the administrator:

1. ~~a~~. To oversee the day-to-day operation of the home, which shall include, but not be limited to, responsibility for:

- a. ~~(1)~~ services to residents;
- b. ~~(2)~~ maintenance of buildings and grounds;
- c. ~~(3)~~ record keeping;
- d. ~~(4)~~ employment, training and supervision of personnel.

2. ~~b~~. To protect the safety and physical, mental and emotional health of residents.

3. ~~e~~. To be familiar with and to assure compliance with these Standards and Regulations.

### 4. Hours of Duty

§ 2.7. ~~a~~. Either the administrator or a designated assistant who meets the qualifications of the administrator shall be awake and on duty on the premises at least 40 hours per week.

§ 2.8. ~~b~~. In the absence of the administrator or the designated assistant, a responsible adult who is able to read and write shall be delegated the duties of the administrator, so that service to residents shall not be interrupted. This person shall be capable of protecting the physical and mental well-being of the residents. He shall not be a resident.

## ~~C~~. Article 3. Personnel.

### § 2.9. ~~1~~. Staffing.

A. ~~a~~. There shall be enough staff on duty at all times to assure compliance with these Standards and Regulations. This number shall be determined by:

1. ~~(1)~~ the number of residents;
2. ~~(2)~~ the physical and mental conditions of the residents;
3. ~~(3)~~ the services to be provided;

4. ~~(4)~~ the size and layout of the building(s); and

5. ~~(5)~~ the capabilities and training of the employees.

B. ~~b~~. There shall be sufficient staff on the premises at all times to implement the emergency fire plan including evacuation of those residents who are nonambulatory if such evacuation is included in the plan. (See § 9.4)

C. ~~e~~. A responsible adult, other than a resident, shall be in each building at all times that residents are present and shall be responsible for their care and supervision.

D. ~~d~~. In homes licensed to care for 20 or more residents under one roof, there shall be at least one staff member awake and on duty under that roof during the night hours.

E. ~~e~~. In homes licensed to care for 20 or more residents under one roof, the provisions of *either* 1 or 2, below shall be met.

1. ~~(1)~~ Staff shall make rounds at least once each hour to monitor for emergencies. These rounds shall begin when the majority of the residents have gone to bed each evening and shall terminate when the majority of the residents have arisen each morning.

a. A written log shall be maintained showing the date and time rounds were made and the signature of the person who made rounds.

b. Logs for the past three months shall be retained.

c. These logs shall be subject to inspection by the Department.

### OR

2. ~~(2)~~ There shall be a signaling device or intercom or a telephone which may be activated by the resident from his room or from a connecting bathroom which shall terminate at the staff station and which shall permit staff to determine the origin of the signal. (See § 7.4)

F. ~~f~~. If emergency ambulance service is not available within 15 minutes travel time or if there is not a physician, registered nurse, or licensed practical nurse available within 15 minutes travel time, there shall be at least one staff member on the premises at all times who has certification in first aid which has been issued within the past three years by the Red Cross, a community college, a hospital, a volunteer rescue squad, a fire department, or a similarly approved program.

G. ~~g~~. There shall be at least one staff member on the premises at all times who has certification in cardiovascular pulmonary resuscitation (CPR) issued

# Proposed Regulations

within the current year by the Red Cross, a community college, a hospital, a volunteer rescue squad, a fire department or a similarly approved program. **NOTE:** Homes for adults having valid licenses on the date these Standards have become effective shall have six months from the effective date to comply with this Standard. The CPR certificate must be renewed annually.

## § 2.10. ~~2.~~ Qualifications of all staff, including the administrator.

All staff members shall be:

1. ~~a.~~ of good character;
2. ~~b.~~ physically and mentally capable of carrying out assigned responsibilities;
3. ~~e.~~ considerate and tolerant of aged and disabled persons;
4. ~~d.~~ clean and well-groomed; and
5. ~~e.~~ able and willing to accept supervision and training.

## § 2.11. ~~3.~~ Training and orientation.

### A. ~~a.~~ All employees shall be made aware of:

1. ~~(1)~~ the purpose of the facility;
2. ~~(2)~~ the services provided;
3. ~~(3)~~ the daily routines; and
4. ~~(4)~~ required compliance with Standards and Regulations for Licensed Homes for Adults as it relates to their duties and responsibilities.

### B. ~~b.~~ All personnel shall be trained to have general knowledge in the following: in the relevant laws, standards and regulations, and the home's policies and procedures sufficiently to implement the following:

1. ~~(1)~~ emergency plans for the facility; (See § 9.4)
2. ~~(2)~~ techniques of complying with fire and disaster plans including evacuating residents when applicable;
3. ~~(3)~~ use of the first-aid kit, and knowledge of its location;
4. ~~(4)~~ confidential treatment of personal information;
5. *Observance of the rights and responsibilities of residents;*

### C. ~~c.~~ Training in their specific duties shall be provided for personnel who are assigned jobs in:

- ~~(1)~~ Personal care;
- ~~(2)~~ Food service and nutrition;
- ~~(3)~~ Housekeeping and maintenance; and/or
- ~~(4)~~ Group or individual activities.

### 6. *Performance of the specific duties and requirements of their positions.*

### C. ~~d.~~ All personnel who have primary responsibilities for resident care shall be trained to have general knowledge in the care of aged, infirm or disabled adults with due consideration for their individual capabilities and their needs.

### D. ~~e.~~ The home shall provide training opportunities at least annually for employees with primary responsibility for resident care.

1. ~~(1)~~ These training opportunities shall be provided through in-service training programs or institutes, workshops, classes, or conferences related to the care of aged, infirm or disabled adults.

2. ~~(2)~~ A notation of this training shall be made in the employee's record, as required by § 5.26.10 of these Standards and Regulations.

### E. *Training required for homes which accept/have in care persons needing restraint.*

1. *The licensee or administrator of a facility which cares for a person or persons supportively restrained, or who spend the majority of time in bed and needs assistance in entering/exiting the bed, or who admits to the facility persons with medical history of combative behavior or dangerously agitated states, shall first provide or obtain for direct care staff involved in the care of all such residents, appropriate training on the care of restrained or nonmobile residents.*

a. *This training shall be provided by an appropriately qualified health professional.*

b. *The training shall include, at a minimum, information, demonstration and experience in the prevention and recognition of decubiti, in the patterned movement of joints through the full range of motion to prevent stiffening, and the proper techniques for applying and monitoring restraints.*

*(NOTE: Homes for adults having valid licenses on the date these standards become effective and having such residents in care shall have one year from the effective date for direct care staff to comply with this standard.)*

c. *A written description of the content of this training, a notation of the person(s)/agency/organization or*

# Proposed Regulations

---

*institution providing the training and the name(s) of staff receiving the training shall be maintained by the facility.*

*2. Refresher training and/or the review of written materials/techniques with all direct care staff shall be provided at least annually or more often as needed.*

*a. The refresher training and/or review of written materials/techniques shall encompass the techniques described in § 2.11E.1 above.*

*b. A record of the refresher training and/or review of written materials shall be maintained by the facility.*

§ 2.12. ~~4.~~ Any resident who performs any staff duties shall meet the personnel and health requirements for that position.

§ 2.13. ~~5.~~ Relief staff.

A. ~~a.~~ A current file of names, addresses and telephone numbers of persons available for duty in the absence of regular personnel shall be maintained;

OR

B. ~~b.~~ There shall be evidence of access to a nurse's aide register.

§ 2.14. ~~6.~~ Volunteers.

A. ~~e.~~ Any volunteers used shall:

1. ~~(1)~~ have qualifications appropriate to the services they render;

2. ~~(2)~~ be subject to laws and regulations governing confidential treatment of personal information.

B. ~~b.~~ Duties and responsibilities of all volunteers shall be clearly differentiated from those of persons regularly filling staff positions.

C. At least one staff member shall be assigned responsibility for overall selection, supervision and orientation of volunteers.

## III. PART III ADMISSION AND DISCHARGE POLICIES

### A. Article 1. Admission Policies.

§ 3.1. ~~1.~~ All residents shall be 18 years of age or older.

§ 3.2. ~~2.~~ No person shall be admitted until identifying information has been obtained as set forth in these Standards. (See § 5.6)

§ 3.3. ~~3.~~ No person shall be admitted unless he has had a

physical examination by a licensed physician within 30 days prior to the date of acceptance for admission. The report of such examination shall be on file at the home for adults and shall contain the information required by these Standards. (See § 5.7)

§ 3.4. ~~4.~~ No person who is known to have tuberculosis in a communicable form shall be admitted.

§ 3.5. ~~5.~~ No person who is in need of nursing or convalescent care shall be admitted.

§ 3.6. ~~6.~~ No person whose physician has stated in writing that he is incapable of self-administration of medicine shall be admitted or remain in care unless:

1. the physician has signed a statement authorizing an agent at the home to administer medicine; or

2. there is a licensed doctor, registered nurse, licensed practical nurse or physician's assistant available to the home to administer medicine.

§ 3.7. ~~7.~~ No person who is bedfast shall be admitted for care.

§ 3.8. ~~8.~~ No resident who becomes bedfast shall remain in the home unless all of the following requirements are met:

1. ~~a.~~ The physician signs a written statement that:

a. ~~(1)~~ nursing and convalescent care are not needed, including the basis for this decision in terms of diagnosis and prognosis; (NOTE: A nursing or convalescent home license is required if a facility provides nursing and/or convalescent care to two or more nonrelated persons.) (Virginia Code § 32-298(2))

b. ~~(2)~~ the needs of the resident can be met in the home for adults; and

c. ~~(3)~~ continuing emergency restraint as described in § 4.33B, is not necessary.

2. ~~b.~~ Complete medical records are kept, including physicians' progress reports obtained at intervals of not more than 90 days (See § 5.14). The reports shall contain the same information required in the written statement described in § 3.8.1.

3. ~~c.~~ The physician's progress report shall be based on the resident having been seen and examined by a licensed physician, physician's assistant or nurse practitioner at intervals of not more than 90 days. If the examination is performed by a physician's assistant or nurse practitioner the results shall be reviewed by a licensed physician who shall evaluate and sign the required statement.

4. ~~d.~~ There shall be qualified staff on duty 24 hours a day to meet the needs of the bedfast resident.

# Proposed Regulations

5. ~~e~~. The facility meets the applicable provisions of § 9.6 of these Standards and Regulations relating to the housing of nonambulatory residents.

§ 3.9. ~~9~~. Admission and retention of nonambulatory residents (See Appendix A).

A. ~~a~~. Nonambulatory persons, as defined by these Standards, may be admitted to a home for adults when all of the provisions of the following sections of these Standards and Regulations are met:

1. § 3.10, which addresses meeting the needs of the resident;

2. § 5.7.2.a., which addresses information required in the admissions physical examination;

3. § 6.18, which addresses building requirements to accommodate nonambulatory residents; and

4. § 9.6, which addresses housing of nonambulatory residents.

B. ~~b~~. Residents who become nonambulatory, as defined by these Standards, may remain in care if the provisions of § 3.9.A, 1, 3, and 4 above, are met, as well as the additional provisions of § 5.7.3 and § 5.11 of these Standards and Regulations. These additional sections address medical information which is required (See § 5.7.3) or may be required (See § 5.11) on a recurring basis.

§ 3.10. ~~10~~. Only those persons whose needs can be met in a home for adults may be admitted for care.

§ 3.11. ~~11~~. At the time of admission, there shall be a written agreement signed by the resident/applicant for admission and/or the legal guardian, or personal representative and by the licensee or administrator. This agreement shall meet the requirements specified in § 5.17 of these Standards and Regulations.

§ 3.12. ~~12~~. Admission of post-hospitalized persons.

The following Standards shall apply when a home for adults accepts persons from a state program for the mentally ill or mentally retarded on or after the effective date of these Standards and Regulations. (These Standards do not apply to persons who were accepted for care in homes for adults prior to January 1, 1980.)

A. ~~a~~. The home shall enter into a written agreement with the local community mental health and mental retardation services board, a state mental health clinic in those areas not served by such a board, or similar facility or agency within the private sector to make services available to post-hospitalized residents. This agreement shall be a one time agreement which shall cover all post-hospitalized residents who may need and/or desire such services. (NOTE: The direct

clinical services of the local community mental health and mental retardation services board and/or the state mental health clinics are to be provided at no cost to the home for adults. Residents may be charged on a sliding scale based on their ability to pay.)

B. Services to be included in the agreement shall include at least the following:

1. diagnostic, evaluation and referral services in order to identify and meet the needs of the resident;

2. outpatient mental health and mental retardation services, including but not limited to recommended aftercare/follow-along services;

3. services and support to meet emergency mental health needs of a resident.

C. ~~b~~. A copy of this agreement shall remain on file in the home and shall be available for inspection by the Department.

D. ~~e~~. Prior to accepting a post-hospitalized person, the home shall obtain a summary of the aftercare/follow-along service recommendations which pertain to the post-hospitalized person. (NOTE: This information will be provided by the state facility from which the person is being discharged as part of the admissions physical examination required by § 5.7.1. of these Standards and Regulations. The state facility will complete this physical examination and will report the results on a form provided by the Department.)

E. ~~d~~. A copy of this summary of the aftercare/follow-along service recommendations shall be filed in the resident's record, as part of the admissions physical examination report, if he is accepted for care.

F. ~~e~~. The home shall request and obtain written progress reports on any post-hospitalized resident receiving services from the local community mental health and mental retardation services board, state mental health clinic or a treatment facility or agency in the private sector, providing release of this information is approved by the resident.

1. These progress reports shall be obtained at least every six months until it is stated in a report that aftercare/follow-along services are no longer needed.

2. This report shall contain at minimum:

a. a statement that continued aftercare/follow-along services are/are not needed;

b. recommendation, if any, for continued after-care/follow-along services;

c. a statement that the resident's needs can continue to be met in a home for adults;

# Proposed Regulations

---

d. a statement of any recommended services to be provided by the home for adults.

3. Copies of these progress reports shall be filed in the resident's record and shall be available for inspection by the Department.

G. f. Post-hospitalized persons shall not be accepted for care or remain in care when the home for adults is unable or unwilling to assist the resident in obtaining the services recommended in order to meet the resident's needs. (NOTE: The resident has the option to refuse recommended aftercare/follow-along services.)

## B. Article 2. Discharge Policies.

B. 1. The licensee and/or administrator shall notify the resident's family; legal guardian, any social agency or any other responsible party that may be involved in making plans for the resident, when changed conditions make it necessary for other long-term living arrangements to be made. Whenever possible this contact shall be made two weeks prior to the actual discharge of the resident.

§ 3.13. Under nonemergency conditions, the licensee or administrator shall notify the resident and/or his representative of the planned relocation, transfer, or discharge at least 14 calendar days prior to the actual transfer discharge date.

In the event an emergency discharge is unavoidable, the responsible party shall be notified immediately but in no case more than 24 hours following discharge. A record of the notification of emergency discharge shall be made in the resident's record as stipulated in Section V,B,2,0, of these Standards and Regulations.

§ 3.14. Under emergency conditions, the licensee, administrator, or staff designee shall notify the resident and/or his representative immediately but in no case more than 24 hours, of the reason(s) for the relocation, transfer or discharge and the destination of the resident. The written statement called for in § 3.16, shall be provided no later than 14 calendar days following the date of emergency relocation, transfer or discharge.

B. 1. This requirement shall apply to all situations where the resident is discharged or transferred to another facility, including the following:

§ 3.15. The licensee or administrator shall transfer or discharge a resident from the facility when:

a. The resident's needs cannot continue to be met in the home for adults because:

1. the needs of the resident cannot continue to be met for any one or more of the following reasons:

a. (1) the resident needs nursing or convalescent care;

or

(2) Qualified staff is not available to administer medication; or

b. sufficient qualified staff are not available to provide necessary services, such as, meet dietary needs, administer medication or provide necessary care and supervision;

or

c. (3) approved space is not available for nonambulatory residents;

or

d. (4) the resident is physically or verbally abusive to other residents;

or

e. (5) the resident is disruptive and/or creates unsafe conditions;

or

2. (6) the resident requests that other living arrangements be made.

§ 3.16. When a resident is relocated, transferred or discharged, the licensee and/or administrator shall provide to the resident or his representative a dated signed written statement which contains the following information:

1. the date on which the resident and/or his representative was notified of the planned relocation, transfer or discharge and the name of the representative who was notified.

2. a written description of the reason(s) for the relocation, transfer or discharge.

3. a written description of the actions taken by facility staff to assist the resident in making an orderly relocation, transfer or discharge.

4. the date on which the written statement was provided to the resident or his representative.

5. the date of the relocation, transfer or discharge from the facility and the resident's destination.

§ 3.17. When a resident is discharged, responsibility for transporting the resident and moving his possessions shall rest with the resident and/or his representative.

§ 3.18. A copy of the written statement required by § 3.16 shall be retained in the resident's record.

# Proposed Regulations

§ 3.19. The facility shall adopt a written policy regarding the number of calendar days notice is required when a resident or his representative wishes to withdraw from the facility.

A. The policy shall require no more than 30 calendar days notice.

B. Notice of this policy shall be incorporated into the resident's agreement.

§ 3.20. 2. The resident shall participate in plans for relocation, transfer, discharge or withdrawal insofar as he is able.

3. Primary responsibility for transfer shall rest with the resident, legal guardian, family, social agency or other responsible party.

§ 3.21. The resident's representative, including the resident's family, legal guardian, representative of a social agency, or any other responsible party, may also be involved in making plans for the resident's relocation, transfer, discharge, or withdrawal. Representative name and involvement in the move shall be documented in the resident's record.

4. The administrator shall extend cooperation to the responsible party in preparing the resident for adjustment when discharged or transfer from the home for adults is necessary. Such preparation shall include informing the resident where he/she is going and why the move is necessary.

§ 3.22. The licensee or administrator shall provide assistance to the resident and/or his representative in preparing the resident for relocation, transfer, discharge, or withdrawal. Such preparation shall include discussing with the resident and/or his representative why the relocation, transfer or discharge is necessary and where the resident is being moved.

§ 3.23. 5. When the resident is being transferred or discharged to another facility, the procedures regarding records as set forth in these Standards shall be followed. (See § 5.5 B)

## PART IV SERVICES

### Article 1. Resident Rights.

§ 4.1. Any resident of a home for adults is entitled to the rights and has the responsibilities as provided for in Virginia Code § 63.1-182.1, and as provided for in these Standards and Regulations.

§ 4.2. The licensee, operator and/or administrator shall establish written policies and procedures which describe the practices to be followed by the home in implementing

the requirements of Virginia Code § 63.1-182.1.

A. These policies and procedures shall be available and accessible to residents, relatives, agencies and the general public.

B. The policies and procedures shall contain the following information:

1. the name, address and telephone number of the licensing supervisor in the regional office of the Virginia Department of Social Services whose office has issued the facility's license,

and

2. the toll-free number of the Virginia Long-Term Care Ombudsman Program and any sub-state (local) ombudsman program serving the area.

3. the names, addresses, and telephone numbers in § 4.2.B.1 and 2, above, shall be posted in a conspicuous place available to residents and the general public.

§ 4.3. The resident is assumed to be able to fully understand and exercise the rights and responsibilities as provided for in Virginia Code § 63.1-182.1, and these Standards and Regulations unless a physician determines otherwise.

§ 4.4. If a physician determines that a resident is unable to understand and exercise his rights and responsibilities, his reasons for making such a determination shall be documented in the record.

A. The home shall then select a responsible person, of the resident's choice when possible, and inform him of the rights and responsibilities of the resident and involve him in the decisions which affect the resident in matters relating to the provisions of Virginia Code § 63.1-182.1.

B. The name of this individual shall be documented in the resident's record.

§ 4.5. The resident shall be encouraged and informed of appropriate means as necessary to exercise his rights as a resident and a citizen throughout the period of his stay at the home.

§ 4.6. The resident has the right to voice and/or file grievances with the home and to make recommendations for changes in the policies and services of the home. The resident shall be protected by the licensee and/or administrator from any form of coercion, discrimination, threats, or reprisal for having voiced or filed such grievances.

§ 4.7. The licensee and/or administrator shall establish a policy regarding the procedure(s) the home will follow when a resident files a grievance with the home. The



# Proposed Regulations

resident shall be notified of this procedure(s) and shall provide written acknowledgement of having been so notified.

§ 4.8. The licensee and/or administrator may not establish any rules or policies related to resident conduct and behavior which would abridge the rights of residents. However, such rules or policies may allow for reasonable restrictions which are related to resident safety and well-being.

§ 4.9. Each home shall make available in an easily accessible place a copy of the rights and responsibilities of residents of homes for adults, as provided for in Virginia Code § 63.1-182.1. The home shall utilize one of the following methods in making this copy available to the resident:

1. post in a conspicuous place in the home a copy of Virginia Code § 63.1-182.1, "Rights and Responsibilities of Residents of Homes for Adults";

or

2. provide to each resident and/or his representative a personal copy of Virginia Code § 63.1-182.1, and post a written notice in a conspicuous place in the home advising how an additional copy may be obtained.

§ 4.10. Residents have the right to refuse to participate in human subject experimentation or to participate in any research in which their identity can be ascertained.

§ 4.11. Residents shall be informed of any planned experimentation or research involving themselves or information contained in their records.

§ 4.12. The licensee and/or administrator may release information without the resident's permission only when such information has been grouped or aggregated so that the individual identity of the resident cannot be ascertained.

§ 4.13. The licensee and/or administrator shall allow residents to be observed and/or information from their records to be obtained by a person(s) conducting experimentation/research only when the resident and/or his legal guardian have given written permission for such observation or access to resident's records.

§ 4.14. The licensee and/or administrator shall carefully evaluate any proposed human subject experimentation and/or research to determine any potential harmful effects on residents.

§ 4.15. Any human subject experimentation or research involving residents shall be conducted in accordance with applicable state and federal laws and comply with recognized professional human subject experimentation standards.

A. Article 2.

Personal Care and Supervision.

§ 4.16. ~~1.~~ The resident shall be assisted in ~~maintaining to maintain~~ his highest level of independence by being consistently encouraged to function at his highest mental, emotional, physical and social potential.

§ 4.17. Utilizing the resident's health and personal information contained in §§ 5.6 and 5.7, the licensee and/or administrator shall develop individual service plans for each resident.

A. The plans shall contain a written description of the resident's identified service needs.

B. At minimum, the following aspects of resident services shall be addressed:

1. personal care and any assistance needs;

2. special dietary/nutritional needs; and

3. health and social needs.

C. For each identified resident service need, there shall be a notation in regard to the actions/steps to be taken by the home, either directly or through the use of other resources, to meet the identified need.

D. If the components of this plan are not filed in the resident's record, a systematic plan shall be established for their location.

E. For purposes of deciding whether to admit a resident, a home shall secure and evaluate the information required by subsections A and B of this Standard before admission. Subsection C of the Standard shall be completed within 45 days after the admission of a resident.

(NOTE: Homes for adults having valid licenses on the effective date of these Standards shall have one year from the effective date to comply with § 4.17 for residents already in care.)

§ 4.18. ~~A-2.~~ The resident shall be encouraged to participate in plans for his care.

§ 4.19. ~~3.~~ The resident shall be treated with dignity and a respectful attitude. Facility staff shall at all times speak to and treat the resident with courtesy, respect and consideration and as a person of worth, sensitivity and dignity.

§ 4.20. ~~4.~~ The privacy of residents shall be fully respected. The resident shall be accorded respect for ordinary privacy in every aspect of daily living, including but not limited to the following:

1. in the resident's room/bedroom or portion thereof,

# Proposed Regulations

*the resident is permitted to have guest(s) from outside the home or other residents.*

*2. each resident shall be permitted to close the door of his room at any time, including during visits with other persons.*

*3. employees of the home may not enter a resident's room/bedroom without making their presence known by such means as knocking on the door and/or otherwise announcing their presence and requesting permission to enter the room, except in an emergency situation and in accordance with safety and oversight requirements as found in the Licensing Standards for Homes for Adults.*

*4. in a room/bedroom which is occupied by two or more residents, the licensee and/or administrator shall take care to ensure that visiting in such rooms does not unduly interfere with the privacy rights of other occupants of the room.*

§ 4.21. 5: The resident shall be allowed privacy for social or business interviews, as well as for visits with persons of his own choice and including those with representatives of private or public agencies.

§ 4.22. 6: If it is their choice, residents who are married to each other shall be allowed to share a room, space permitting. When space does not permit those residents to share a room, this fact shall be included in the written agreements required by § 5.16 of these Standards and Regulations.

~~7. The resident shall not be abused, exploited, punished, coerced, or threatened in any way by the licensee, any employee or any other person who may be in the home.~~

§ 4.23. *Protection from abuse, neglect and exploitation.*

A. *The resident shall be protected from any form of mental, emotional, physical, sexual and economic abuse or exploitation.*

B. ~~At no time shall a~~ *The resident shall not be confined in a room with a door secured in such a manner that he cannot open it.*

C. *The resident shall be protected from any acts of a threatening, degrading and/or demeaning nature.*

D. *The known needs of the resident shall not be neglected or ignored by the personnel of the home.*

§ 4.24. 8: Special supervision and assistance shall be given to those residents who are unable to keep themselves neat and clean. Assistance with personal hygiene shall include care of the body, mouth, teeth/dentures, fingernails, toenails, hair, beard and moustache. Provision shall be made for baths to be taken at least weekly and more

often, if needed or desired.

§ 4.25. 9: Residents shall be assisted with the tasks of daily living which they have difficulty performing and shall be accorded ordinary privacy when given assistance in caring for their intimate personal needs.

§ 4.26. ~~10:~~ Resident's clothing shall be kept clean and in good repair.

~~12. The resident shall have reasonable access to a telephone on the premises.~~

B: Article 3.  
Health Care.

§ 4.27. 1: The following standards apply when the resident is in need of specialized professional health care services (such as mental health counseling, or care of teeth, feet, eyes, ears, etc.).

A. a: The resident shall be assisted in making appropriate arrangements for the needed care. When mental health care is needed and/or desired by the resident, this assistance shall include securing the services of the local community mental health and mental retardation services board, state mental health clinic or similar facility or agent in the private sector.

B. b: When the resident is unable to participate in making appropriate arrangements, the resident's family, legal guardian, the cooperating social agency or personal physician shall be notified of the need.

§ 4.28. 2: No medication or diet which has been prescribed by a physician shall be started, changed or discontinued by the facility without an order by the physician. The resident's record shall contain such written order or a notation of the physician's verbal order.

§ 4.29. 3: When the resident suffers serious accident, or illness, or medical condition, medical attention shall be secured immediately.

§ 4.30. 4: The next of kin, or other designated person, and any responsible social agency shall be notified within 24 hours of any serious illness, or accident, or medical condition. A notation shall be made in the resident's record of such notice. In addition, this notation must contain a description of the efforts made by the home to involve the resident in making plans for a medical evaluation and treatment.

§ 4.31. 5: If a resident becomes disturbed and unmanageable, the attending physician, next of kin, and/or the responsible party shall be notified promptly.

§ 4.32. 6: Physical or mechanical restraints restraint.

*The resident shall be free of any physical or mechanical restraint except in an emergency situation as*

# Proposed Regulations

---

defined in these Standards and Regulations or as medically necessary and authorized for the purpose of providing support to a physically weakened resident.

a. Physical restraints of any type used in non-emergency situations, such as for physical support, shall be used only on the written order of a physician. When such restraints are used, the following Standards must be met:

## A. Physical support restraint.

When any type of physical or mechanical restraint is used for support of a physically weakened resident, a physician's written order is required and the following Standards must apply:

1. ~~(1)~~ a copy of the physician's written order shall be placed in the resident's records;
2. ~~(2)~~ additional supervision shall be provided to meet the physical and emotional needs of the resident who is restrained;
3. each resident restrained for the purpose of providing physical support shall be provided the opportunity for physical motion and exercise whenever necessary and at least once every two hour period the restraint is used. Facility staff shall assist any resident who needs assistance with exercising limbs and changing positions. The motion and exercise period shall last for a period of not less than 10 minutes and shall be documented in the resident's record;
4. ~~(3)~~ complete medical records shall be kept to include physician's progress reports obtained at intervals of not more than 90 days; (See § 5.14)
5. ~~(4)~~ the physician's progress reports shall be based on the resident being seen and examined by a licensed physician, physician's assistant or nurse practitioner at intervals of not more than 90 days.
  - a. These reports shall provide the information required by § 5.14 of these Standards and Regulations.
  - b. If the examination is performed by a physician's assistant or nurse practitioner, the results shall be reviewed by a licensed physician who shall evaluate and sign the required statement.
- b. Physical restraints of the type used to control a person who becomes disturbed and unmanageable, such as, but not limited to, jacket restraints, limb restraints, mittens, body restraints, etc., shall be used only in an emergency. An emergency is defined as disturbed or unmanageable behavior to the extent that there is immediate danger to the resident or others.

## B. Emergency restraint.

The following standards apply each time any type of physical or mechanical restraint is used to control a resident's behavior in an emergency situation.

When such forms of restraint are used, the following Standards must be met:

1. ~~(1)~~ The physician shall be notified immediately.
2. ~~(2)~~ If the physician orders, as part of a treatment program, continued use of restraints for a temporary period, oral orders shall be confirmed in writing.
3. ~~(3)~~ A copy of the written order shall be placed in the resident's record.
4. The resident who is restrained shall be within sight and sound of staff at all times.
5. ~~(4)~~ Additional supervision shall be provided to meet the physical and emotional needs of the resident who is restrained to include monitoring the resident ~~during the time as needed but at least every 30 minutes resident is restrained.~~ to determine the condition of the resident, the proper application of the restraint, and whether there is continuing need for the restraint.
6. The resident who is restrained shall be provided the opportunity for physical motion and exercise every two hours that the restraint is used.
  - a. Facility staff shall assist any resident who needs assistance with exercising limbs and changing position.
  - b. The motion and exercise period shall last for a period of not less than 10 minutes.
7. ~~(5)~~ The legal guardian, next of kin and/or any responsible social agency shall be notified immediately of the use of such restraints and the response to treatment.
8. Documentation of requirements regarding use of restraints.
  - a. ~~(6)~~ A notation shall be made in the resident's record showing the date(s) and the reason restraints were used, who was notified and when and how the notice was given.
  - b. A notation shall be made in the resident's record of the time and date of each monitoring check (§ 4.32.B.5) and of each motion and exercise period (§ 4.32.B.6).
9. ~~(7)~~ If the resident does not respond promptly to the treatment prescribed by the attending physician, and emergency restraint is prescribed for more than two hours a day, for seven days in a row, the resident shall be removed from the home.

# Proposed Regulations

§ 4.33. An employee who has received the training required in § 2.11.E shall be on duty in the facility whenever a resident is physically or mechanically restrained.

§ 4.34. 7. Full bedside rails, for any resident, shall be used only on the written order of the attending physician.

§ 4.35. The resident has the right to refuse any medical or health care treatment recommended. The home must then evaluate and document whether it can continue to meet the needs of the resident when recommended treatment is refused.

§ 4.36. The resident has the right to select health care providers who are reasonably available in the community and whose services can be purchased by the resident. Health care providers include, but are not limited to physicians, dentists, pharmacists, home health agencies, hospitals, nursing homes, clinics, ambulance services, and health care suppliers.

§ 4.37. At the time of admission to the home, the resident and/or representative shall be provided with information regarding available health care providers who are located in the community, if such information is needed or requested.

§ 4.38. Residents shall be afforded ordinary privacy when they receive medical examination or health related consultation at the home.

## 8. Article 4. Medication.

§ 4.39. a. No prescription drugs shall be kept in the facility unless they have been legally dispensed and labeled by a licensed pharmacist or unless they are stocked in bulk in a licensed pharmacy located on the premises.

§ 4.40. b. A medicine cabinet, container or compartment shall be provided for medications prescribed for residents.

A. (1) It shall be locked.

B. (2) When in use, it shall be illuminated by 100 footcandles of light as measured by a light meter in order to read container labels, but shall remain darkened when closed.

C. (3) It shall not be located in the kitchen, but in an area free of dampness or abnormal temperatures.

§ 4.41. C. A resident may be permitted to keep his own medication in a secure place in his room, if the physician's report has indicated that the resident is capable of self-administering medication. This does not prohibit the facility from storing and distributing or administering all medication provided the provisions of §§

4.42 and 4.43 are met.

§ 4.42. d. Distribution of medication.

(1) For purpose of these Standards, distribute means to give a container of medicine to a resident for whom it is prescribed so that he/she may take his/her own medicine from the container.

(2) Drugs from a locked medicine cabinet shall be distributed to the residents for whom they are prescribed by a responsible person who is capable of reading the prescription labels. It is not necessary for a physician to designate who may distribute medication.

§ 4.43. e. Administration of medication.

(1) For the purpose of these Standards, administer means to open a container of medicine, to remove the prescribed dosage and to give it to the resident for whom it is prescribed.

A. Drugs shall be administered to those residents whose physicians have stated in writing that they are incapable of self-administration of medications, provided the applicable portions of subsections B., C., and D., below are met.

B. Only those persons authorized by state law to administer drugs shall be permitted to do so. This may include licensed doctors, registered nurses, licensed practical nurses, physician's assistants, or other individuals who have met the state requirements to perform these functions.

C. An agent authorized in writing by the physician may administer drugs in accordance with such physician's instructions pertaining to dosage, frequency and manner of administration when the drugs administered would be normally self-administered by a resident, as provided by Virginia Code § 54-524.65.

D. If a staff member is the authorized agent of a physician, such written authorizations shall be retained by the licensee.

## C. Article 5. Food Service.

§ 4.44. Catering or contract food service.

A. a. Catering service or contract food service, if used, shall be approved by the state and/or local health department.

B. b. Persons who are employed by a food service contractor or catering service and who are working on the premises of the home for adults shall meet the health requirements for the home for adults' employees as specified in these Standards and

# Proposed Regulations

---

Regulations and the specific health requirements for food handlers in that locality.

- C. e. Catered food or food prepared and provided on the premises by a contractor shall meet the dietary requirements set forth in these Standards.

§ 4.45. ~~2.~~ Observance of religious dietary practices.

- A. ~~a.~~ The residents' religious dietary practices shall be respected.
- B. ~~b.~~ Religious dietary laws (or practices) or the administrator or licensee shall not be imposed upon residents unless mutually agreed upon in the admission agreement between administrator or licensee and resident.

§ 4.46. ~~3.~~ Time interval between meals.

- A. ~~a.~~ Time between the evening meal and breakfast the following morning shall not exceed 15 hours.
- B. ~~b.~~ There shall be at least four hours between breakfast and lunch and at least four hours between lunch and supper.

§ 4.47. ~~4.~~ A minimum of three meals shall be provided each day.

§ 4.48. ~~5.~~ Bedtime snacks shall be made available and shall be listed on the daily menu. Vending machines shall not be used as the only source for bedtime snacks.

§ 4.49. ~~6.~~ Menus for meals and snacks.

- A. ~~a.~~ Food preferences of residents shall be considered when menus are planned.
- B. ~~b.~~ Menus for meals and snacks shall be planned for at least two weeks in advance. At all times the menu for the following week shall be available.
- C. ~~c.~~ Menus for the current week shall be dated and posted.
- D. ~~d.~~ Any menu substitutions or additions shall be recorded.
- E. ~~e.~~ A record shall be kept of the menus served for three months. They shall be subject to inspection by the Department.
- F. ~~f.~~ Minimum daily menu:

1. ~~{}~~ Unless otherwise ordered in writing by the attending physician, the daily menu, including snacks, for each resident shall provide, at least, the following:

five-six ozs. of protein food (meat, poultry, fish, eggs, cheese, dry beans, etc.);

two cups of milk or milk substitute (such as cheese, buttermilk, pudding, yogurt, etc.);

four servings (1/2 to 3/4 cup each) of fruits or vegetables; (one serving each day shall be a vitamin C source and a dark green or yellow vegetable shall be served at least three times each week).

four or more servings of whole grain or enriched breads (one slice per serving), and/or cereals (1/2 to 3/4 cups per serving).

2. ~~{}~~ Other foods may be added.
3. ~~{}~~ Extra servings shall be provided, if requested.
4. ~~{}~~ At least one meal each day shall include a hot main dish.

§ 4.50. ~~7.~~ When a diet is prescribed for a resident by the attending physician, it shall be prepared and served according to the physician's orders.

§ 4.51. ~~8.~~ There shall be at least a seven day supply of staple foods on hand to meet individual daily dietary requirements of residents in case of emergencies.

§ 4.52. ~~9.~~ All meals shall be served in the dining area as designated by the facility. Under special circumstances, such as illness or incapacity, meals may be served in a resident's room, provided a sturdy table is used.

§ 4.53. ~~10.~~ Personnel shall be available to help any resident who may need assistance in reaching the dining room or when eating.

~~11.~~ Neither live animals nor fowl shall be permitted in rooms used for preparation, serving or storage of food.

~~12.~~ Use of tobacco shall be prohibited in areas used for food preparation and storage.

~~13.~~ Table coverings and napkins shall be clean at all times.

~~D.~~ Article 6.  
Resident Activities. (See Appendix B)

§ 4.54. ~~1.~~ There shall be at least one scheduled activity available to the residents for no less than one hour each day. This activity shall be of a social, recreational, religious, or diversional nature. Community resources may be used to provide this activity.

§ 4.55. ~~2.~~ Activities shall be planned for at least one week in advance.

§ 4.56. ~~3.~~ These activities shall be varied and shall be planned in consideration of the abilities, physical conditions, needs and interests of the residents.

# Proposed Regulations

§ 4.57. ~~4.~~ The week's schedule of activities shall be written and posted in advance in a conspicuous place. Residents shall be informed of the activities program.

§ 4.58. ~~5.~~ A record shall be kept of the activity schedules for the past three months. They shall be available for inspection by the Department.

§ 4.59. *Resident participation in activities.*

A. ~~6.~~ Residents shall be encouraged but not forced to participate in the program of activities.

B. *At his discretion, the resident shall be permitted to meet with and participate in activities provided by social, religious and community groups, unless medically contraindicated by the resident's physician.*

C. *Any restrictions imposed by a physician shall be documented in the resident's record and such restrictions shall be based solely on reasons of medical necessity.*

## E. Article 7. Visitation.

§ 4.60. ~~1.~~ Visiting in the home.

A. ~~a.~~ Daily visits to residents in the home shall be permitted.

B. ~~b.~~ If visiting hours are restricted, daily visiting hours shall be posted in a place conspicuous to the public.

§ 4.61. Visiting outside the home.

Residents shall not be prohibited from making reasonable visits away from the home except when there is a written order of the legal guardian to the contrary.

## F. Article 8. Mail.

§ 4.62. ~~1.~~ Incoming and outgoing mail shall not be censored.

§ 4.63. ~~2.~~ Incoming mail shall be delivered promptly.

§ 4.64. ~~3.~~ Mail shall not be opened by staff except upon request of the resident or written request of the legal guardian.

## G. Article 9. Transportation.

§ 4.65. The resident shall be assisted in making arrangements for transportation.

## V. PART V RECORDS

## A. Article 1. General Requirements.

§ 5.1. ~~1.~~ Any forms used for record keeping shall contain at a minimum the information specified in these Standards and Regulations. Model forms, which may be copied, will be supplied by the Department upon request.

§ 5.2. ~~2.~~ If any form such as medical, information, etc., developed by the Department is not used, the substitute form shall be approved by the Department.

§ 5.3. ~~3.~~ Records shall be kept in a locked area.

§ 5.4. ~~4.~~ The licensee shall have the responsibility for assuring that all records are treated confidentially and that information shall be made available only when needed for care of the resident. (EXCEPTION: All records shall be made available for inspection by the Department's representative. See Section ~~1,F,2~~ )

## B. Article 2. Resident Records.

§ 5.5. ~~1.~~ When a resident is admitted to the home, a permanent individual record shall be established.

A. ~~a.~~ The record shall be kept current.

B. ~~b.~~ The complete record shall be retained until two years after the resident leaves the home.

§ 5.6. ~~2.~~ Personal and social data to be maintained in the record:

1. ~~a.~~ name;
2. ~~b.~~ address;
  - a. ~~(1)~~ address from which resident was received;
  - b. ~~(2)~~ last home address, if different and known;
3. ~~c.~~ date of admission;
4. ~~d.~~ Social Security number;
5. ~~e.~~ birthdate (If unknown, estimated age);
6. ~~f.~~ birthplace, if known;
7. ~~g.~~ marital status, if known;
8. ~~h.~~ name, address and telephone number of legal guardian, committee, personal representative, or other person responsible;
9. ~~i.~~ name, address and telephone number of next of kin, if known (two preferred);
10. ~~j.~~ name, address and telephone number of personal

# Proposed Regulations

---

physician, if known;

11. ~~k~~ name, address and telephone number of clergyman and place of worship, if applicable;

12. ~~l~~ name, address and telephone number of local welfare department and/or any other agency, if applicable (the name of caseworker, if known);

13. ~~m~~ previous occupation, if available;

14. ~~n~~ special interests and hobbies, if known;

15. ~~o~~ date of discharge from the home for adults and destination. In the event discharge was made under emergency conditions the name of the responsible party who was notified and the date of the notification.

## § 5.7. Health information to be maintained:

1. ~~a~~ Prior to admission, the report of a physician examination, including screening for tuberculosis, shall be submitted to the home as required in § 3.3.

2. Form and content of the physical examination report by § 3.3.

a. ~~(1)~~ The report shall contain the following information:

(1) ~~(a)~~ the date of the physical examination;

(2) ~~(b)~~ any diagnoses or significant problems; and

(3) ~~(c)~~ any recommendations for care including medication, diet and therapy.

b. ~~(2)~~ Each report shall include separate statements that:

(1) ~~(a)~~ the individual is free of tuberculosis in a communicable form, including the type(s) of tuberculin test used and the results;

(2) ~~(b)~~ the individual does not need nursing or convalescent care (i.e., intermediate or skilled nursing care routinely provided in a facility subject to licensure by the State Department of Health);

(3) ~~(c)~~ the individual is not bedfast;

(4) ~~(d)~~ the person's needs can be met in a home for adults which is not a medical facility;

(5) ~~(e)~~ the individual is or is not considered to be physically and mentally capable of making an exit from the building in an emergency, including the ascent or descent of stairs, without assistance of another person or without being dependent on use of any device such as, but not limited to, a wheelchair,

walker or leg prosthesis;

(6) ~~(f)~~ the individual is or is not capable of administering his own medicine.

c. ~~(3)~~ Each report shall be signed by the licensed physician, the physician's designee, or an official of a local department of health.

d. ~~(4)~~ When the individual is a post-hospitalized person as defined in Section I, B, 7, of these Standards and Regulations, the report of physical examination shall include a summary of the individual's aftercare/follow-along service needs. (See § 3.12D and E)

3. e. Subsequent evaluation for tuberculosis.

a. ~~(1)~~ A resident who has a significant (positive) reaction to a tuberculin skin test and whose physician certifies the absence of communicable tuberculosis must obtain chest x-rays on an annual basis for two years.

(1) ~~(a)~~ The individual shall submit statements documenting the chest x-rays and certifying freedom from tuberculosis in a communicable form.

(2) ~~(b)~~ The statements shall be signed by a licensed physician, the physician's designee, or an official of a health department.

(3) ~~(c)~~ The statements shall be filed in the individual's record.

(4) ~~(d)~~ Screening beyond two years is not required unless there is known contact with a case of tuberculosis or development of chronic respiratory symptoms.

b. ~~(2)~~ Additional screening is not required for an individual who had a nonsignificant (negative) reaction to an initial tuberculin skin test.

c. ~~(3)~~ Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms, within 30 days of exposure/development, shall receive an evaluation in accord with §§ 5.7.2.b.(1) and 5.7.3.a.

~~When a resident transfers to another facility, specified information may be copied to be sent to that facility upon the written request of the resident or legal guardian, with the original information being retained in the resident's record.~~

*§ 5.8. When a resident moves to another care-giving facility, the administrator shall provide to the receiving facility such information related to the resident as is necessary to ensure continuity of care and services to the resident. Original information pertaining to the resident*

# Proposed Regulations

shall be maintained by the home from which the resident was transferred/discharged. The home shall maintain a copy of all information shared with the receiving facility.

## § 5.9. Consent for Release of Information.

A. The resident or his legal guardian has the right to release information from the resident's record to person(s) or agencies outside the facility.

B. The licensee is responsible for making available to residents a written form which residents may use to grant their written permission to release information to a person or agency outside the facility.

§ 5.10. Only under the following circumstances is a facility permitted to release information from the resident's records and/or information regarding the resident's personal affairs without the written permission of the resident or his legal guardian:

1. when records have been properly subpoenaed;
2. when the resident is in need of emergency medical care and is unable or unwilling to grant permission to release information and/or his legal guardian is not available to grant permission;
3. as provided in Standard § 5.8;
4. as otherwise required by law.

§ 5.11. ~~d.~~ The Department, at any time, may request a report of a current psychiatric or physical examination, giving the diagnosed and/or evaluation, for the purpose of determining whether the resident's need may continue to be met in a home for adults. When requested, this report shall be provided and shall be in the form specified by the Department.

§ 5.12. ~~e.~~ Copies of the written progress reports regarding post-hospitalized residents, required by § 3.12.F of these Standards and Regulations, shall be retained in the resident's records.

§ 5.13. ~~f.~~ Any physician's notes and progress reports in the possession of the home shall be retained in the resident's record.

§ 5.14. ~~g.~~ A statement signed by a physician shall be in the record of the resident who is remaining in the home after becoming bedfast or who is physically restrained for nonemergency situations as described in § 4.32.A. This statement shall be obtained as intervals of not more than 90 days and shall state that:

1. ~~(1)~~ the resident is not in need of nursing or convalescent care; (The basis for this decision shall be recorded in terms of the diagnosis and prognosis.)
2. ~~(2)~~ the resident's needs can be met in the facility;

and

3. ~~(3)~~ continuing restraint in an emergency, as described in Section IV, B, 6, ~~b~~, is not necessary.

§ 5.15. ~~h.~~ A notation of the notification of any serious illness, accident or use of restraint shall be made in the record within 24 hours. (See §§ 4.31 and 4.32.A.8.a concerning notification of next of kin.)

~~4.~~ Article 3.  
Agreements.

§ 5.16. Copies of ~~any~~ all agreements between the home and the resident or official acknowledgement of required notifications, signed by all parties involved, shall be retained in the resident's record. ~~and~~ Copies shall be provided the resident and/or any responsible party.

~~a.~~ There shall be a written agreement which shall be signed by the resident/applicant for admission and/or the guardian, committee or personal representative and by the licensee or administrator at the time of admission. The agreement shall specify:

§ 5.17. At the time of admission, these agreements/official acknowledgements shall include the following:

1. ~~(1)~~ Financial arrangement for care.

The resident financial agreement shall specify the following understanding and agreements regarding financial arrangements for care and services:

a. ~~(a)~~ the amount to be paid ~~and~~ including charges for specific services, the frequency of payment, and any rules relating to nonpayment;

b. ~~(b)~~ the policy with respect to increases in charges and length of time for advance notice of intent to increase charges;

c. ~~(c)~~ if the ownership of any personal property, real estate, money or financial investments is to be transferred to the home at the time of admission or at some future date, it shall be stipulated in the agreement.

~~(2)~~ Services to be rendered;

2. Description of general services available to all residents and charges to individuals.

3. ~~(3)~~ Requirements or rules to be imposed regarding resident conduct and signed acknowledgement that they have been reviewed by the resident.

~~(4)~~ The address of the Regional Office of the Virginia Department of Welfare from which the home's license to operate is issued.



# Proposed Regulations

4. Acknowledgement that the resident has reviewed a copy of Virginia Code § 63.1-182.1, and that the provisions of this statute have been explained to him.

5. Acknowledgement that the resident and/or his representative have reviewed and had explained to him the home's policies and procedures for implementing Virginia Code § 63.1-182.1.

§ 5.18. Provisions of the resident's service agreements shall be reviewed with the resident and/or his personal representative at least annually.

Included in the review shall be a review of the rights and responsibilities of the resident; of any changes in rules governing the resident's conduct; and of any changes related to services and charges. The resident and/or his representative shall provide written acknowledgement of having been informed of these matters.

§ 5.19. ~~b.~~ A new agreement shall be signed or the original agreement shall be updated and signed by the resident, the guardian, committee or personal representative and by the licensee or administrator when there are changes in financial arrangements, services or requirements. If the original agreement provides for specific changes in financial arrangements, services or requirements. If the original agreement provides for specific changes in financial arrangements, services or requirements, this Standard does not apply.

~~e.~~ Every resident is entitled to manage his personal financial affairs. However;

§ 5.20. The resident shall have the right to manage all of his financial affairs and funds, unless a committee or guardian has been appointed for the resident.

§ 5.21. Delegation of financial management responsibility.

If the resident delegates the management of personal financial affairs to the home, the following Standards apply:

1. ~~(1)~~ Such delegation shall be in writing, with all properties listed in detail. This shall include all monies, stocks, bonds, securities, personal property, real estate, and any other anticipated income. A copy of the delegation shall be placed in the resident's record and a copy shall be given to the resident or responsible party.

2. ~~(2)~~ A quarterly accounting shall be made to the resident, with a copy being retained in the record. ~~(Section 63.1-173.1, Code of Virginia).~~

3. ~~(3)~~ Upon termination of care, an accounting of such funds and assets shall be made to the resident or responsible party.

§ 5.22. ~~d.~~ A statement of the resident's account shall be

provided to the resident monthly.

~~(1)~~ A copy of the monthly statement or receipt shall be kept in the resident's record.

~~(2)~~ If an itemized receipt acknowledging payment for specified items is provided in lieu of a monthly statement, it shall show the balance due or any credits for overpayment on the resident's account.

A. Resident Accounts: A statement or itemized receipt of the resident's account shall be provided to the resident monthly and a copy placed in his record.

EXCEPTION: See § 5.21 for situations where responsibility for management of the resident's financial affairs has been delegated to the home, which requires a quarterly accounting only.

B. ~~(1)~~ The monthly statement or itemized receipt shall itemize any charges made and any payments received during the previous 30 days or during the previous calendar month and shall show the balance due or any credits for overpayments on the resident's account.

§ 5.23. Safeguarding resident funds.

If any personal funds are held by the home for safekeeping on behalf of the resident, a written accounting of money received and disbursed, showing a current balance, shall be maintained.

A. Such funds and such accounting shall be made available to the resident and/or the responsible party upon request.

B. Such funds shall be returned to the resident or the responsible party upon termination of care.

§ 5.24. There shall be a written agreement between the home and any resident who performs staff duties (See § 2.12).

A. ~~(1)~~ The agreement shall not be a condition for admission or continued residence.

B. ~~(2)~~ The resident shall enter into such an agreement voluntarily.

C. ~~(3)~~ The agreement shall specify duties, hours of work, and compensation.

Ⓔ Article 4.  
Employee Records.

§ 5.25. ~~1.~~ A record shall be established for each staff member. It shall not be destroyed until two years after employment is terminated.

§ 5.26. ~~2.~~ Personal and social data to be recorded:

1. ~~a~~: name;
2. ~~b~~: birthdate;
3. ~~e~~: current address and telephone number;
4. ~~d~~: position and date employed;
5. ~~e~~: last previous employment;
6. ~~f~~: for persons employed after November 9, 1975, copies of at least two references or notations of verbal references reflecting the the date of the reference, the source and the content;
7. ~~g~~: previous experience and/or training;
8. ~~h~~: Social Security number;
9. ~~i~~: name and telephone number of person to contact in an emergency;
10. ~~j~~: notations of formal training received following employment;
11. ~~k~~: date and reason for termination of employment.

§ 5.27. ~~3~~. Health information shall be maintained for the license and/or administrator, each staff member, and each household member who comes in contact with residents or handles food.

1. ~~a~~: Initial tuberculosis examination and report:

- a. ~~(1)~~ within 30 days prior before or after employment or contact with program participants, each individual shall obtain an evaluation indicating the absence of tuberculosis in a communicable form;
- b. ~~(2)~~ each individual shall submit a statement that he is free of tuberculosis in a communicable form, including the type(s) of test(s) used and the result(s);
- c. ~~(3)~~ the statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department;
- d. ~~(4)~~ the statement shall be filed in the individual's record.

2. ~~b~~: Subsequent evaluations.

a. ~~(1)~~ An individual who had a significant (positive) reaction to a tuberculin skin test and whose physician certifies the absence of communicable tuberculosis must obtain a chest x-ray on an annual basis for the following two years.

(1) ~~(a)~~ The individual shall submit statements documenting the chest x-rays and certifying freedom from tuberculosis in a communicable form.

(2) ~~(b)~~ The statements shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

(3) ~~(e)~~ The statements shall be filed in the individual's record.

(4) ~~(d)~~ Screening beyond two years is not required unless there is known contact with a case of tuberculosis or development of chronic respiratory symptoms.

b. ~~(2)~~ Additional screening is not required for an individual who had a nonsignificant (negative) reaction to an initial tuberculin skin test.

c. ~~(3)~~ Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory/symptoms shall, within 30 days of exposure/development, receive an evaluation in accord with § 5.27.1.

§ 5.28. ~~e~~: At the request of the administrator of the facility or the Department of Social Services, a report of examination by a licensed physician shall be obtained when there are indications that the safety of residents in care may be jeopardized by the physical or mental health of a specified individual.

§ 5.29. ~~d~~: Any individual who, upon examination or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of residents in care or which would prevent performance of duties:

(a) ~~(1)~~ shall be removed immediately from contact with residents and food served to residents; and

(b) ~~(2)~~ shall not be allowed contact with resident or food served to residents until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

## ~~VI~~: PART VI BUILDING AND GROUNDS

### ~~A~~: Article 1. Buildings.

§ 6.1. ~~f~~: Buildings subject to state and/or local building code shall meet these codes. A Certificate of Occupancy shall be obtained as evidence of compliance with the applicable code(s).

§ 6.2. Before construction begins or contracts are awarded for any new construction, remodeling, or alterations, plans shall be submitted to the Department, to the local building official, to the local health department and/or to the Office of the State Fire Marshal, and/or local fire department where applicable, for review and recommendations.

# Proposed Regulations

---

§ 6.3. No mobile home shall be used as a home for adults or as a part of a home for adults.

§ 6.4. Buildings shall present no safety hazards.

§ 6.5. All rooms shall be well ventilated.

§ 6.6. ~~6~~. Doors.

A. ~~a~~. All doors shall open and close readily and effectively.

B. ~~b~~. Any doorway that is used for ventilation shall be effectively screened.

C. ~~c~~. Screen doors shall open outward.

§ 6.7. ~~7~~. Any window that is used for ventilation shall be effectively screened and shall open and close readily.

§ 6.8. ~~8~~. Rooms extending below ground level shall not be used for residents unless they are dry and well ventilated. Bedrooms below ground level shall have required window space and ceiling height.

§ 6.9. ~~9~~. Heat.

A. ~~a~~. Heat shall be supplied from a central heating plant or by an approved electrical heating system.

B. ~~b~~. Provided their installation or operation has been approved by the state or local fire authorities, space heaters, such as but not limited to, wood burning stoves, coal burning stoves, and oil heaters, and/or portable heating units either vented or unvented, may be used only to provide or supplement heat in the event of a power failure or similar emergency.

C. ~~c~~. When outside temperatures are below 65° F a temperature of at least 72° F shall be maintained in all areas used by residents during hours when residents are normally awake. During night hours, when residents are asleep, a temperature of at least 68° F shall be maintained. This Standard applies unless otherwise mandated by federal or state authorities.

§ 6.10. ~~10~~. There shall be hot and cold running water from an approved source.

§ 6.11. ~~11~~. Cooling devices (fan or air conditioners).

A. ~~a~~. Cooling devices shall be made available in those areas of buildings used by residents when inside temperatures exceed 85° F.

B. ~~b~~. Any electric fans shall be screened and placed for the protection of the residents.

C. ~~c~~. Cooling devices shall be placed to minimize drafts.

§ 6.12. ~~12~~. Lighting.

A. ~~a~~. Artificial lighting shall be by electricity.

B. ~~b~~. All areas shall be well lighted for safety.

C. ~~c~~. Night lights shall be provided in halls.

D. ~~d~~. The following footcandles of light as registered on a light meter shall be provided for general illuminations in the areas specified:

1. ~~(1)~~ sitting area 30;
2. ~~(2)~~ bathrooms 30;
3. ~~(3)~~ dining area 30;
4. ~~(4)~~ stairways 30;
5. ~~(5)~~ resident's rooms 30;
6. ~~(6)~~ halls 20;
7. ~~(7)~~ reading areas 30;

E. ~~e~~. Areas used for crafts or handwork shall be illuminated by 100 footcandles of light as measured by a light meter.

F. ~~e~~. Emergency lighting.

1. ~~(1)~~ Flashlights or battery lanterns shall be available at all times, with one light for each employee directly responsible for resident care who is on duty between 6 p.m. and 6 a.m.

2. ~~(2)~~ There shall be one operable flashlight or battery lantern available for each bedroom used by residents and for the living and dining area unless there is a provision for emergency lighting in the adjoining hallways.

3. ~~(3)~~ In homes not subject to the Uniform Statewide Building Code, but where there are 25 or more residents housed under one roof, there shall be provisions for emergency lighting or corridors and stairways leading to required exits by an independent standby system consistent with the Uniform Statewide Building Code.

4. ~~(4)~~ Open flame lighting is prohibited.

G. ~~g~~. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

§ 6.13. ~~13~~. Each room shall have walls, ceiling, and floors or carpeting that may be cleaned satisfactorily.

§ 6.14. ~~14~~. All inside and outside steps, stairways and ramps shall have nonslip surfaces.

§ 6.15. ~~15~~. Handrails shall be provided on all stairways, ramps, elevators, and at changes of floor level.

§ 6.16. ~~16~~. Safeguards that are acceptable under existing fire and building codes shall be provided in hazardous

# Proposed Regulations

areas that may include, but shall not be limited to, windows, doors, porches and changes in floor level.

§ 6.17. ~~17.~~ Elevators, where used, shall be kept in good running condition and shall be inspected at least annually. The signed and dated certificate of inspection issued by the local housing authority, by the insurance company, or by the elevator company shall be evidence of such inspection.

§ 6.18. ~~18.~~ In homes where nonambulatory residents are housed:

1. ~~a.~~ ramp(s) shall be provided at ground level;
2. ~~b.~~ doorways shall permit passage of wheelchairs, if used.

§ 6.19. ~~19.~~ There shall be enclosed walkways between residents' rooms and dining and sitting areas which are adequately lighted, heated, and ventilated. This requirement shall not apply to existing buildings of homes that have had licenses in effect on the effective date of these Standards January 1, 1980, unless such buildings are remodeled after the effective that date of these Standards or there is a change of sponsorship of the licensed home.

§ 6.20. ~~20.~~ Sitting room - dining room - recreation area.

Space other than sleeping areas must be provided that the residents may use for sitting, for visiting with each other and/or with guests, for social and recreational activities, and for dining. These rooms may be used interchangeably.

§ 6.21. ~~21.~~ Sleeping areas.

Resident sleeping quarters shall provide:

1. ~~a.~~ for not less than 450 cubic feet of air space per resident;
2. ~~b.~~ for not less than 80 square feet of floor area in bedrooms accommodating one resident;
3. ~~c.~~ for not less than 60 square feet of floor area per person in rooms accommodating two or more residents;
4. ~~d.~~ for ceilings at least 7 1/2 feet in height;
5. ~~e.~~ window area:
  - a. ~~(1)~~ there shall be at least eight square feet of window area in a room housing one person;
  - b. ~~(2)~~ there shall be at least six square feet of window area per person in rooms occupied by two or more persons.
6. ~~f.~~ for occupancy by no more than four residents in

a room:

EXCEPTION: A home that had a valid license on the effective date of these Standards that permits January 1, 1980, permitting care of more than four residents in specific room(s), will be deemed to be in compliance with this Standard; however, the home may not exceed the maximum number of four residents in any other room in the facility. This exception will not be applicable if the home is remodeled or if there is a change of sponsorship;

7. ~~g.~~ for at least three feet of space between sides and ends of beds that are placed in the same room;
8. ~~h.~~ that no bedroom shall be used as a corridor to any other room;
9. ~~i.~~ that all beds shall be placed only in bedrooms;
10. ~~j.~~ that household members and staff shall not share bedrooms with residents.

§ 6.22. ~~22.~~ Toilet, handwashing and bathing facilities.

A. ~~a.~~ In determining the number of toilets, washbasins, bathtubs or showers required, the total number of persons residing on the premises shall be considered. Unless there are separate facilities for household members or live-in staff, they shall be counted in determining the required number of fixtures. In ~~an~~ a home with a valid license on the effective date of these Standards, January 1, 1980, only residents shall be counted in making the determination unless such home is subsequently remodeled or there is a change of sponsorship.

1. ~~b.~~ On each floor where there are residents' bedrooms, there shall be at least:
  - a. ~~(1)~~ one toilet for seven persons;
  - b. ~~(2)~~ one washbasin for each seven persons;
  - c. ~~(3)~~ one bathtub or shower for each 10 persons;
  - d. ~~(4)~~ toilets, washbasins and bathtubs or showers in separate rooms for men and women where more than seven persons live on a floor.
2. ~~c.~~ On floors used by residents where there are no residents' bedrooms there shall be:
  - a. ~~(1)~~ at least one toilet;
  - b. ~~(2)~~ at least one washbasin;
  - c. ~~(3)~~ toilets and washbasins in separate rooms for men and women in homes where there are 10 or more residents.
  - d. ~~The bathroom door shall be self closing if it opens~~

# Proposed Regulations

---

directly into any room used for storage, preparation or service of food.

B. ~~d~~. Bathrooms shall provide for ~~privacy~~ visual privacy for such activities as bathing, toileting, and dressing.

C. ~~f~~. There shall be ventilation to the outside in order to eliminate foul odors.

D. There shall be ample supply of hot and cold water. (Precautionary measures shall be taken to prevent scalding in basins, tubs and showers.)

E. The following sturdy safeguards shall be provided:

1. ~~(1)~~ handrails by bathtubs;
2. ~~(2)~~ grab bars by toilets;
3. ~~(3)~~ handrails and stools by stall showers.

EXCEPTION: The use of handrails, grab bars and stools shall be optional in facilities used for independent living. (For the purpose of these Standards, an independent living environment is one in which the resident(s) perform all essential activities of daily living for themselves without requiring the assistance of any staff member in the home for adults. Essential activities of daily living include eating, walking, ascent and descent of stairs, dressing, all aspects of personal hygiene and grooming, administering medication which would normally be self-administered, getting in and out of bed, management of personal affairs, control of visitors, use of telephone, arranging for transportation, reading, writing, etc.)

## B. Article 2. Grounds.

§ 6.23. ~~1~~. Grounds shall be free of hazards.

§ 6.24. ~~2~~. Grounds shall be readily accessible in all seasons from the home and from the roadway.

§ 6.25. ~~3~~. Grounds shall properly maintained, to include freedom from trash and litter, mowing of grass, removal of snow and ice, etc.

## VII PART VII FURNISHINGS, EQUIPMENT AND SUPPLIES

### A. Article 1. Telephone.

§ 7.1. ~~1~~. Each building shall have at least one operable, nonpay telephone easily accessible to staff. There shall be additional telephones or extensions as may be needed to summon help in an emergency.

§ 7.2. The resident shall have reasonable access to a telephone on the premises.

§ 7.3. ~~2~~. Privacy shall be provided for residents to use a telephone.

### B. Article 2. Signaling Devices.

§ 7.4. ~~1~~. All homes for adults shall have a signaling device that is audible or visible at the staff station and is easily accessible to the resident in his bedroom or in a connecting bathroom.

§ 7.5. ~~2~~. In homes licensed to care for 20 or more residents under one roof:

A. ~~a~~. The signaling device shall be one which terminates at the staff station and permits staff to determine the origin of the signal.

or

B. ~~b~~. If the device does not terminate at the staff station so as to permit staff to determine the origin of the signal, staff shall make rounds at intervals of at least once an hour as specified in § 2.9.E.1.

### C. Article 3. First Aid and Emergency Supplies.

§ 7.6. ~~1~~. First aid emergency supplies shall be on hand. These supplies shall include but shall not be limited to scissors, tweezers, gauze and adhesive tape. These supplies shall be located in a designated place within the home.

§ 7.7. ~~2~~. In those homes where ambulance service is not available within 15 minutes there shall be a complete first aid kit, containing those items specified in the Standard First Aid and Personal Safety Manual that is available from all chapters of the American Red Cross. (See § 2.9.F)

### Article 4. Living and Sleeping Areas.

§ 7.8. ~~D~~. Sitting rooms and/or recreation areas shall be equipped with:

1. ~~a~~. comfortable chairs (e.g. overstuffed, straight-backed, and rockers);
2. ~~b~~. tables;
3. ~~c~~. lamps;
4. ~~d~~. television (if not available in other areas of the facility);
5. ~~e~~. radio (if not available in other areas of the facility);
6. ~~f~~. current newspaper and magazines;

# Proposed Regulations

7. ~~g.~~ books;

8. ~~h.~~ games;

9. ~~i.~~ materials appropriate for the implementation of the planned activity program.

§ 7.9. ~~E.~~ Dining areas shall have a sufficient number of sturdy dining tables and chairs to serve all residents, either all at one time or in shifts.

§ 7.10. ~~F.~~ Bedrooms shall contain the following items:

1. a separate bed with comfortable mattress, springs and pillow for each resident;

EXCEPTION: Provisions for a double bed for a married couple shall be optional.

2. a table or its equivalent accessible to each bed;

3. an operable bed lamp or bedside light accessible to each resident;

4. a chair for each resident;

5. drawer space for clothing and other personal items. If more than one resident occupies a room, ample drawer space shall be assigned to each individual;

6. at least one mirror.

§ 7.11. Adequate and accessible closet or wardrobe space shall be provided for each resident.

§ 7.12. *Prior to or at the time of admission, the resident and/or his representative shall be informed of the home's policy regarding bringing resident possessions with them into the home.*

§ 7.13. *The resident shall be encouraged to furnish or decorate his room as space and safety considerations permit and in accordance with these Standards and Regulations.*

§ 7.14. ~~H.~~ The home shall have sufficient bed and bath linens in good repair so that residents always have clean:

1. sheets;

2. pillowcases;

3. blankets;

4. bedspreads;

5. towels;

6. washcloths;

7. waterproof mattress covers when needed.

§ 7.15. ~~I.~~ The home shall have an adequate supply of toilet tissue and soap. Toilet tissue shall be accessible to each commode.

§ 7.16. ~~J.~~ At least one moveable thermometer shall be available in each building for measuring temperatures in individuals rooms that do not have a fixed thermostat which shows the temperature in the room.

§ 7.17. ~~K.~~ Where there is an outdoor area accessible to residents, such as a porch or lawn, it shall be equipped with furniture in season.

## ~~L.~~ Kitchen Equipment

~~1.~~ Adequate kitchen facilities and equipment shall be provide for preparation and serving of meals.

~~2.~~ In homes where there are 13 or more residents being served from the same kitchen, Title 35, Chapter 3, Sections 35-25 through 35-42.1, Code of Virginia and all regulations adopted thereunder shall apply to the provision of food service facilities and maintenance thereof.

~~3.~~ Homes for adults serving 4 to 12 residents must meet at least the following requirements:

~~a.~~ Storage space shall be provided for:

(1) Perishable food;

(2) Non-perishable food;

(3) Small appliances;

(4) Cooking utensils;

(5) Trays, dishes and flatware.

Such space shall be well ventilated and lighted. No items shall be stored directly on the floor.

~~b.~~ Thermometers shall be kept in all freezers and refrigerators to assure correct temperature.

(1) Freezer. 0° to 10° Fahrenheit

(2) Refrigerator. Not higher than 45° Fahrenheit

~~c.~~ Iceboxes shall not be used.

~~d.~~ Trays, dishes, glassware and flatware

(1) They shall be safe, easily cleanable, without chips, cracks or dents.

(2) There shall be a sufficient number provided so that each resident has the necessary utensils for attractive and practical food service.

# Proposed Regulations

---

~~(3) Disposable dishes and utensils, if used, shall be used once and discarded. They shall be sturdy enough to prevent them from being a safety hazard.~~

~~e. Facilities shall be provided for washing, rinsing and bactericidal treatment for dishwashing.~~

~~f. Dishes and utensils shall be air dried, if a dishwasher is not used. They shall not be dried with a towel.~~

~~g. Small appliances, cooking utensils, counters, shelves, tables, refrigerating equipment, sinks and other equipment shall be in good repair and easy to clean.~~

~~M. Cleaning supplies shall be stored in a place that is separate from food storage.~~

## VII. PART VIII HOUSEKEEPING AND MAINTENANCE

~~§ 8.1. A. The interior and exterior of all buildings shall be maintained in good repair.~~

~~§ 8.2. B. The interior and exterior of all buildings shall be kept clean and shall be free of rubbish.~~

~~§ 8.3. C. All buildings shall be well ventilated and free from foul, stale and musty odors.~~

~~§ 8.4. D. Adequate provisions for the collection and legal disposal of garbage, ashes and waste material shall be made.~~

~~A. 1. Covered, vermin-proof, watertight containers shall be used.~~

~~B. 2. Containers shall be emptied and cleaned at least once a week.~~

~~§ 8.5. E. Buildings shall be kept free of flies, roaches, rats and other vermin. The grounds shall be kept free of their breeding places.~~

~~§ 8.6. F. All sewage shall be disposed of in a public sewer system or in an approved sewage disposal system which meets state and/or local health requirements.~~

~~§ 8.7. G. All furnishings and equipment, including plumbing fixtures, shall be kept clean and in good repair.~~

~~§ 8.8. H. Bed and bath linens shall be changed at least every seven days and more often if needed.~~

~~§ 8.9. Laundering.~~

~~Laundering shall not be done in an area where food is prepared, stored or served.~~

~~A. Table and kitchen linens shall be laundered separately from other washable goods.~~

~~B. A sanitizing agent shall be used when bed, bath, table and kitchen linens are washed.~~

## IX PART IX FIRE AND EMERGENCY PROTECTION

~~§ 9.1. A. Virginia Fire Public Building Safety Regulations Code and Uniform Statewide Building Code.~~

~~A. 1. When any building of a home for adults is subject to inspection by the Office of the State Fire Marshal, it shall meet the requirements of the Virginia Fire Public Building Safety Code.~~

~~B. 2. When any building of a home for adults is subject to inspection by building officials, it shall meet the requirements of the Uniform Statewide Building Code.~~

~~§ 9.2. B. A home for adults shall comply with any local fire ordinance.~~

~~§ 9.3. C. A home for adults shall be free from fire hazards and shall provide adequate protection as determined by at least an annual inspection by the local fire department, a volunteer fire department, or a fire authority recognized by the Department. The report of the inspection shall be made on a form provided by the Department.~~

~~§ 9.4. D. Emergency plans.~~

~~A. 1. A detailed emergency plan shall be prepared for each home for adults. The plan shall consist of the following:~~

~~1. a. written procedures to be followed in the event of a fire or similar emergency. The local fire department or fire prevention bureau shall be consulted in preparing such a plan, if possible;~~

~~2. b. a drawing of each floor of each building, showing alternative exits for use in an emergency, location of telephones, fire alarm boxes and fire extinguishers, if any.~~

~~B. 2. The emergency fire plan required by this Standard shall be prominently displayed on each floor of each building used by residents.~~

~~C. 3. The telephone number for the fire department, rescue squad or ambulance, and police shall be posted by each telephone shown on the emergency/fire plan. (NOTE: In homes for adults where all outgoing telephones calls must be placed through a central switchboard located on the premises, this information may be posted by the switchboard rather than by each telephone, providing this switchboard is manned 24 hours each day.)~~

~~D. 5. The licensee and/or administrator and all staff members shall be fully informed of the fire plan for~~

# Proposed Regulations

the home, including their duties, and the location and operation of fire extinguishers and fire alarm boxes, if available. They shall know the telephone procedure for calling the fire department.

- E. ~~5.~~ The emergency plan required by § 9.4.A of these Standards and Regulations shall be discussed at orientation for new staff, for new residents, and for volunteers.

## § 9.5. ~~E.~~ Fire drills.

- A. ~~1.~~ At least one fire drill shall be held each month for the staff on duty and those residents able to participate. During a three-month period:
1. ~~a.~~ at least one fire drill shall be held between the hours of 7 a.m. and 3 p.m.;
  2. ~~b.~~ at least one fire drill shall be held between the hours of 3 p.m. and 11 p.m.;
  3. ~~c.~~ at least one fire drill shall be held between the hours of 11 p.m. and 7 a.m.
- B. ~~2.~~ If residents have gone to bed for the night, these Standards do not require that they participate in drills held for night staff members. Signals for such drills may be in code in order not to alarm residents.
- C. ~~3.~~ Additional fire drills may be held at the discretion of the administrator.
- D. ~~4.~~ The required drills shall be planned and each required drill shall be announced in advance.
- E. ~~5.~~ Immediately prior to each required fire drill, the fire plan shall be reviewed with all staff present and with all participating residents.
- F. ~~6.~~ Immediately following each required fire drill, there shall be an evaluation of the drill by the staff in order to determine the effectiveness of the fire plan.
- G. ~~7.~~ A record of required fire drills shall be kept in the home for one year. Such record shall include the date, the hour, the number of staff participating, the number of residents; and the time required to evacuate the building if such evacuation is required by the emergency plan.

## § 9.6. ~~F.~~ Housing of nonambulatory residents.

- A. In building or portions of building subject to Virginia Fire Safety Regulations, all residents must be ambulatory if occupancy is restricted to ambulatory persons under the Virginia Fire Public Building Safety Regulations Code .
- B. In buildings subject to the Uniform Statewide Building Code, all residents must be ambulatory unless the

building or portions of the building have been approved in the I-2 Classification.

## PART X ADDITIONAL REQUIREMENT WITH RESPECT TO PUBLIC HOMES

§ 10.1. If the home is operated by a political subdivision of the state or by two or more such subdivisions, copies of applicable ordinances and operating policies shall be filed with the Department.

## APPENDIX A TO STANDARDS AND REGULATIONS FOR LICENSED HOMES FOR ADULTS NONAMBULATORY RESIDENTS IN HOMES FOR ADULTS

### Introduction

The purpose of the Appendix is to provide a summary of the Standards and Regulations which pertain to the acceptance and care of persons who are nonambulatory in Licensed Homes for Adults. This Appendix does not contain any additional standards and regulations. It simply summarizes the requirements found in these Standards and Regulations, which must be met if nonambulatory persons are to reside in homes for adults.

### When is a Person Nonambulatory?

The definition of a nonambulatory person is found in Part I, Article 1, Definitions of these Standards. Simply stated, a person is considered to be nonambulatory if he must be led or carried by another person or is dependent on a device such as, but not limited to, a leg prosthesis, walker or wheelchair in order to make an exit from a building in an emergency.

### How is a Person Determined to be Nonambulatory?

This determination will be based on the medical report which is required at the time a person applies for admission to the home (see § 5.7) and the medical report which may be requested on any resident at any time. (See § 5.11)

### Can a Person who is Nonambulatory Reside in a Home for Adults?

The definition of "nonambulatory", Part I, Article 1, Definitions and the admission policy in § 3.9 address this point. This section identifies the specific requirements which must be met if nonambulatory persons are accepted into care or remain in care in a licensed home for adults. These specific requirements (Standards) are listed and summarized below. If a facility meets these requirements, nonambulatory residents may reside in the facility.

- A. § 3.10 requires that the home be able to meet the



# Proposed Regulations

---

needs of each resident who is admitted for care. The home, therefore, must be able to meet all needs of any nonambulatory person who is admitted for care.

B. § 5.7 identifies the medical information which must be obtained on each person prior to that person being accepted into care. This information must be obtained by means of a physical examination by a licensed physician and within the time period specified in § 3.3. § 5.7 also requires that ten specific areas be addressed as part of the physical examination required for admission. These ten areas, as they appear in § 5.7 are reprinted below. This information, particularly Item 5.7.b.5, provides the basis for determining whether or not a person is nonambulatory:

1. the date of the physical examination;
2. ~~The date and results of the most recent screening for tuberculosis according to accepted screening methods of the Virginia Department of Health (within the previous 12 months);~~
2. ~~3.~~ any diagnosis or significant problems;
3. ~~4.~~ any recommendations for care, including medication, diet and therapy;
4. ~~5.~~ separate statements that:
  - a. the individual has no evidence of communicable disease;
  - b. nursing and/or convalescent care is not needed;
  - c. the individual is not bedfast;
  - d. the individual is or is not considered to be physically and mentally capable of making an exit from the building in an emergency, including the ascent and descent of stairs, without assistance of another person or without being dependent on the use of any device such as but not limited to, a wheelchair, walker or leg prosthesis;
  - e. the person's needs can or cannot be met in a home for adults including assistance with all activities of daily living which the person can perform only with difficulty;
  - f. the individual is or is not capable of administering his own medicine.

C. § 5.12 provides that a medical report can be requested on any resident by the Department any time there is reason to believe the condition of the resident has changed and a physical examination is needed to determine the extent of change. Therefore, if there is reason to believe that the resident is no longer ambulatory, the Department can require a physical examination. This report would then be used as the basis for determining whether or not a resident is

nonambulatory.

D. § 6.18 is part of the Building and Grounds Section. It requires that homes in which nonambulatory residents are housed have doorways which permit passage of wheelchairs if wheelchairs are used, and have ramps, at ground level.

E. § 9.6 is part of the fire and emergency protection requirements. It contains the Standards which address the housing of nonambulatory residents and is reprinted below:

## § 9.6 Housing of Nonambulatory Residents.

A. In buildings or portions of buildings subject to Virginia Public Building Safety Regulations, all residents must be ambulatory if occupancy is restricted to ambulatory persons under the Virginia Public Building Safety Regulations.

B. In buildings subject to the Uniform Statewide Building Code, all residents must be ambulatory unless the building or portions of the building have been approved in the I-2 Classification.

Two types of buildings are addressed in these Standards; those subject to Virginia Public Building Safety Regulations (paragraph A); those subject to the Uniform Statewide Building Code (paragraph B). All homes for adults will fall into one of these types of buildings and therefore, must meet the applicable Standard(s) contained in § 9.6 before nonambulatory residents may be accepted or remain in care.

## Is a Person Who is Bedfast Nonambulatory?

A person who is bedfast, as defined in Part I, Article 1, Definitions of the Standards and Regulations, would be considered nonambulatory. However, a nonambulatory person would not always be bedfast.

§ 3.7 prohibits admission of a person who is bedfast to a home for adults. Part I, Article 1, Definitions identifies the Standards which must be met for a resident who becomes bedfast to remain in care. Specifically, a resident who becomes bedfast may not remain in the home for adults unless the provisions §§ 3.8 and 5.14 of the Standards and Regulations are met.

## APPENDIX B

### TO

### STANDARDS AND REGULATIONS FOR LICENSED HOME FOR ADULTS

### RESIDENT ACTIVITIES

#### Introduction

This Appendix describes the requirements of the Standards and Regulations contained in Part IV, Article 6, Resident Activities. These Standards do not require the

# Proposed Regulations

employment of an activities director. Facilities should not have to provide an elaborate or complex program to meet these requirements. The purpose of the Standards is simply to insure that residents are not left without anything to do or without anything to occupy their time. This Appendix does not contain any additional Standards and Regulations. It does provide some additional explanation of the Resident Activities Program which is required in Licensed Homes for Adults.

## What Kinds of Activities Must the Program Include?

§ 4.54 requires that the Activities Program include activities which fall into one or more of four broad types. These are social, recreational, religious and diversional. A brief discussion of each type of activity, with some examples of each, follows:

- A. Social Activities - Social activities encourage interests and friendships, help minimize self-consciousness and promote and increase self-confidence. They involve other people and group efforts and encourage each resident to interact with other people. Typical examples include dancing, bingo, group singing, birthday parties, community groups such as senior citizens, groups outings to parks, museums, etc.
- B. Recreational Activities - Recreational activities emphasize doing what a person likes to do. They make the resident feel good about himself and may or may not involve other people. Often recreational activities involve only the individual. These types of activities include gardening, reading, walks, individual hobbies, etc.
- C. Religious Activities - Religious activities provide a means to meet the spiritual needs of the resident. These types of activities are often very important to residents of a home for adults. Typical religious activities might include planning or arranging transportation to permit attendance at local place of worship, arranging for religious services or study to be conducted in the home, with optional attendance, and informing appropriate clergy of these residents' whereabouts and condition, in order that the clergy may visit with the residents.
- D. Diversional Activities - Diversional activities place emphasis on individual accomplishment rather than socialization. Activities of this type serve to take a resident's mind off worries and focus efforts on things which lead to a productive, satisfying accomplishment. Some examples of diversional activities include sewing, painting, braiding of rugs, knitting, repairing or refinishing furniture, crocheting, woodworking, etc.

The program described above, by type of activity, does not need to be costly in terms of money or additional staff. It must, however, be a planned program and based on the abilities, physical condition, needs and interests of the residents (See § 4.56). This is very important since the

success of the program will depend largely on the residents' interest in the activities provided. There are a number of publications available which provide information on activities appropriate for aged, infirm, disabled adults. Two are available at no cost and provide good reference information. There are, "The Activity Coordinators Guide, A Handbook for Activities Supervisors in Long Term Care Facilities", prepared by the Department of Health, Education, and Welfare, and "The Therapeutic Recreation Activity Guide in Long Term Care Facilities", developed by the Office of Recreation Services, Commission of Outdoor Recreation. Copies of these publications may be obtained, after the effective date of these Standards and Regulations from the Regional Offices of the Department of Social Services.

## How Many Activities Must the Program Include?

§ 4.54 requires that the home provide at least one activity each day for the residents. This Standard also requires that this daily activity be at least one hour in length.

## What Activities Planning is Required?

The activities program, while not intended to be elaborate, costly and complex, must be varied (See § 4.56). This requires that enough advance planning be done to insure that the minimum requirement of one activity per day for one hour each day is not limited to the same activity day after day. Activities must also be planned for one week in advance (See § 4.57). This does not prohibit the same activity from being offered each day as long as there are other activities planned and available so that activities provided are varied and consider the abilities, physical condition, needs and interests of all residents (See § 4.56).

A written schedule of activities available must be prepared and posted in advance of the period covered by the schedule in a place where all residents can see and read it. Residents must also be informed of the activities program (See § 4.57). This is required so that all residents will know what activities are available and when these activities will take place. § 4.58 requires that activities schedules for the past three months be kept for inspection by the Department of Social Services representative.

## Must Each Resident Participate?

Each resident must be encouraged to participate in the program. No resident shall be forced to participate (See § 4.59).

## Can Outside Community Resources be Used?

It is not intended that the home conduct the required activities program totally using its own resources if there are community resources available and willing to help. Facilities are encouraged to explore the capabilities and willingness of any available local organization to assist in

## Proposed Regulations

---

the activities program. However, when community resources are used, it is the responsibility of the licensee to insure that the activity provided is of a type that meets the requirements of Part IV, Article 6.

---

# SURVEY

---

DEPARTMENT OF SOCIAL SERVICES
-------------------------------

Please remove the pages of this survey from the Register of Regulations before returning it to the Virginia Department of Social Services.
--

**VIRGINIA DEPARTMENT OF SOCIAL SERVICES  
COMMENTS ON PROPOSED REVISIONS TO  
STANDARDS AND REGULATIONS FOR LICENSED HOMES FOR ADULTS  
PUBLIC COMMENT PERIOD JANUARY 21, 1985 THROUGH MARCH 29, 1985**

Introduction: The Department of Social Services strives to give equal consideration to every comment. In order to do this efficiently, your responses are organized using a computer and word processing equipment. To help us work quickly and effectively, please follow the instructions carefully.

Send completed comment forms to:

Virginia Department of Social Services  
Division of Licensing Programs  
8007 Discovery Drive  
Richmond, Virginia 23229-8699

If you prefer, you may telephone your comments via the Department's toll-free number (1-800-552-7091)

NOTE: There are no public hearings scheduled for the resident rights amendments. Your written or telephone comments are important.

### General Information

1. Because new regulations require reorganizing the standards, you have received a complete copy of the standards with new numbering. Proposed new and revised standards have been italicized. An index of these proposed new and revised standards is attached. During this comment period we can only consider comments on new or revised standards. The entire set of Standards and Regulations for Licensed Homes for Adults will be reviewed at a later date, and you will have an opportunity to comment on all the standards at that time.
2. Many standards dealing with kitchen equipment and food preparation are being deleted as the Health Department has adopted regulations which cover these areas.
3. Sections dealing with the licensing procedure (applications, denials, etc.) are being deleted as they will be covered with in a separate document.

### I. Respondent Identification

In order to place your comments with the group to which you belong, you will need to complete all of the following items. No answer or more than one response to any category will result in your comments being placed in the grouping "unidentified". In any case, your comments will be important and considered carefully.

A. Circle the number of group (one only) to which you belong.

1. Operator, director, manager, administrator, sponsor, licensee of a home for adults
2. Staff member (other than operator) of a home for adults
3. Employee, Virginia Department of Social Services

# Survey

---

4. Employee, local department of public welfare/social services
5. Relative/guardian of a resident of a licensed home for adults
6. An interested party other than those listed above.
7. Unidentified

B. Circle the number indicating the type of facility with which you are affiliated

1. Profit making licensed home for adults
2. Not-for-profit licensed home for adults
3. Not affiliated with specific home

C. Circle the number indicating the size of the facility with which you are affiliated.

1. Twelve or fewer residents
2. Thirteen or more residents

D. Name .....

Address .....

.....

.....

## II. Comments on Standards

1. Please use form provided. You may make copies if necessary.
2. You are encouraged to comment on as many underlined standards as you wish. Fill out each column for each standard you wish to comment on.
3. Please type or print your comments legible. No more than two comments per page, please.

### Column (1)

Enter the number of the standard you wish to comment on.

### Column (2)

Does the standard protect the resident "not enough", "enough", or "unnecessarily"? Place a check mark in the appropriate space.

### Column (3)

Is the standard clear and easy to understand? A check in the 'yes' column does not indicate that you agree with the standard, only that you can understand what it means.

### Column (4)

Is the cost involved in carrying out the standard (if any) justified in terms of protecting the resident's rights? Place a check mark under either 'yes' or 'no' or 'n/a' if no cost is involved.

### Column (5)

Comments can be negative or positive. If negative, please give a solution which would meet the statutory requirement.

PUBLIC COMMENT: RESIDENTS' RIGHTS  
 PROPOSED NEW AND AMENDED STANDARDS FOR LICENSED HOMES FOR ADULTS  
 PUBLIC COMMENT PERIOD JANUARY 21 - MARCH 29, 1985

(1) Standard Number	(2) Does Std. Protect Resident			(3) Is Std. Clear?		(4) Is Cost of Implementing (If any) Jus- tified			(5) Comments and Suggestions for Improvement
	Not Enough	Enough	Unneces.	Yes	No	Yes	N/A	No	

---

# FINAL REGULATIONS

---

For information concerning Final Regulations, see information page.

## 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 substantial change from the proposed text of the regulations.

### VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Title of Regulations: VR 115-04-01. Declaration of Small Whorled Pogonia as an Endangered Plant Species

Statutory Authority: §§ 3.1-1020 through 3.1-1030 of the Code of Virginia.

Effective Date: February 21, 1985.

#### Summary:

Small whorled pogonia is one of the rarest orchids in America. There are only approximately 1,000 plants known to exist in America among ten states from New England to Georgia. Of the eleven known naturally occurring populations, two are in Virginia. If the regulation is adopted, it would be unlawful for any person to dig, otherwise collect, remove, transport or sell small whorled pogonia, except as authorized by the Commissioner of the Virginia Department of Agriculture and Consumer Services. Small whorled pogonia is also listed as endangered under the United States Endangered Species Act.

VR 115-04-01. Declaration of Small Whorled Pogonia as an Endangered Plant Species.

VR 115-04-01. Small whorled pogonia, *Isotria medeoloides*, of the Orchidaceae family, is hereby declared an endangered species as defined in § 3.1-1021 of the Virginia Endangered Plant and Insect Species Act and is subject to all sections of the Virginia Endangered Plant and Insect Species Act in order to preserve those specimens that exist in this Commonwealth.

Title of Regulation: VR 115-04-02. Rules and Regulations for the Enforcement of the Virginia Pest Law – Virginia Gypsy Moth Quarantine.

Statutory Authority: § 3.1-188.23 of the Code of Virginia.

Effective Date: January 1, 1985.

#### NOTICE

At its meeting on December 19, 1984, the Board of Agriculture and Consumer Services concurred in the Commissioner's action to make changes in the gypsy moth quarantine as published in The Virginia Register on November 26, 1984.

### STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Regulations: VR 380-01-1. Guidelines for Public Participation in the Development and Promulgation of Regulations.

Statutory Authority: §§ 23-9.3 through 23-9.14; Chapters 4.1, 4.4, 4.4:1, 4.7, 21, of the Code of Virginia.

Effective Date: February 21, 1985.

#### Summary:

The Council of Higher Education, as a general rule, will notify and seek comments from the president or chancellor of each state-supported college and university and the president or chancellor of each independent college and university whenever any proposed regulations might directly or indirectly affect their institutions. In addition, the Council will notify and seek comments from all persons whose names are included on the Council's mailing list.

Prior to the development of any regulations, the Council will prepare and publish in the *Virginia Register* a Notice of Intent to Develop Regulations, thereby providing 30 days for the public to comment before proceeding with the development of proposed regulations. After taking into consideration any comments, the Council will publish a hearing notice at least 60 days prior to holding a public hearing on the proposed regulations and widely distribute copies of the "draft" regulations to interested persons. Following the public hearing, at which citizens will be offered ample opportunity to make oral or written comments, the Council will consider such comments before taking final action to adopt the proposed regulations. The Council's final action on the proposed regulations will be reported in a general news release and announced in the *Virginia Register*. The regulations then shall become effective 30 days following their publication in the *Register*.

The Guidelines also provide for the Council to adopt, when necessary, emergency regulations, with the approval of the Governor, which do not require the normal 60-day period for public comment.

VR 380-01-1. Guidelines for Public Participation in the Development and Promulgation of Regulations.

#### §1. Purpose

In developing any proposed new or revised regulation, or when considering the repeal of an existing regulation, the State Council of Higher Education for Virginia ("the Council") will solicit comments from officials of institutions of higher education, appropriate organizations and associations, and interested citizens. These guidelines outline the procedures to be used by the Council in encouraging the participation of all interested persons in the formation and development of regulatory proposals under Virginia's Administrative Process Act.

The guidelines are based on the principle that interested citizens have both a right and a responsibility to take part in the governmental process, that government functions best when it provides for participation by the public, and that a state agency should impose only those requirements which are absolutely necessary to implement the agency's statutory responsibilities.

The guidelines shall apply to all regulations proposed or promulgated by the Council which are subject to the Administrative Process Act.

## § 2. Initiation of Regulations and Identification of Interested Parties

The Council may initiate proposed regulations at any time. Prior to the development of any regulations, however, the Council shall identify institutional officials, persons, and groups who might be interested in or affected by the regulations to be proposed. Because of the nature of the Council's mission, there are certain regulatory functions in which all citizens may have an interest. In these instances, the public at large will be regarded as the interested party. At other times, when proposed regulations will be more limited in its effect, the Council will identify certain institutional officials, individuals, groups, associations, and organizations that have an interest in the matter to be considered.

As a general rule, the Council will notify the president or chancellor of each state-supported college and university in Virginia when regulations are to be developed. The president or chancellor of each independent college and university in Virginia will be notified of any regulations to be developed pertaining to the Tuition Assistance Grant Program or to any other matter which might directly or indirectly affect private institutions. In addition, the Council will notify all persons whose names are included on the Council's mailing list, including institutional officials and private citizens when regulations are to be developed.

The Council's mailing list will be revised at least every other year to ensure that it is current.

## § 3. Notification of Interested Parties

A. Notice of Intent - Prior to the development of any regulations, the Council shall prepare a Notice of Intent to Develop Regulations (Notice). The Notice will contain a

brief and concise statement regarding the purpose of the regulations and invite all interested persons to provide written comments within 30 days of the publication of the Notice in the Virginia Register. At least two weeks prior to its publication date, the Notice shall be submitted to the Registrar of Regulations for inclusion in the Virginia Register. On or about the publication date of the Notice in the Register, the Council using its mailing list as described in § 2, will directly notify persons of its intent to develop the regulations.

B. Proposal of Regulations - After consideration of all public comments received within the 30-day period, the Council shall prepare the proposed draft regulations. All drafts of the regulations will be labeled with word "draft" and dated.

## § 4. Public Participation

The Council shall submit a copy of the "draft regulations" to the Registrar of Regulations, who will publish a hearing notice in the Virginia Register and in appropriate newspapers identified by the Council at least 60 days prior to the public hearing. A copy of the "draft regulations" will be provided to all persons who responded to the Notice of Intent. The Council will also send a copy of the "draft regulations" to all other parties, including individuals on the Council's mailing list, who have been identified during the development process as either having an interest in or potentially being affected by the proposed regulations.

In any matter considered to be of interest to the general public, the Council will prepare a news release and distribute it to daily and weekly newspapers, radio and television stations, and news wire services serving Virginia. The news release will include information about the subject matter and the purpose of the regulations under consideration and will announce the opportunity for public comment, including the time, date, and place of the scheduled public hearing.

Copies of "draft regulations" will be available for public inspection at the Council's office in Richmond at the address contained in § 7 of these Guidelines and at the office of the Registrar of Regulations.

During the 60-day public participation period, the following persons and officials will have an opportunity to review and comment on the proposed regulations:

1. the public;
2. the Governor;
3. the General Assembly;
4. the Secretary of Education; and
5. the Attorney General.

The Council will hold a public hearing on any proposed regulations as prescribed in the hearing notice published in the Register. The public hearing normally will be held in Richmond in the Council's conference room. The Council may hold the hearing in another location if



# Final Regulations

---

the proposed regulations are of special interest to institutions or citizens in a particular geographic area. If determined desirable, the Council may hold a public hearing on proposed regulations in several locations throughout the Commonwealth.

To the extent possible, a hearing will be conducted at a time which is generally convenient for officials, persons, and organizations most directly affected by the matter under consideration.

The public will be offered an opportunity to make oral or written comment with regard to any proposed regulations. Persons addressing the proposed regulations at a public hearing will be encouraged to provide written copies of their statements.

At the Council's discretion, the record of proceedings may be held open to provide additional time for receiving written comments following the conclusion of the public hearing.

## § 5. Emergency Regulations

From time to time, it may be necessary to enact emergency regulations which do not allow the normal 60-day period for public comment. The Administrative Process Act recognizes this possibility and permits enactment of emergency regulations with the approval of the Governor. In these instances, the emergency regulations will become effective when filed with the Registrar of Regulations (unless a later effective date is given). The emergency regulations will be published in the next edition of the Virginia Register.

## § 6. Final Action on Proposed Regulations

Following the 60-day public participation period and the public hearing, the Council shall take final action to adopt proposed regulations. After the Council finally has acted, the action will be reported in a general news release and announced in the Virginia Register. Under § 9-6.14:9 of the Code of Virginia, regulations cannot become operative until 30 days after the final regulations, as approved by the particular board, have been published in the Virginia Register.

## § 7. Copies of Regulations

The Council will print copies of adopted regulations.

Copies of adopted regulations may be obtained by writing the Associate Director, State Council of Higher Education for Virginia, James Monroe Building, 101 North Fourteenth Street, Richmond, VA 23219

## § 8. Effective Date of Guidelines

These guidelines shall become effective February 21, 1985, or as soon thereafter as is practicable under the provisions of the Virginia Register Act and the

Administrative Process Act.

## VIRGINIA MARINE RESOURCES COMMISSION

Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purposes of promulgating regulations. The Regulation printed below is voluntarily published by the Marine Resources Commission for the public's benefit and for informational purposes only.

Title of Regulation: VR 450-01-0029. "Pertaining to the Taking of Striped Bass"

Statutory Authority: §§ 28.1-23, 28.1-50 and 28.1-69.1 of the Code of Virginia.

### PREAMBLE

This Regulation establishes closed areas, seasons, and gear limitations for the taking of striped bass in Virginia tidal waters. The Regulation also imposes a minimum size limit in the Territorial Sea and establishes a creel limit for recreational hook-and-line fishermen. The provisions of this Regulation are in response to the continued decline of Virginia's striped stocks and are intended to reduce harvest pressure, increase production and [ ~~thereby~~ ] to facilitate the stock rebuilding process.

VR 450-01-0029. Pertaining to the Taking of Striped Bass.

### § 1. AUTHORITY, PRIOR REGULATION, EFFECTIVE DATE [ TERMINATION DATE ] :

A. This Regulation is promulgated pursuant to the authority contained in §§ 28.1-23, 28.1-50, and 28.1-69.1 of the Code of Virginia.

B. This Regulation supersedes the previous Emergency Regulation XXIX, Pertaining to the Taking of Striped Bass, which was promulgated by the Marine Resources Commission and made effective March 1, 1984.

C. The effective date of this Regulation is January 1, 1985.

[ D. This regulation shall terminate on December 31, 1985. ]

### § 2. PURPOSE:

The purpose of this Regulation is to provide for the long-term conservation of striped bass stocks of the Chesapeake Bay and its tributaries. This Regulation serves as a response to the recommendations of the Atlantic States Marine Fisheries Commission Interstate Fisheries Management Plan for the Striped Bass.

## § 3. DEFINITIONS:

A. Spawning rivers—the James, Pamunkey, Mattaponi and Rappahannock Rivers including all their tributaries.

B. Spawning reaches—sections within the spawning rivers as follows:

1. James River: From a line connecting Dancing Point and New Sunken Meadow Creek upstream to a line connecting City Point and Packs Point;

2. Pamunkey River: From the Route 33 bridge at West Point upstream to a line connecting Liberty Hall and the opposite shore;

3. Mattaponi River: From the Route 33 bridge at West Point upstream to the Route 360 bridge at Aylett;

4. Rappahannock River: From the Route 360 bridge at Tappahannock upstream to the Route 3 bridge at Fredericksburg.

C. Potomac River tributaries—all rivers, creeks, bays, sounds, coves, and hollows bordering the Virginia - Maryland line and flowing into the Potomac River between Smith Point and the District of Columbia, including the following:

1. Hack Creek;
2. Cubitt Creek;
3. Hull Creek including Rogers Creek and Bridgeman Creek;
4. Presley Creek;
5. Cod Creek;
6. Coan River and Judith Sound including Balls Creek, Mill Creek, The Glebe, Glebe Creek, and Kingscote Creek;
7. Yeocomico River including South Yeocomico River, Cornish Creek, Lodge Creek, Mill Creek, West Yeocomico River, Hampton Hall Branch, Kinsale Branch, Northwest Yeocomico River, White Point Creek, and Shannon Branch;
8. Bonum Creek;
9. Jackson Creek;
10. Gardner Creek;
11. Ragged Point Hollow inshore of a line connecting Potomac River boundary markers PRV-4A and PRV-4B;
12. Lower Machodoc Creek including Glebe Creek and Cabin Point Creek;
13. Nomini Bay including Buckner Creek, Nomini Creek, Peirce Creek, and Smarts Creek;
14. Currioman Bay including Poor Jack Creek, Cold Harbor Creek and Currioman Creek;
15. Popes Creek;
16. Mattox Creek;
17. Monroe Bay and Monroe Creek;
18. Rosier Creek including Goldman Creek;
19. Upper Machodoc Creek including Gambo Creek, Williams Creek, and Deep Creek;

20. Chotank Creek;

21. Potomac Creek including Accokeek Creek;

22. Aquia Creek;

23. Widewater Hollow inshore of a line connecting Potomac River boundary markers PRV-12A, PRV-12B, and PRV-12C;

24. Chopawamsic Creek;

25. Chopawamsic Island Hollow inshore of a line connecting Potomac River boundary markers PRV-13A and PRV-13B;

26. Quantico Creek;

27. Powells Creek and Hollow inshore of a line connecting Potomac River boundary markers PRV-15A and PRV-15B;

28. Occoquan Bay and Belmont Bay including Farm Creek, Marumscoc Creek, Occoquan River, Massey Creek, Kaness Creek, and Neabsco Creek;

29. Hallowing Point Hollow inshore of a line connecting Potomac River boundary markers PRV-34 and PRV-35;

30. Gunston Cove including Pohick Bay, Pohick Creek, Accotink Bay, and Accotink Creek;

31. Dogue Creek;

32. Little Hunting Creek; and

33. Hunting Creek and Hollow inshore of a line connecting Potomac River boundary markers PRV-41, PRV-42, and PRV-43 and including Cameron Run.

## § 4. CLOSED AREAS, SEASONS, AND GEAR LIMITATIONS:

A. The closed season for the spawning reaches of the James, Pamunkey, Mattaponi, and Rappahannock Rivers shall be from April 1 through May 31, inclusive.

[ B. No anchored or staked gill net may be fished within the spawning reaches [ or Potomac River tributaries ] during the closed season. Drift (float) gill nets may be set or fished within the spawning reaches [ and Potomac River tributaries ] during the closed season, but the fisherman must remain with such net while that net is in the fishing position. ]

[ C. The closed season for the Potomac River tributaries shall be from January 1 through [ February 15 and April 1 through ] May 31, [ all dates ] inclusive. ]

D. Striped bass taken during the closed seasons in the spawning reaches and Potomac River tributaries by any gear, including hook-and-line, shall be returned immediately to the water.

E. Possession of any striped bass by any person, firm, or corporation within the spawning reaches or Potomac River tributaries during the closed season shall be a violation of this Regulation, except as provided in (F) below.

F. Striped bass taken outside of the spawning reaches may be transported and landed within these areas provided prior notice is given to the Marine Resources

# Final Regulations

Commission.

## § 5. TERRITORIAL SEA:

A. A minimum size limit of 24 inches in length is imposed on all striped bass taken in the Territorial Sea with the following exceptions:

1. No more than five percent of a total daily catch of striped bass may consist of striped bass less than 24 inches in length and at least 14 inches in length if the catch was made by net, and

2. It shall be unlawful for any person, firm, or corporation to take or catch and retain possession of any striped bass from the Territorial Sea during the period March 1 through May 31, inclusive.

B. Length is measured in a straight line from tip of nose to tip of tail.

## § 6. CREEL LIMIT:

Except as provided in §§ 4 and 5 of this Regulation, a possession limit of five striped bass per person per day is imposed on all recreational hook-and-line fisherman taking striped bass from the tidal waters of Virginia.

## § 7. ENFORCEMENT:

Any uniformed officer of the Marine Resources Commission and any game warden of the Commission of Game and Inland Fisheries shall have the authority to enforce the provisions of this Regulation.

## § 8. PENALTY:

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this Regulation shall be guilty of a Class I misdemeanor.

William A. Pruitt,  
Commissioner

Note: The following regulations were adopted following the advance posting of public notices in each affected locality for a minimum of five days before the Commission meeting at which it was adopted.

Title of Regulation: VR 450-01-8411. "Close Public Oyster Rocks, Pocomoke Sound"

Statutory Authority: § 28.1-128.1 of the Code of Virginia.

Effective Date: December 31, 1984.

### PREAMBLE

This order of the Marine Resources Commission closes to the taking of oysters designated areas within the

Pocomoke Sound Management Area which were previously opened by Marine Resources Commission Order Number VR 450-01-8410.

These designated areas were opened to harvest by shaft tong on October 23 and to harvest by dredging on November 15. A recent survey of the areas has determined that the size and density of the oysters following this two month harvest period is not sufficient to continue to support further activity.

VR 450-01-8411. Closed Public Oyster Rocks, Pocomoke Sound.

## § 1. AUTHORITY, PRIOR REGULATION, EFFECTIVE DATE:

A. This order is promulgated pursuant to the authority contained in § 28.1-128.1 of the Code of Virginia.

B. This order repeals Marine Resources Commission Order Number VR 450-01-8410 which was promulgated and made effective October 23, 1984.

C. The effective date of this order is December 31, 1984.

§ 2. PURPOSE: The purpose of this order is to rescind prior Order Number VR 450-01-8410, and thereby closing to the taking of oysters certain designated areas.

§ 3. DESIGNATED AREAS: The following areas in Public Ground No. 16 on the east side of Pocomoke Sound are closed to the taking of oysters:

A. That area between Buoy 3 and Buoy 4 on the south side of Deep Creek Channel.

B. That area on the west side of Buoy 7 in Deep Creek Channel.

§ 4. RESCINDED ORDER: Marine Resources Commission Order Number VR 450-01-8410 is hereby rescinded.

This is to certify that the foregoing is a true and accurate copy of the order passed by the Marine Resources Commission, pursuant to authority vested in the Commission by § 28.1-128.1 of the Code of Virginia, notice being posted according to statute, and recorded in the Commission's minute book, at its meeting held in Newport News, Virginia, on December 18, 1984.

William A. Pruitt, Commissioner  
December 19, 1984

Title of Regulation: VR 450-01-8412. "Piankatank River Management Area."

Statutory Authority: § 28.1-128.4 of the Code of Virginia.

## PREAMBLE

The following Order is promulgated under authority granted to the Marine Resources Commission in accordance with § 28.1-128.4 of the Code of Virginia. Under this section the Commission in order to promote and protect the oyster and clam fisheries in that area of the Piankatank River described in the Code, has been given authority to open and close such area, or any part, for the taking of oysters and clams and to prescribe the manner, method, size and season of harvest.

VR 450-01-8412. Piankatank River Management Area.

### Part I

#### Authority, Purpose and Designated Area

##### A. AUTHORITY AND EFFECTIVE DATE:

1. This Order is promulgated pursuant to authority contained in § 28.1-128.4 of the Code of Virginia.
2. The effective date of this order is January 1, 1985.

B. PURPOSE: The purpose of this order is to exercise the authority granted the Marine Resources Commission in § 28.1-128.4 of the Code of Virginia, to protect and promote the oyster fishery in the Piankatank River.

C. DESIGNATED AREA: The designated area is described as follows:

"Such area is contained within the boundaries of a line commencing at the southern-most point of Stove Point; thence, in a southeasterly direction to the extreme northwestern-most point of Gwynn Island known as Cherry Point; thence, in a southwesterly direction along the shoreline of Gwynn Island to the No. 3 light at the mouth of Narrows Point; thence, in a northwesterly direction to No. 10 at Stove Point; thence, in a northeasterly direction to Stove Point and the point of beginning."

### Part II General

A. DEFINITIONS: The following definitions are applicable to this Order.

"Commission" shall mean the Marine Resources Commission.

"Commissioner" shall mean the Commissioner of the Marine Resources Commission.

"Management Area" shall be that designated area describe in Part I, Paragraph C.

"Inspector" shall mean any uniform Inspector of the Commission.

B. OPENING AND CLOSING: The Commission, whenever it deems it advisable to protect or promote the growth of oysters, may close or open any area or restrict the manner or method of harvesting such species in the management area.

C. SIZE: All oysters harvested under Parts III, IV, and V of this Order are to be culled to a 3-inch minimum length, unless otherwise notified.

D. OTHER APPLICABLE LAWS, REGULATIONS, ETC.: All laws, regulations, and orders otherwise in effect shall remain in full force and effect, except as may be specifically modified by this order or subsequent order.

E. VIOLATION: Violation of any provisions of this order shall be considered a violation of § 28.1-128.4 of the Code of Virginia, and shall be punishable as a misdemeanor as provided for in § 28.1-187 of the Code of Virginia.

### Part III

#### Harvesting Oysters by Hand Tongs

A. AREA: The entire Management area shall be open to harvesting of oysters under this Part.

B. GEAR LIMITATIONS: Patent tongs or dredges are not allowed on a vessel at the same time that hand tongs are on board.

### Part IV

#### Harvesting Oysters by Patent Tongs

A. AREA: The entire Management Area shall be open to harvesting under this Part.

B. SEASON: The season under this Part shall be from October 1 through the last day of February, inclusive, of each year.

C. TIME OF DAY: The harvesting of oysters under this Part shall be limited to from sunrise to 2 p.m. Culling boards shall be clean before sunrise and by 2 p.m.

D. GEAR LIMITATIONS: Only two patent tongs may be on board any boat at any time. Hand tongs or dredges are not permitted on board any vessel at the same time as patent tongs.

### Part V

#### Harvesting Oysters by Dredge

GEAR LIMITATION: Harvesting of oysters by dredge shall be prohibited in the Management Area.

This is to certify that the foregoing is a true and accurate copy of the Order passed by the Marine Resources Commission, pursuant to authority vested in the Commission by § 28.1-128.4 of the Code of Virginia, notice being posted according to statute, and recorded in the Commission's minute book, at its meeting held in Newport

# Final Regulations

---

*News, Virginia, on December 18, 1984.*

William A. Pruitt, Commissioner  
December 19, 1984

# GENERAL NOTICES/ERRATA

## Symbol Key †

† Indicates entries since last publication of the Virginia Register

## NOTICES OF INTENDED REGULATORY ACTION

### VIRGINIA STATE BOARD OF ACCOUNTANCY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Board of Accountancy intends to amend regulations entitled: **Rules and Regulations of the Virginia State Board of Accountancy.**

The purpose of the proposed regulations is to conform with the Governor's Regulatory Review Program, by amending, deleting and clarifying regulations to the extent they are least burdensome to those in the profession of certified public accountancy.

Statutory Authority: Chapter 5, (§ 54-84, et seq) of Title 54 of the Code of Virginia.

Written comments may be submitted until January 21, 1985 to Assistant Director, Virginia State Board of Accountancy, 3600 West Broad Street, Richmond, Virginia 23230.

The Board would like to receive comments on the following issues:

1. To what extent is there documented evidence that the term "public accountant" is or is not linked in the public's mind with the term "certified public accountant"?
2. What protections are afforded the public, if noncertified accountants are allowed to use the term "public accountant," from incompetent persons practicing as public accountants? If none are available, do the noncertified public accounts propose any regulatory changes to address this issue?

CONTACT: Jennifer S. Wester, Assistant Director, 3600 West Broad Street, Richmond, Va. 23230, telephone (804) 257-8505, toll free 1-800-552-3016.

\* \* \* \* \*

### VIRGINIA AUCTIONEERS BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Auctioneers Board intends to amend regulations entitled: **Rules and Regulations of the Virginia Auctioneers Board.**

The Board intends to consider proposals to revise rules and regulations for the Registration program and to consider proposals for certification of auctioneers and reciprocity with other jurisdictions.

Statutory Authority: §§ 54-824.9:2 and 54-824.9:3 of the Code of Virginia.

Written comments may be submitted until March 31, 1985 to Assistant Director, Virginia Auctioneers Board, 3600 West Broad Street, Richmond, Virginia 23230.

CONTACT: Jennifer S. Wester, Assistant Director, 3600 West Broad Street, Richmond, Va. 23230, telephone (804) 257-8505, toll free 1-800-552-3016.

\* \* \* \* \*

### VIRGINIA DEPARTMENT OF EDUCATION

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Education intends to promulgate regulations entitled: **Regulations Governing the Educational Programs for Gifted Students.** The purpose of the proposed regulations is to provide guidelines for the implementation of the Virginia Plan for the Gifted.

Shortened time period is needed so that regulations can become effective on July 1, 1985.

Statutory Authority: § 22.1-253.5 of the Code of Virginia.

Written comments may be submitted until January 31, 1985 to Dr. William H. Cochran, Deputy Superintendent of Public Instruction, Virginia Department of Education, P. O. Box 6Q, Richmond, Virginia, 23216.

# General Notices/Errata

---

CONTACT: John D. Booth, Associate Director, Programs for the Gifted, Virginia Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2070.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Education intends to promulgate regulations entitled: **Standards Governing Adult High School Programs**. The purpose of the proposed regulations is to upgrade the standards governing adult high school programs.

Statutory Authority: §§ 22.1-223 through 22.1-226 of the Code of Virginia.

Written comments may be submitted until January 31, 1985.

CONTACT: Dr. Maude P. Goldston, Associate Director of Adult Education, Virginia Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2075.

\* \* \* \* \*

## CRIMINAL JUSTICE SERVICES BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with the agency's public participation guidelines that the Criminal Justice Services Board intends to amend regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Courthouse and Courtroom Security Officers**. The purpose of the proposed regulations is to amend and update existing regulations governing the training of courthouse and courtroom security officers. This is a part of a routine periodic review process.

Statutory Authority: § 9-170(5) of the Code of Virginia.

Written comments may be submitted until February 8, 1985 to Mr. L. T. Eckenrode, Division Director, Division of Training and Standards, Department of Criminal Justice Services, 805 East Broad Street, Richmond, VA 23219.

CONTACT: Joe Marshall, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va., telephone (804) 786-4000.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to amend regulations entitled:

**Rules Relating to Compulsory Minimum Training Standards for Deputy Sheriffs Designated to Serve Process**. The purpose of the proposed regulations is to require minimum training for the protection of the public from incompetent or unqualified persons serving civil process affecting home, property, and lifestyles. This is part of a routine periodic review process.

Statutory Authority: § 9-170(5a) of the Code of Virginia.

Written comments may be submitted until February 8, 1985 to Mr. L. T. Eckenrode, Division Director, Division of Training and Standards, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219.

CONTACT: Joe Marshall, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to amend regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Private Security Services Business Personnel**. The purpose of the proposed regulation is to amend and update existing regulations governing persons engaged in Private Security Services Business and are required by the Code of Virginia to be registered. This is part of a routine periodic review process.

Statutory Authority: § 9-182 of the Code of Virginia.

Written comments may be submitted until February 8, 1985 to Mr. L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, VA 23219.

CONTACT: J. R. Marshall, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000.

\* \* \* \* \*

## VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Labor and Industry intends to promulgate regulations entitled: **Occupational Exposure to Ethylene Oxide**.

The purpose of the proposed regulations is to establish a permissible exposure limit of 1 part ETO per million parts of air determined as an 8 hour time weighted average

(TWA) concentration. The standard also includes provisions for methods of exposure control, personal protective equipment, measurement of employee exposure, training, signs, labels, medical surveillance, regulated areas, emergencies and recordkeeping.

The standard proposed was originally published in the Federal Register Notices 49 FR 25734 on June 22, 1984.

Statutory Authority: § 40.1-22 (5) of the Code of Virginia.

Written comments may be submitted until February 20, 1985 to Commissioner Eva S. Teig, Virginia Department of Labor and Industry, P. O. Box 12064, Richmond, Virginia 23241.

† **Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Labor and Industry intends to amend regulations entitled: **Hazard Communications**.

The purpose of the proposed regulations is to expand the scope of the current Virginia Hazard Communication Standard in order to allow emergency services personnel access to information regarding the hazards of chemicals present at the scene of an industrial accident to which they are responding.

Statutory Authority: § 40.1-22 (5) of the Code of Virginia.

Written comments may be submitted until February 20, 1985 to Commissioner Eva S. Teig, Virginia Department of Labor and Industry, P. O. Box 12064, Richmond, Virginia 23241.

† **Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Labor and Industry intends to promulgate regulations entitled: **Marine Terminals**.

The purpose of the proposed regulations is to establish protections against the hazards associated with marine cargo handling ashore. The proposed standard will be applicable to marine terminal public sector employment only.

The standard proposed was originally published in the Federal Register Notice 48 FR 30886 on July 5, 1983.

Statutory Authority: § 40.1-22 (5) of the Code of Virginia.

Written comments may be submitted until February 20, 1985 to Commissioner Eva S. Teig, Department of Labor

and Industry, P. O. Box 12064, Richmond, Virginia 23241.

CONTACT: Janice L. Thomas, VOSH Administrator, Virginia Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-5873.

\* \* \* \* \*

**VIRGINIA DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION**

**Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Mental Health and Mental Retardation intends to promulgate regulations entitled: **Policies and Procedures for the Certification of Drug Abuse Division/Education Programs**.

These proposed regulations will set forth minimum criteria for operating first offender drug abuse diversion/education programs.

Statutory Authority: § 18.2-251 of the Code of Virginia. Written comments may be submitted until January 31, 1985.

CONTACT: Frank S. Patterson, Assistant Director for Justice System Services, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-1331.

\* \* \* \* \*

**VIRGINIA DEPARTMENT OF MOTOR VEHICLES**

**Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Motor Vehicles intends to promulgate regulations entitled: **Motorcycle Rider Safety Training Courses**. The purpose of the proposed regulations is to provide standards and procedures for motorcycle rider safety course curriculum and accreditation, instructor qualification and certification, and geographic area in which each training center may operate.

Statutory Authority: § 46.1-564 et seq., of the Code of Virginia.

Written comments may be submitted until January 25, 1985.

CONTACT: Susan R. Metcalf, Coordinator, Motorcycle Safety Program, Driver Licensing and Information



## General Notices/Errata

---

Department, Virginia Division of Motor Vehicles, P. O. Box 27412, Richmond, Va. 23269, telephone (804) 257-0326 OR Dan W. Byers, Manager, Driver Licensing and Information Department, Virginia Division of Motor Vehicles, P. O. Box 27412, Richmond, Va. 23269, telephone (804) 257-0410.

\* \* \* \* \*

### DEPARTMENT OF SOCIAL SERVICES

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Social Services intends to amend regulations entitled: **Elimination of Eligibility Criteria for Direct Services.** The purpose of the proposed regulations is to allow agencies to provide all direct services without regard to income requirements except for the Employment Services Program.

Statutory Authority: §§ 9-6.14:2, 9-6.14:21; 63.1-25, and 63.1-55 of the Code of Virginia.

Written comments may be submitted no later than February 19, 1985 to Elaine Jefferson.

CONTACT: Elaine Jefferson, Generic Services Specialist, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23288, telephone (804) 281-9139, toll free 1-800-552-7091.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to amend regulations entitled: **Lump Sum Ineligibility Period in the Aid to Dependent Children Program (ADC). (Proposal 1).**

These regulations are being amended to allow local agencies to shorten the established period of ineligibility when (i) the standard of need changes and the amount to which the family would be entitled changes; (ii) the lump sum becomes unavailable to the family for a reason beyond control of the family; or (iii) the family incurs medical expenses during the period of ineligibility and uses the lump sum to pay for medical services rendered. The proposed regulation is contained in § 2632 of the Deficit Reduction Act of 1984, (P.L. 98-369).

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until January 24, 1985, to Mr. I. Guy Lusk, Director, Division of Benefit Programs, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to amend regulations entitled: **Lump Sum Ineligibility Period in the Aid to Dependent Children Program (ADC). (Proposal 2).**

These regulations are being amended to allow local agencies to consider "windfall" lump sum payments from nonrecurring sources as resources. Any accumulation of benefits (i.e., Social Security or Veterans Benefits), however, will be considered as lump sum income. The basis for the proposed regulation is found in § 402(a)(7) of the Social Security Act and CFR, Title 45, § 233.20(a)(3)(ii)(A).

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until January 24, 1985, to Mr. I. Guy Lusk, Director, Division of Benefit Programs, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to amend regulations entitled: **Collection of Overpayments in the Aid to Dependent Children Program (ADC).**

These regulations will be amended to allow local agencies to forego the collection of overpayments from individuals no longer receiving ADC, except in cases involving fraud, when the total overpayment is (i) less than \$35, or (ii) equal to or greater than \$35, when it has been determined that, after reasonable efforts to collect the overpayment, further efforts would not be cost effective. The proposed regulation is contained in § 2633 of the Deficit Reduction Act of 1984, (P.L. 98-369).

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until January 24, 1985, to Mr. I. Guy Lusk, Director, Division of Benefit Programs, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699.

CONTACT: Carolyn Ellis, Supervisor, Economic Assistance Unit, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9046.

\* \* \* \* \*

**GENERAL NOTICES**

**HAZARDOUS WASTE FACILITIES SITING BOARD**

**DRAFT CRITERIA:**

**A STUDY DOCUMENT OF OPTIONS FOR SITING  
CRITERIA FOR HAZARDOUS WASTE FACILITIES  
IN VIRGINIA**

This document is intended to be an educational and informational tool to stimulate discussion and consideration of what should be included in siting criteria for hazardous waste facilities in the Commonwealth of Virginia.

This document is prepared in response to § 10-186.7 of the Virginia Hazardous Waste Facilities Siting Act which requires the Hazardous Waste Facility Siting Board ("Board") to prepare draft criteria for approval of hazardous waste facility sites by December 31, 1984. The document is not a regulation, proposed rules or notice of rulemaking. Rather, it is an informational and educational document to be used as a reference by the Board and the public while developing criteria for the certification of proposed hazardous waste facility sites in Virginia.

The Board wants to make it very clear that this document does not represent in any way its position on the criteria it will finally develop or that the concepts contained in the draft criteria are exclusive. This document represents various approaches to developing siting criteria and not the Board's endorsement of an approach to developing siting criteria. In fact, the Board requests comments on other facets in the siting of a hazardous waste facility that are not covered by the attached draft criteria. In particular, the Board requests comments on how to develop criteria for determining whether good faith negotiations take place between the applicant and the host community and structure and evaluation of compensation packages offered the host community by the applicant.

The Hazardous Waste Facility Siting Board hopes that you will find this document useful and that it will assist the public's involvement in the development of siting criteria and other regulations which the Board will initiate during the first months of 1985. The Board considers public participation a vital part of the rulemaking process and sincerely solicits your comments. Please send your comments and suggestions to:

Hazardous Waste Facility Siting Board  
P. O. Box 3-AG  
Richmond, Virginia 23208

**I. Introduction**

Hazardous waste is generally defined as waste which may cause, or contribute to, any one of the following when improperly treated, stored, transported, disposed of or otherwise managed:

- Death or a significant increase in the death rate
- An increase in serious irreversible illness
- An increase in incapacitating, reversible illness
- A substantial present or potential hazard to human health or the environment

In order to translate this general definition into a basis for regulation, Congress enacted the Resources Conservation Recovery Act (RCRA). This law further defines hazardous waste and provides a basis for extensive regulation of hazardous waste management. Recognizing that certain wastes with hazardous characteristics were already regulated under previously passed legislation, Congress excluded these wastes from regulation under RCRA. In Virginia, The RCRA-authorized regulation of hazardous waste has been delegated by Environmental Protection Agency to the State Health Department, with certain restrictions. The Virginia Hazardous Waste Management Regulations include all the provisions of the Federal regulations, as well as some which the State has added; the regulations will be revised in the future as needed to include any changes in the Federal law.

The Virginia Hazardous Waste Facilities Siting Act, passed by the 1984 General Assembly, creates a Siting Board which oversees the process for approval of sites proposed for off-site hazardous waste treatment, storage or disposal facilities in Virginia. (The Act describing the siting process and the duties and powers of the Siting Board, is found in § 10-186.1 et seq., of the Code of Virginia). Since the Siting Act is concerned only with those hazardous wastes regulated by the Commonwealth of Virginia under RCRA, the siting criteria discussed in this paper will only deal with proposed facilities that will treat or dispose of these wastes (described in II below).

**II. What are "Hazardous Wastes"?**

"Hazardous waste" refers to those by-products, generally from manufacturing processes, that are ignitable, corrosive, reactive or toxic, or that are listed as hazardous wastes pursuant to applicable federal or state regulations. A number of specific conditions and test requirements, specified in the State Hazardous Waste Management Regulations, are used to determine if a substance is hazardous in terms of regulatory definition and thus requires compliance with RCRA and the state regulatory program. The four general categories are briefly described below.

**IGNITABLE** - A liquid that will ignite under specific conditions or a substance which is capable, under normal conditions, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard. Some compressed gases and oxidizers are also included.

**CORROSIVE** - Substances which can cause chemical burns, such as acids or lye, or which can corrode steel under specific test conditions.

## General Notices/Errata

---

**REACTIVE** - Substances which are normally unstable and readily undergo violent changes without detonating. Generally this would include materials which react violently with water or, when mixed with water, generate toxic gases, vapors or fumes which present a danger to human health or the environment.

**TOXIC** - Substances which contain more than the maximum concentration of contaminants listed in the regulations.

Hazardous wastes are generated by a variety of processes and activities in every region of the state. An estimated 20,000 Virginia businesses, hospitals, schools and other activities each produce the equivalent of one-half of a 55-gallon drum or more of hazardous waste per month.

Some substances are excluded from the definition of "hazardous waste" because they are regulated by other laws. Consequently, these wastes are not covered by the Virginia Hazardous Waste Facility Siting Act and, therefore, neither the Siting Board nor the siting process described in the Siting Act would be involved in any activity to site facilities to manage such wastes. In general these otherwise regulated wastes are:

- Nuclear waste, both high and low level
- Domestic sewage, including industrial waste that flows through publicly-owned treatment works
- Industrial wastewater discharges that are discharged at a specific point into waterways
- Agriculture chemicals when used beneficially for growing or harvesting crops
- Ash and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels
- Waste that is recycled or reclaimed

### III. What Potential Problems Can Result From the Improper Management of Hazardous Waste?

Generally, hazardous materials can cause harm to humans in a number of ways. The hazards can be carried through the air as a vapor, gas or dust. Humans can breathe it or be exposed through the skin (immersion). Airborne material can also be taken up by plant or animal life which then can find its way to humans through the food chain.

Contamination of water can come from, (1) direct discharge of the material into surface water, (2) by moving down through the soil into groundwater from spills or leaks in retention ponds or in-ground storage tanks or (3) by water passing through hazardous material stored on or underground and carrying toxics down into groundwater. Airborne contaminants can also be deposited in surface water or be carried from the surface through soil by rain. Transmission of toxics from water to humans can come from drinking the water, skin contact, or through the aquatic food chain.

Groundwater contamination is the most difficult to deal with because: (i) It is expensive and complex to determine where the groundwater is, and the direction and rate of flow; and (ii) Once groundwater is contaminated remedial action is difficult and costly.

The primary source of environmental or health concerns comes from the fact that the vast majority of hazardous waste has been and continues to be disposed of by burial in landfills.

In the past, a substantial amount of waste was disposed of in landfills improperly constructed or poorly operated prior to passage of RCRA. The result is that many such facilities have leaked and contaminated groundwater or have the potential to do so. The Environmental Protection Agency along with many states is identifying their sites and proceeding to clean them up with funds from a current tax on certain industries as provided by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (generally called "Superfund"). In some cases, the private companies involved have initiated their own remedial action.

More recently (under RCRA), landfills to be used for hazardous waste disposal must meet strict design and operating requirements.

Transportation of hazardous waste does not have the potential for causing environmental or health problems that are different from those associated with the transportation of useful hazardous materials. This is because hazardous waste is almost exclusively hazardous material which was used as a raw material or as a final product, and which is left over or is no longer useable for some reason; therefore, its impact is no worse than if it were still in its unused form. The U. S. Department of Transportation (USDOT) has promulgated extensive regulations for the transportation of all hazardous materials. These regulations are equally applicable to hazardous waste. In Virginia the enforcement of these regulations with respect to hazardous waste is the responsibility of USDOT and the Virginia Department of Highways and Transportation, the State Police and the State Department of Health. In addition, hazardous waste is only a small portion of the total amount of hazardous materials transported in this country. For example, nearly all hazardous waste is transported by truck and there are far more gasoline tankers traversing the highways than trucks hauling hazardous waste. Furthermore, on a unit shipment basis, hazardous materials represent a relatively greater hazard than hazardous waste because hazardous waste are frequently diluted versions of hazardous materials.

### IV. What are the Technologies Used for Treating or Disposing of Hazardous Waste and How are They Regulated?

Hazardous waste disposal and treatment processes cover a wide range of technologies. Some, like biological

wastewater treatment, neutralization, incineration and recycling, have been in use for many years. Today, the special properties of many of the substances used require either refinements of existing technologies or the use of new ones.

For the most part, hazardous waste treatment or disposal processes fall into several broad categories:

- Distraction by heat (incineration, molten salt distraction, microwave, etc.)
- Chemical treatment to eliminate hazardous characteristics (neutralization, chlorination, etc.)
- Physical treatment to remove hazardous characteristics (filtration, sedimentation, distillation, etc.)
- Biological treatment
- Disposal in the ocean or underground including the encapsulation of waste in ceramic material prior to disposal
- Recycling

Storage of hazardous waste is for the purpose of accumulating material prior to shipment to a disposal or treatment site or at a site prior to being disposed of, recycled or otherwise processed. Storage can be for a short period of time or for a number of years. Generally, storage is accomplished through use of four categories of units:

- Portable containers such as drums, barrels, boxes or small tanks. (Units for shipment must meet specification in USDOT regulations)
- Stationary tanks
- Ponds or "surface impoundments" for liquids
- Piles for wastes that do not contain any liquid

The RCRA standards for construction and operation of hazardous waste storage, treatment and disposal facilities and administered in Virginia are broken down into two broad categories. The first describes the requirements common to all such facilities; this includes security arrangements, personnel training, waste analysis requirements, emergency preparedness, spill prevention and containment provisions, record keeping and extensive groundwater protection and monitoring requirements. The second category describes specific regulatory requirements for the most commonly used storage, treatment and disposal processes. In both categories, the regulations are designed to prevent any operation from causing significant harm to the environment or posing any threat to human health.

These regulations also include provisions for trust funds or other approved financial arrangements to cover the closing costs of facilities at the end of their operation and also to provide for appropriate monitoring and ongoing maintenance such that they will not pose any future threat. Facility operators must also demonstrate financial responsibility for bodily injury and property damage to third parties caused both by sudden and

non-sudden accidental occurrences arising from operations of the facility during its useful life.

## V. Siting Criteria from Other States

More than half of the 50 states have adopted hazardous waste facility siting procedures with criteria for determining the appropriateness of a particular location. States approaches to the criteria represent a range of options that may or may not be suitable for Virginia.

A chart has been prepared to present a comparison of criteria published by three states (New York, New Jersey and Connecticut) and criteria suggested by a member of the Virginia Siting Board. The chart is available upon request from the Board's office.

\* \* \* \* \*

## DEPARTMENT OF HEALTH

### Public Notice

The Office of Medical Assistance Services has filed the following amendments to the State Plan for Medical Assistance (Medicaid) with the Registrar of Regulations. Full copies of the amendments may be obtained from: Office of Medical Assistance Services, State Department of Health, 8th Floor, James Madison Building, 109 Governor Street, Richmond, Virginia 23219, telephone (804) 786-7933.

1. Increase in Medically Needy Resource Standards: Effective January 1, 1985, the resource standard for a medically-needy individual will increase to \$1,600.00. The standard for a medically-needy couple or for a two-person family will rise to \$2,400.00.

2. Responsibility of Parents for Blind or Disabled Children: HCFA has requested further clarification of this section of the Medicaid Plan and the wording has been altered. This does not represent any change in the implementation of this portion of the plan.

\* \* \* \* \*

### NOTICE TO STATE AGENCIES

A list of major meetings of various trade associations and organizations is maintained in the office of the Registrar of Regulations. Upon request, this list will be made available to you in order that you can avoid conflicts when setting up meetings and hearings.

---

# CALENDAR OF EVENTS

---

<b>Symbol Key †</b>
---------------------

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

**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 Register deadline may preclude a notice of such cancellation.

For information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

## THE VIRGINIA CODE COMMISSION

### EXECUTIVE

#### STATE BOARD OF ACCOUNTANCY

**January 21, 1985 - 10 a.m. – Open Meeting**

**January 22, 1985 - 10 a.m. – Open Meeting**

3600 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A meeting of the Board to accept grades of the November, 1984 CPA exam; consider applications for certification; to receive reports of Standing Committees; evaluate complaints; and to consider proposed Appendix to draft rules and regulations.

**Contact:** Jennifer S. Wester, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8505

#### GOVERNOR'S ADVISORY BOARD ON AGING

**January 24, 1985 - 9 a.m. – Open Meeting**

James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. (Location accessible to handicapped.)

The Board will hold its regular quarterly business meeting.

**Contact:** Wilda M. Ferguson, Commissioner, 101 N. 14th St., 18th Floor, Richmond, Va. 23219, telephone (804) 225-2271 (Voice & TTY)

#### STATE AIR POLLUTION CONTROL BOARD

**February 4, 1985 - 9 a.m. – Open Meeting**

Richmond Marriott Hotel, 500 East Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A regular meeting of the Board.

**Contact:** Dick Stone, State Air Pollution Control Board, 9th Street Office Bldg., Richmond, Va. 23219, telephone (804) 786-5478

#### Hampton Roads Regional Office

† **January 22, 1985 - 10 a.m. – Open Meeting**

Pembroke Office Park, Pembroke IV, Suite 409, Virginia Beach, Virginia

A meeting to permit application from the Newport News Shipbuilding to construct and operate two barge mounted boilers rated at 213.26 x 10<sup>6</sup> Btu/hr, each burning Number 6 fuel oil, at its shipyard on Washington Avenue in Newport News.

**Contact:** Ramon P. Minx, Regional Director, Pembroke Office Park, Pembroke IV, Suite 409, Virginia Beach, Va., telephone (804) 499-6845

#### Southwest Virginia Regional Office

† **January 28, 1985 - 7:30 p.m. – Open Meeting**

Dungannon Elementary School Cafeteria, Dungannon, Virginia

A meeting to permit application from the Louisiana-Pacific Corporation - Seaway Division of Haywood, Wisconsin, to install and operate a waferboard manufacturing facility approximately 1.5 miles west of the town of Dungannon. Particulate and volatile organic compounds emissions from the proposed facility will be controlled by mechanical collectors, fabric filters and process restrictions.

**Contact:** Michael Overstreet, Regional Director, 121 Russell Rd., Abingdon, Va. 24210, telephone (703) 628-7841

#### State Capital Regional Office

† **February 4, 1985 - 7 p.m. – Open Meeting**

The Old Gloucester County Courthouse, Gloucester, Virginia

A meeting to permit application from the County of Gloucester to allow open burning at the county landfill of 1) brush, tree trimmings, yard and garden trimmings and similar land clearing refuse and 2) clean burning waste from construction and demolition operations and similar materials.

**Contact:** Henry Moss, Regional Director, 8205 Hermitage Rd., Richmond, Va. 23228, telephone (804) 264-3067

## Valley of Virginia Regional Office

† **January 21, 1985 - 7 p.m.** – Open Meeting  
Pulaski City Council Chambers, 47 First Street, Pulaski, Virginia

A meeting to permit application from Bond Cote to expand its coating operation at its Pulaski plant.

**Contact:** Donald Shepherd, Regional Director, 5338 Peters Creek Rd., Suite A, Roanoke, Va. 24019, telephone (703) 982-7328

## VIRGINIA ALCOHOLIC BEVERAGE CONTROL COMMISSION

**January 28, 1985 - 9 a.m.** – Open Meeting  
**February 11, 1985 - 9 a.m.** – Open Meeting  
**February 25, 1985 - 9 a.m.** – Open Meeting  
† **March 11, 1985 - 9 a.m.** – Open Meeting  
† **March 25, 1985 - 9 a.m.** – Open Meeting  
† **April 8, 1985 - 9 a.m.** – Open Meeting  
† **April 22, 1985 - 9 a.m.** – Open Meeting  
2901 Hermitage Road, Richmond, Virginia. (Location accessible to handicapped.)

A meeting of the Commission to receive and discuss reports on activities from staff members. Other matters not yet determined.

**Contact:** Larry E. Gilman, 2901 Hermitage Rd., Richmond, Va., telephone (804) 257-0616

## VIRGINIA STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

† **March 8, 1985 - 9 a.m.** – Open Meeting  
3600 West Broad Street, 5th Floor, Richmond, Virginia

A meeting to approve minutes from the December 12, 1984 meeting; review investigative cases, work on regulations.

**Contact:** J. Williams, Assistant Director, APELSCLA, Department of Commerce, 3600 W. Broad St., 5th Floor, Room 507, Richmond, Va., telephone (804) 257-8555

## Architects

† **March 22, 1985 - 9 a.m.** – Open Meeting  
3600 West Broad Street, 5th Floor, Richmond, Virginia

A meeting to approve minutes from the January 4, 1985 meeting; review applications; and to review investigative cases.

## Land Surveyors

† **February 15, 1985 - 9 a.m.** – Open Meeting  
3600 West Broad Street, 5th Floor, Richmond, Virginia

A meeting to approve minutes from the November 8, 1984 meeting; review applications; review investigative cases.

## Professional Engineers

† **January 29, 1985 - 9 a.m.** – Open Meeting  
3600 West Broad Street, 5th Floor, Richmond, Virginia

A meeting to approve minutes from the December 7, 1984 meeting; review applications; review investigative cases.

**Contact:** J. Williams, Assistant Director, APELSCLA, Department of Commerce, 3600 W. Broad St., 5th Floor, Room 507, Richmond, Va., telephone (804) 257-8512

## VIRGINIA BOARD OF BARBER EXAMINERS

**January 28, 1985 - 9 a.m.** – Open Meeting  
3600 West Broad Street, Conference Room 3, 5th Floor, Richmond, Virginia

The Board will meet to review applications for licensure; review investigative reports of complaints and determine disposition; and to consider general correspondence pertinent to the operation of the Board.

**Contact:** Gale G. Moyer, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8509

## INTERDEPARTMENTAL COMMITTEE ON RATE-SETTING FOR CHILDREN'S FACILITIES

† **February 12, 1985 - 10 a.m.** – Open Meeting  
The Koger Executive Center, Blair Building, Conference Rooms A and B, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

The Committee will discuss plans for the public

## Calendar of Events

---

hearing and the changes to be adopted to the rules and forms as related to § 2.1-703 of the Code of Virginia.

**Contact:** Thomas W. Riddick, 307 Worthington Square, Portsmouth, Va. 23704, telephone (804) 393-0061.

### VIRGINIA BOARD OF COMMERCE

† **January 25, 1985 - 10 a.m.** – Open Meeting  
3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia

A meeting of the Board to receive report from the Director of the Department of Commerce; subcommittee status report on the regulation of power engineers; review progress of projects in testing and complaint handling procedures; and to receive status report on 1985 legislation.

**Contact:** Barbara L. Woodson, Secretary, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8500

#### Subcommittee on Regulation of Power Engineers

† **January 25, 1985 - 9 a.m.** – Open Meeting  
3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia

The subcommittee will meet to review the scope of Virginia's pressure vessel inspection program and to consider a request for the regulation of power engineers.

**Contact:** Thomas A. Dick, Policy Analyst, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8541

### STATE BOARD FOR CONTRACTORS

**January 30, 1985 - 10 a.m.** – Open Meeting  
Council Chambers, 118 West Davis Street, Culpeper, Virginia

The Board will conduct a formal fact-finding proceeding regarding State Board for Contractors v. David G. Campbell.

**Contact:** Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

### BOARD OF CORRECTIONS

**March 13, 1985 - 10 a.m.** – Open Meeting  
4615 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A regular monthly meeting of the Board to consider such matters as may be presented.

**Contact:** Vivian Toler, Board of Corrections, P. O. Box 26963, Richmond, Va. 23261, telephone (804) 257-1900

### DEPARTMENT OF CORRECTIONS

**February 13, 1985 - 10 a.m.** – Public Hearing  
Department of Corrections, Board Room, 4615 West Broad Street, Richmond, Virginia

*Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Corrections intends to adopt regulations entitled: **Public Participation Guidelines**. This regulation sets forth procedures for Public Participation in the regulatory process for the Department of Corrections.*

#### STATEMENT

**Purpose:** *These guidelines establish requirements for increased participation by interested parties in the formation, development and adoption of regulations that the Board of Corrections or the Director of Corrections is required to promulgate by state law.*

*This regulation is needed to respond to public comments that are before the Governor's Regulatory Review Advisory Board for more involvement in all stages of the regulatory process which resulted in changes in the Code of Virginia. Without this regulation, the public may not be provided adequate notice and input opportunity into the regulatory process as outlined in the Code.*

#### Estimated Impact:

1. *The Department of Corrections is the only entity affected by this regulation.*

2. *There will be no cost to other entities or the public for implementations and compliance with this regulation.*

3. *The projected cost to the Department for implementation and enforcement of this regulation is \$5,000 consisting of publication costs and partial salary and benefits for the Agency Regulatory Coordinator.*

4. *General funds will be used for the implementation and enforcement of this regulation.*

Statutory Authority: §§ 9-6.14:7, 53.1-5 and 53.1-10 of the Code of Virginia.

Written comments may be submitted until February 1, 1985.

**Contact:** Robert E. Cousins, Agency Regulatory Coordinator, 4615 W. Broad St., P. O. Box 23693, Richmond, Va. 23261, telephone (804) 257-1943

## VIRGINIA BOARD OF EDUCATION

**March 28, 1985 - 2:45 p.m. – Public Hearing**  
General Assembly Building, House Room D, Richmond,  
Virginia

*Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Education intends to amend regulations entitled: **Certification Regulations for Teachers**. The proposed amendments establish requirements for all personnel whose employment must be certified based on the standards in the regulations.*

### STATEMENT

*The basis and purpose for the certification of teachers and other instructional personnel are to maintain standards of professional competence and to ensure a level of training and preparation that will lead to successful practice in the classroom. The proposed changes in the Certification Regulations for Teachers and other Instructional Personnel, which became effective in 1982, further strengthen and modify existing standards, create new standards, and clarify various interpretations of existing certification regulations.*

*These proposed changes in the regulations 1) clarify and broaden the requirements for instructional and supervisory personnel, 2) eliminate reading as an area of concentration in middle school endorsement, 3) allow for separate endorsements in speech, 4) eliminate data processing as a separate subject, and 5) specify the number of graduate reading hours required for an endorsement as a reading specialist. A complete and detailed description of these changes is contained in Appendix B.*

*In accordance with §§ 22.1-298 and 22.1-299 of the Code of Virginia the Board of Education shall, by regulation, prescribe the requirements for the certification of teachers and other instructional personnel. The Board is now proposing modifications and changes in these regulations which govern the certification of teachers and other instructional personnel. These changes will become a part of the Certification Regulations for Teachers, which became effective July 1, 1982.*

Statutory Authority: §§ 22.1-298 and 22.1-299 of the Code of Virginia.

Written comments may be submitted until January 31, 1985 to Dr. S. John Davis, Virginia Department of Education, P. O. Box 6Q, Richmond, Va. 23216.

**Contact:** Dr. E. B. Howerton, Jr., Virginia Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2027

## DEPARTMENT OF EMERGENCY SERVICES

**February 27, 1985 - 10 a.m. – Public Hearing**

Department of Emergency Services Training Center, 308 Turner Road, Richmond, Virginia

*Notice is hereby given to accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Emergency Services intends to adopt regulations entitled: **Guidelines for Public Participation in Regulation Development**. This regulation provides for the identification, notification and participation of parties interested in the development of substantive agency regulations.*

### STATEMENT

**Subject and Substance:** *Proposed Guidelines for Public Participation in Regulation Development. This regulation covers substantive regulations, or substantive portions of plans, as defined by the Virginia Administrative Process Act.*

**Issues:** *The 1984 Virginia General Assembly amended the Administrative Process Act to provide for public participation in the development of regulations. The Department of Emergency Services' plans are considered to be regulations, and these guidelines provide for public participation when it is required or needed.*

**Basis:** *§ 9-6.14:7.1 of the Code of Virginia.*

**Purpose:** *The purpose of this regulation is to provide for public participation in regulation development and adoption.*

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia.

Written comments may be submitted until February 27, 1985.

**Contact:** Charles H. Kidder, Population Protection Planner, Department of Emergency Services, 310 Turner Rd., Richmond, Va. 23225, telephone (804) 323-2852

## VIRGINIA FIRE COMMISSION

**January 25, 1985 - 9 a.m. – Open Meeting**  
Philip Morris Manufacturing Center, 3601 Commerce Road,  
Richmond, Virginia

The Virginia Fire Commission will hold its regularly scheduled meeting to consider matters relevant to needs and problems of the fire service.

**Contact:** Carl N. Cimino, Executive Director, Department of Fire Programs, James Monroe Bldg., 17th Floor, Richmond, Va. 23219, telephone (804) 225-2681



# Calendar of Events

---

## DEPARTMENT OF GENERAL SERVICES

### Art and Architectural Review Council

February 1, 1985 - 10 a.m. - Open Meeting

March 1, 1985 - 10 a.m. - Open Meeting

Virginia Museum of Fine Arts, Main Conference Room, Richmond, Virginia

The Council will advise the Director of the Department of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

Contact: Dorothy E. Ivankoe, Department of General Services, 209 Ninth Street Office Bldg., Richmond, Va. 23219, telephone (804) 786-3311

### Division of Consolidated Laboratory Services Advisory Board

February 8, 1985 - 9:30 a.m. - Open Meeting

James Monroe Building, 1 North 14th Street, Conference Room B, Richmond, Virginia

The Advisory Board will meet to lend guidance and support to programs and issues confronting the Division of Consolidated Laboratory Services.

Contact: Susan Wells, Department of General Services, Division of Consolidated Laboratory Services, 1 N. 14th St., Richmond, Va. 23219, telephone (804) 786-7905

## VIRGINIA STATE BOARD OF GEOLOGY

† February 27, 1985 - 9 a.m. - Open Meeting

3600 West Broad Street, 5th Floor, Richmond, Virginia

A meeting to approve minutes from the November 28, 1984 meeting, review applications, review bid proposals for exams.

Contact: J. Williams, Assistant Director, Geology Board, Department of Commerce, 3600 W. Broad St., 5th Floor, Room 507, Richmond, Va., telephone (804) 257-8555

## VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL

### Executive Committee

† January 30, 1985 - 10:30 a.m. - Open Meeting

James Madison Building, 109 Governor Street, Room 1000, Richmond, Virginia. (Location accessible to handicapped.)

A general business meeting of the Council.

Contact: Samuel A. Clement, Director, Division of Health Planning, 1010 Madison Bldg., 109 Governor St.,

Richmond, Va. 23219, telephone (804) 786-4891

### Nursing Homes Subcommittee of the Analysis and Plans Development Committee

† January 30, 1985 - 9 a.m. - Open Meeting

James Madison Building, 109 Governor Street, Room 1000, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to discuss the process for, and general direction of, a revision of the Nursing Homes Component of the Virginia State Health Plan.

### Planning Grant Review Subcommittee of the Progress and Evaluation Committee

† January 29, 1985 - 3 p.m. - Open Meeting

James Madison Building, 109 Governor Street, Room 1000, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to review applications of existing Health Systems Agencies for continued federal designation and funding under Public Law § 93-641 as amended.

Contact: John P. English, Health Planning Consultant, 1010 Madison Bldg., 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4891

### Strategic Planning Subcommittee of the Progress and Evaluation Committee

† January 30, 1985 - 1:30 p.m. - Open Meeting

James Madison Building, 109 Governor Street, Room 1000, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to establish priorities for examining strategic planning issues.

Contact: Samuel A. Clement, Director, Division of Health Planning, 1010 Madison Bldg., 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4891

## VIRGINIA COMMISSION OF HEALTH REGULATORY BOARDS

February 7, 1985 - 10 a.m. - Public Hearing

Virginia Commission of Health Regulatory Boards, 517 West Grace Street, Board Room, Richmond, Virginia

*Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Health Regulatory Boards, Virginia Commission intends to adopt regulations entitled: Public Participation Guidelines. The proposed guidelines establish procedures for the identification and notification of that segment of the public interested in the regulation of health professions and occupations in Virginia.*

## STATEMENT

**Subject and Substance:** *Public Participation Guidelines proposed for adoption by the Virginia Commission of Health Regulatory Boards provide the mechanism for identifying and notifying the relevant public of the formulation, development and adoption of regulations that the Commission may promulgate. The Guidelines are required by state law.*

**Issues:** 1. *Estimated Impact with Respect to Number of Persons Affected – The Guidelines will provide a mechanism for all persons affected by regulations of the Commission to participate in their development, formation and adoption.*

2. *Projected Costs for Implementation and Compliance – The proposed guidelines codify existing procedures for identifying and notifying the relevant public of meetings and proposed actions of the Commission of Health Regulatory Boards, thus no material increase in costs to the agency is anticipated. Additionally, no increase in costs to those affected is anticipated. Participation of the relevant public is voluntary.*

**Basis:** § 9-6.14:7.1 of the Code of Virginia.

**Purpose:** *To identify and solicit the participation of the affected public in the formation of regulations prior to and during the drafting, formation, revision, adoption and promulgation phases. The guidelines establish mechanisms whereby affected parties may be placed on or deleted from mailing lists used for mailing notices of intent to promulgate regulations, notices of public hearings or notices of information proceedings, and notices of final regulations adopted. The guidelines also establish mechanism for periodic review of existing regulations, for petitions for rulemaking by the public, for notification of the public regarding any meetings at which rulemaking is a subject, and for the establishment of advisory committees to provide for citizen participation by the Commission of Health Regulatory Boards.*

Statutory Authority: § 54-955.1.J of the Code of Virginia.

Written comments may be submitted no later than 5:00 p.m. March 11, 1985.

**Contact:** Richard D. Morrison, Policy Analyst, Virginia Department and Commission of Health Regulatory Boards, 517 W. Grace St., P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0822

## VIRGINIA DEPARTMENT OF HEALTH REGULATORY BOARDS

### Virginia Substance Abuse Certification Committee

February 7, 1985 - 10 a.m. – Public Hearing  
Virginia Department of Health Regulatory Boards, Board

Room, 517 West Grace Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Health Regulatory Boards intends to adopt regulations entitled: **Public Participation Guidelines.** The guidelines establish procedures for the identification and notification of that segment of the public interested in the regulation of health professions and occupations in Virginia.

## STATEMENT

**Subject and Substance:** *Public Participation Guidelines proposed for adoption by the Virginia Department of Health Regulatory Boards provide the mechanism for identifying and notifying the relevant public of the formulation, development and adoption of regulations that the Department may promulgate. The Guidelines are required by state law.*

**Issues:** 1. *Estimated Impact with Respect to Number of Persons Affected – The Guidelines will provide a mechanism for all persons affected by regulations of the Department to participate in their development, formation and adoption.*

2. *Projected Costs for Implementation and Compliance – The proposed guidelines codify existing procedures for identifying and notifying the relevant public of meetings and proposed actions of the Commission and Department of Health Regulatory Boards, thus no material increase in costs to the agency is anticipated. Additionally, no increase in costs to those affected is anticipated. Participation of the relevant public is voluntary.*

**Basis:** § 9-6.14:7.1 of the Code of Virginia.

**Purpose:** *To identify and solicit the participation of the affected public in the formation of regulations prior to and during the drafting, formation, revision, adoption and promulgation phases. The guidelines establish mechanisms whereby affected parties may be placed on or deleted from mailing lists used for mailing notices of intent to promulgate regulations, notices of public hearings or notices of informational proceedings, and notices of final regulations adopted. The guidelines also establish mechanism for periodic review of existing regulations, for petitions for rulemaking by the public, for notification of the public regarding any meetings at which rulemaking is a subject, and for the establishment of advisory committees to provide for citizen participation by the Department of Health Regulatory Boards.*

Statutory Authority: § 54-955.K of the Code of Virginia.

Written comments may be submitted no later than 5:00 p.m. March 11, 1985.

**Contact:** Richard D. Morrison, Policy Analyst, Virginia Department and Commission of Health Regulatory Boards, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-0822

# Calendar of Events

---

## VIRGINIA HEALTH SERVICES COST REVIEW COMMISSION

**January 23, 1985 - 9:30 a.m. – Open Meeting**  
Blue Cross and Blue Shield of Virginia, 2015 Staples Mill  
Road, Virginia Room, Richmond, Virginia. (Location  
accessible to handicapped.)

A monthly business meeting of the Commission for the  
purpose of addressing financial, policy or technical  
matters which may have arisen since the last meeting.  
**Contact:** Sheryl R. Paul, Director, 805 E. Broad St., 7th  
Floor, Richmond, Va. 23219, telephone (804) 786-6371

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

**January 21, 1985 - 1 p.m. – Open Meeting**  
205 North Fourth Street, 7th Floor, Richmond, Virginia.  
(Location accessible to handicapped.)

The Board's regular formal business meeting to review  
and approve the minutes from the prior meeting; to  
provide an opportunity for public comments; to review  
the report of the Director on the operation of the  
Department of Housing and Community Development  
since the last Board meeting; to hear reports of the  
committees of the Board; and to consider other  
matters as they may deem necessary. The planned  
agenda of the meeting will be available at the above  
address of the Board meeting one week prior to the  
date of the meeting.

**Contact:** Neal J. Barber, 205 N. Fourth St., 7th Floor,  
Richmond, Va. 23219, telephone (804) 786-5381

### Building Codes and Standards Committee

**January 21, 1985 - 10 a.m. – Open Meeting**  
205 North Fourth Street, 2nd Floor, Richmond, Virginia.  
(Location accessible to handicapped.)

A regularly scheduled meeting of the committee of the  
Board of Housing and Community Development to  
consider work items and issues in the area of building  
codes and standards and develop recommendations as  
deemed appropriate for review by the Board.

### Community Development Committee

**January 21, 1985 - 10 a.m. – Open Meeting**  
205 North Fourth Street, 7th Floor, Richmond, Virginia.  
(Location accessible to handicapped.)

A regularly scheduled meeting of the committee of the  
Board of Housing and Community Development to  
consider work items and issues in the area of  
community development and develop recommendations

as deemed appropriate for review by the Board.  
**Contact:** Neal J. Barber, 205 N. Fourth St., 7th Floor,  
Richmond, Va. 23219, telephone (804) 786-5381

## VIRGINIA STATE LIBRARY BOARD

† **January 28, 1985 - 11 a.m. – Open Meeting**  
Virginia State Library, 11th Street at Capitol Square, State  
Librarian's Office, Richmond, Virginia. (Location accessible  
to handicapped.)

A regular quarterly meeting to discuss administrative  
matters.

**Contact:** Jean Reynolds, Virginia State Library, 11th St. at  
Capitol Square, Richmond, Va. 23219, telephone (804)  
786-2332

## MARINE RESOURCES COMMISSION

**February 26, 1985 - 9:30 a.m. – Open Meeting**  
2401 West Avenue, Newport News, Virginia

Monthly Commission meeting to hear and decide cases  
on fishing licensing; oyster ground leasing,  
environmental permits in wetlands, bottomlands,  
coastal sand dunes, and beaches. It will hear and  
decide appeals, if any, made on local wetlands board  
decisions.

Fishery Management and Conservation measures are  
discussed by the Commission. The Commission is  
empowered to exercise general regulatory power  
within 15 days, and is empowered to take specialized  
marine life harvesting and conservation measures  
within five days.

**Contact:** Virginia S. Chappell, Secretary to the Commission,  
Marine Resources Commission, P. O. Box 756, Newport  
News, Va. 23607, telephone (804) 247-2208

## STATE MENTAL HEALTH AND MENTAL RETARDATION BOARD

**January 23, 1985 - 10 a.m. – Open Meeting**  
Central Office, Madison Building, 13th Floor, Richmond,  
Virginia. (Location accessible to handicapped.)

A regular monthly meeting of the Board. The agenda  
will be available January 16 and may be obtained by  
calling Jane Helfrich.

**Contact:** Jane V. Helfrich, State Mental Health and Mental  
Retardation Board Secretary, P. O. Box 1797,  
Richmond, Va. 23214, telephone (804) 786-3921

## DEPARTMENT OF MENTAL HEALTH AND MENTAL

### RETARDATION

#### Ad-Hoc Committee on Trainer Certification

January 25, 1985 - 9 a.m. - Open Meeting  
† February 22, 1985 - 9 a.m. - Open Meeting  
203 Governor Street, Training Office Conference Room,  
Room 303, Richmond, Virginia. (Location accessible to  
handicapped.)

A meeting to develop policy and procedures for  
certification of trainers and courses for use within the  
Department of Mental Health and Mental Retardation.

Contact: Ken Howard, Department of Mental Health and  
Mental Retardation, P. O. Box 1797, Richmond, Va.  
23225, telephone (804) 786-6133

#### Central Office Training Workgroup

February 4, 1985 - 10 a.m. - Open Meeting  
Zincke Building, 203 Governor Street, 3rd Floor Training  
Classroom, Richmond, Virginia. (Location accessible to  
handicapped.)

A meeting to discuss system-wide training policies,  
networking facilities and community service boards.

Contact: Ken Macurik, P. O. Box 1797, Richmond, Va.  
23214, telephone (804) 786-6133

#### State Human Rights Committee

February 1, 1985 - 10 a.m. - Open Meeting  
James Madison Building, 109 Governor Street, 13th Floor  
Conference Room, Richmond, Virginia. (Location accessible  
to handicapped.)

A committee meeting to discuss various items brought  
to the attention of the State Human Rights Committee.  
Agenda items will be listed prior to the meeting.

Contact: Elsie Little, State Human Rights Director, P. O.  
Box 1797, Richmond, Va. 23214, telephone (804)  
786-3988

#### Regional Training Workgroup

January 29, 1985 - 9 a.m. - Open Meeting  
Cavalier Oceanfront Motel, Virginia Beach, Virginia.  
(Location accessible to handicapped.)

A meeting to discuss regional training issues for  
facility and CSB programs in Tidewater area - HSA 5.

Contact: Ken Macurik, P. O. Box 1797, Richmond, Va.  
23214, telephone (804) 786-6133

## VIRGINIA STATE BOARD OF NURSING

January 28, 1985 - 1:30 p.m. - Public Hearing  
Holiday Inn, I-64 and Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Virginia State Board  
of Nursing intends to adopt regulations entitled:  
Section IX Public Participation Guidelines.

### STATEMENT

Subject and Substance: Proposed adoption by the Virginia  
State Board of Nursing of Public Participation Guidelines  
to be used to solicit participation by interested parties in  
the formulation, development and adoption of Regulations  
that the Board may promulgate as required by state law.

Issues: 1. Estimated Impact with Respect to Number of  
Persons Affected: The guidelines will provide a means for  
all persons affected by regulations of the agency to  
participate in their development, formulation and adoption.

2. Projected Cost for Implementation and Compliance: No  
material increase in costs to the agency is anticipated. The  
proposed guidelines reflect procedures that have been in  
general use for a number of years. Similarly, no increase  
in costs to those affected is anticipated; and in any case,  
their participation is voluntary.

Basis: § 9-6.14:7.1 of the Code of Virginia.

Purpose: To solicit participation of interested parties in the  
formation of regulations prior to and during the entire  
drafting, formation, promulgation and final adoption  
process. The guidelines set out methods for the  
identification and notification of interested persons and  
groups, specific means of seeking their participation, and  
when appropriate, provide for the use of advisory  
committees and consultation with groups and individuals  
registering interest in working with the agency.

Written comments may be submitted until January 28,  
1985.

January 29, 1985 - 9 a.m. - Open Meeting  
January 30, 1985 - 9 a.m. - Open Meeting  
Department of Health Regulatory Boards, 517 West Grace  
Street, Richmond, Virginia. (Location accessible to  
handicapped.)

A regular meeting of the Board to consider matters  
related to nursing education programs, discipline of  
licensees, licensing by examination and endorsement  
and other matters under jurisdiction of the Board.

Contact: Corinne F. Dorsey, R.N., Executive Director, 517  
W. Grace St., P. O. Box 27708, Richmond, Va. 23261,  
telephone (804) 786-0377

# Calendar of Events

---

## VIRGINIA STATE BOARD OF OPTICIANS

**February 22, 1985 - 9:30 a.m. – Open Meeting**  
3600 West Broad Street, 5th Floor, Conference Room 3,  
Richmond, Virginia

The Board will meet to review investigative reports of complaints and determine disposition; review reports submitted from apprenticeship committee and practical examination committee; and to address general correspondence pertinent to the operation of the Board.

**Contact:** Gale G. Moyer, Assistant Director, 3600 West Broad Street, Richmond, Va. 23230, telephone (804) 257-8509

## VIRGINIA BOARD OF OPTOMETRY

**January 22, 1985 - 9 a.m. – Open Meeting**  
Holiday Inn-Downtown, 301 West Franklin Street, Board Room, 3rd Floor, Richmond, Virginia. (Location accessible to handicapped.)

The Board will meet for the review of examination, and general business.

**Contact:** Lawrence H. Redford, Executive Director, Virginia Board of Optometry, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0131

## State Board Examination and Diagnostic Pharmaceutical Agents Examination

**January 23, 1985 - 8 a.m. – Examinations**  
Egyptian Building, 1223 East Marshall Street, Baruch Auditorium and Room 204, Richmond, Virginia

To administer Optometry State Board and Diagnostic Pharmaceutical Agents Examinations.

**Contact:** Lawrence H. Redford, Executive Director, Board of Optometry, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0131

## VIRGINIA REAL ESTATE COMMISSION

**January 23, 1985 - 10 a.m. – Open Meeting**  
Bedford County Courthouse, 129 East Main Street, Bedford, Virginia

A meeting to conduct a formal fact-finding hearing regarding Virginia Real Estate Commission v. Kathy E. Anderson.

**January 23, 1985 - 1 p.m. – Open Meeting**  
Bedford County Courthouse, 129 East Main Street, Bedford, Virginia

A meeting to conduct a formal fact-finding hearing regarding Virginia Real Estate Commission v. David S.

## Wilson

**January 30, 1985 - 10 a.m. – Open Meeting**  
City Hall, Council Chambers, 113 East Beverly Street,  
Staunton, Virginia

A meeting to conduct a formal fact-finding hearing regarding Virginia Real Estate Commission v. Elizabeth A. Fultz.

**Contact:** Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

## DEPARTMENT OF SOCIAL SERVICES

**January 24, 1985 - 9 a.m. – Public Hearing**  
Offices of the Department of Social Services, 8007  
Discovery Drive, Richmond, Virginia

*Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia and/or the requirements of federal law that the Department of Social Services intends to adopt regulations entitled: State Plan for implementation of the Virginia Weatherization Assistance Program for Low-Income Persons. State Plan describes method for implementing the Weatherization Program in Virginia.*

## STATEMENT

*The Plan sets forth method of development and implementation of program to assist in achieving a healthful dwelling environment and maximum practicable energy conservation in the dwelling of low income persons.*

Statutory Authority: 42 U.S.C. 6851 et. seq., 42 U.S.C., 1701 et. seq., and 10 CFR 440.

Written comments may be submitted no later than January 24, 1985. Copies of State Plan available.

**Contact:** Daniel W. Deane, Program Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23288, telephone (804) 281-9046, (toll-free number 1-800-552-7091)

## Division of Licensing Programs

**February 13, 1985 - 9 a.m. – Public Hearing**  
Appalachian Power Company Auditorium, Roanoke, Virginia

**February 20, 1985 - 9 a.m. – Public Hearing**  
Henrico Government Center, Richmond, Virginia

*Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services, Division of Licensing Programs, intends to adopt regulations entitled: Minimum Standards for Licensed Child Care Centers. The proposed*

regulations set standards to provide children in child care centers with at least a minimal level of care.

## STATEMENT

**Subject:** Proposed revisions to the Minimum Standards for Licensed Child Care Centers. These standards are being proposed for a 60-day period of public comment.

**Substance:** Under the current definition and exemptions in the Code of Virginia, any facility operated for the purpose of providing care, protection, and guidance to a group of children separated from their parents or guardians for part of the day must have a child care center license.

**Issues:** The document is comprised of the following issues which impact child care centers subject to licensure by the Department of Social Services:

Administration, personnel, supervision, physical environment, emergency, and programs and services which includes administration policies, health care, management of behavior, nutrition and food service and activities.

**Basis:** Chapter 10, (§ 63.1-219) of Title 63.1, of the Code of Virginia, provides the statutory basis for promulgation of child care center standards. The State Board has approved proposed revisions for a 60-day public comment period.

**Purpose:** The proposed revisions are designed to better meet the needs of children in group care in a flexible enough manner to accommodate changes during the lifetime of these standards and to provide the protective oversight of children. The document has been revised with an emphasis on clarity and ease of comprehension.

Statutory Authority: § 63.1-219 of the Code of Virginia.

**Contact:** Mrs. Meredyth P. Partridge, Standards Supervisor, Standards/Policy Unit, Department of Social Services, Division of Licensing Programs, 8007 Discovery Dr., Richmond, Va. 23288, telephone (804) 281-9025, (toll free number 1-800-552-7091).

† Notice is hereby given in accordance with § 9-6.14.7.1 of the Code of Virginia that the Department of Social Services, Division of Licensing Programs intends to amend regulations entitled: **Standards and Regulations for Licensed Homes for Adults**. These standards and regulations have been revised to (1) incorporate statutory requirements relating to resident's rights (2) delete general licensing procedures, and (3) delete requirements relating to kitchen equipment.

## STATEMENT

**Subject:** Proposed amendments to the following regulations: **Standards and Regulations for Licensed Homes for Adults**

These amendments are being proposed for a 60-day period of public comment.

**Substance:** The standards have been amended to incorporate new statutory requirements dealing with resident rights; to delete general licensing procedures; and to delete requirements relating to kitchen equipment.

**Issues:** The amendments incorporate the following issues which will impact homes for adults subject to licensure by the Department of Social Services.

Development of policies and procedures to protect rights; staff training; documentation; care and oversight of restrained residents.

**Basis:** Virginia Code, Chapter 9, Title 63.1-182 provides the statutory basis for the promulgation of standards for homes for adults. The State Board of Social Services has approved proposed amendments for a 60-day public comment period.

**Purpose:** The proposed amendments are designed to protect the rights of residents of homes for adults; to delete licensing procedures from the Standards and to prevent duplication of newly promulgated Health Department regulations.

Statutory Authority: § 63.1-182.1 of the Code of Virginia.

Written comments may be submitted until March 29, 1985.  
**Contact:** C. A. Loveland, Program Specialist, Division of Licensing Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025, (toll-free number 1-800-552-7091).

## DEPARTMENT OF TAXATION

**February 26, 1985 - 10 a.m. - Public Hearing**  
General Assembly Building, House Room D, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14.7.1 of the Code of Virginia that the Department of Taxation intends to amend regulations entitled: **Retail Sales and Use Tax Regulation 1-3: Advertising**. This regulation sets forth the application of the sales and use tax to the production of advertising by agencies, the media and other persons.

## STATEMENT

**Basis:** This regulation is issued under authority granted by § 58-48.6 (on and after January 1, 1985, § 58.1-203) of the Code of Virginia.

**Purpose:** This regulation sets forth the tax application to the production of advertising which results in a tangible product by agencies, the media, and by other taxpayers

# Calendar of Events

---

utilizing in-house agencies.

**Issues:** The Virginia Supreme Court in WTAR Radio-TV Corp. v. Commonwealth 217 Va. 877, 234 S.E. 2d 245 (1977), ruled that the charge for the production of a television advertisement by a television station constituted the sale of tangible personal property, the total charge for which, including concept development and other services, was subject to the sales tax. The existing regulation relative to advertising, Virginia Retail Sales and Use Tax Regulation 1-3, has not been revised since 1969 and does not incorporate the 1977 decision. As a result of this decision, significant changes are required to the current regulation, published on January 1, 1979.

**Substance:** The regulation specifies that the total charge for the production of an advertisement which is a tangible product, e.g., a film or an ad paste-up, is taxable in full, including charges for concept development, talent acquisition, scripting and editing and similar charges, regardless of whether the resulting ad is placed in the media. Advertisements developed by the media are taxable only to the extent that a charge is made for the production of the ad above standard "airtime" and "space" charges.

Statutory Authority: § 58-48.6 of the Code of Virginia (On or after January 1, 1985, § 58.1-203).

Written comments may be submitted until February 26, 1985.

**Contact:** Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

February 26, 1985 - 10 a.m. - Public Hearing  
General Assembly Building, House Room D, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **Retail Sales and Use Tax Regulation: Computer Software.** This regulation sets forth the application of the sales and use tax to the sale, lease or use of computer software, to software support services, and to purchases of tangible personal property used in the production of computer software.

## STATEMENT

**Basis:** This regulation is issued under authority granted by § 58-48.6 (on and after January 1, 1985, § 58.1-203) of the Code of Virginia.

**Purpose:** This regulation sets forth the tax application to the sale, lease or use of computer software, to software support services, and to purchases of tangible personal property used in the production or transfer of computer software.

**Issues:** The Virginia Supreme Court in WTAR Radio-TV Corp. v. Commonwealth 217 Va. 877, 234 S.E. 2d 245 (1977) set forth the true object concept for application in determining whether a transaction is a sale or service for sales and use tax purposes. If the object of the transaction is the tangible object produced, the total charge for the resulting property, including services and connection with its production are subject to the tax. The key issue is whether the object of a transaction resulting in the transfer of computer software is a taxable sale or a nontaxable service.

**Substance:** Utilizing a true object analysis, the proposed regulation would exempt custom software on the basis that it is intangible personal property composed of the personal services of the seller's programmers, the tangible medium of transmittal being an inconsequential element of the transaction. Conversely, prewritten software is deemed to be tangible personal property since all personal service that led to its development was rendered at a time remote from the sale. Additionally, additional charges for support services and modifications must be included in the sales price of taxable software.

Statutory Authority: § 58-48.6 of the Code of Virginia. (On or after January 1, 1985, § 58.1-203.)

Written comments may be submitted until February 26, 1985.

**Contact:** Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

## VIRGINIA BOARD OF VETERINARY MEDICINE

February 14, 1985 - 8:30 a.m. - Open Meeting  
February 15, 1985 - 8:30 a.m. - Open Meeting  
February 16, 1985 - 8:30 a.m. - Open Meeting  
Holiday Inn-Downtown, 301 West Franklin Street, 3rd Floor, Board Room, Richmond, Virginia.

The Board will hold general business and informal conferences.

February 15, 1985 - 8:30 a.m. - Open Meeting  
Egyptian Building, 1223 East Marshall Street, Baruch Auditorium, Room 204 and 211, Richmond, Virginia

Veterinarian State Board Examinations.

**Contact:** Lawrence H. Redford, Virginia Board of Veterinary Medicine, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0069

## STATE WATER CONTROL BOARD

† January 22, 1985 - 2 p.m. - Open Meeting  
Northampton County Parks & Recreational Building, Route

631, Eastville, Virginia. (Location accessible to handicapped.)

An informal fact-finding hearing, pursuant to § 62.1-44.106 of the Code of Virginia, to receive testimony as to whether or not the Board should grant a permit to C & D Seafood for groundwater withdrawal to serve a facility proposed to be approximately a mile south of Oyster. No action will be taken at this hearing.

**Contact:** Doneva A. Dalton, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6829

## VIRGINIA WATER AND SEWER ASSISTANCE AUTHORITY

**February 8, 1985 - 10 a.m. - Public Hearing**  
State Water Control Board, Board Room, 2107 North Hamilton Street, Richmond, Virginia

*Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Water and Sewer Assistance Authority intends to adopt regulations entitled: Guidelines for Public Participation in the Promulgation of Regulations. The proposed regulation establishes guidelines and procedures to be followed by the Authority to elicit public comment on proposed regulations.*

### STATEMENT

Statement of Subject, Substance, Issues, Basis and Purpose: *In order to elicit public input in the formation, promulgation and adoption of its regulations, the Virginia Water and Sewer Assistance Authority proposes to adopt guidelines for public participation in the promulgation of regulations. These guidelines set forth procedures to be followed by the Authority in its regulatory process and will apply to all regulations of the Authority except emergency regulations.*

Statutory Authority: § 62.1-203 of the Code of Virginia.

Written comments may be submitted until February 7, 1985.

**Contact:** Shockley D. Gardner, Jr., Executive Director, P. O. Box 1300, Richmond, Va. 23210, telephone (804) 788-8174

**February 8, 1985 - 10 a.m. - Public Hearing**  
State Water Control Board, Board Room, 2107 North Hamilton Street, Richmond, Virginia

*Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Water and Sewer Assistance Authority intends to adopt regulations entitled: Criterion for Eligibility to Participate in Initial Financing. The proposed regulation establishes*

*the criterion for eligibility of local governments to participate in the initial financing of the Authority to fund local governmental water and sewer projects.*

### STATEMENT

Subject, Substance, Issues, Basis and Purpose: *Virginia Water and Sewer Assistance Authority intends to issue an initial series of its bonds to finance water and sewer projects of local governments. The initial issuance is expected to finance projects of local governments whose credit ratings are sufficient to enable the Authority more readily to establish a market presence and acceptability at a financing cost acceptable to the Authority. Having thus issued bonds, the Authority will then be able to finance projects of local governments requiring an existing ability on the part of the Authority to issue its bonds. The proposed regulation establishes the eligibility criterion for local governments whose water and sewer projects will be financed by the Authority's initial issuance of bonds and requires only that the local government have a A rating or better from either Standard & Poor's Corporation or Moody's Investors Service for its utility systems or its general obligation indebtedness.*

Statutory Authority: § 62.1-203 of the Code of Virginia.

Written comments may be submitted until February 7, 1985.

**February 11, 1985 - 9 a.m. - Open Meeting**  
Holiday Inn-Manassas, 10800 VanDor Lane, Manassas, Virginia

The Board of Directors will meet to approve minutes of January 11, 1985; to review the Authority's operations for the prior month; and to consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting.

**February 11, 1985 - 1 p.m. - Public Hearing**  
Holiday Inn-Manassas, 10800 VanDor Lane, Manassas, Virginia

The Board and staff will conduct a fact-finding hearing from the general public regarding the needs for funding of water and sewer projects.

**March 5, 1985 - 9 a.m. - Open Meeting**  
Radisson Hotel, 601 Main Street, Lynchburg, Virginia

The Board of Directors will meet to approve minutes of February 11, 1985; to review the Authority's operations for the prior month; and to consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting.



# Calendar of Events

---

**March 5, 1985 - 1 p.m. – Public Hearing**  
Radisson Hotel, 601 Main Street, Lynchburg, Virginia

The Board and staff will conduct a fact-finding hearing from the general public regarding the needs for funding of water and sewer projects.

**Contact:** Shockley D. Gardner, Jr., Executive Director, P. O. Box 1300, Richmond, Va. 23210, telephone (804) 788-8174

## STATE BOARD FOR CERTIFICATION OF OPERATORS OF WATER AND WASTEWATER WORKS

**January 23, 1985 - 10 a.m. – Open Meeting**  
3600 West Broad Street, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The Board will meet for the review of pending complaints; discussion of request for interpretation of previous regulation 4.02.2, 1977 edition, re. limited licenses, and of Section 2.1 and 2.1.2.4.1 of current regulations; review of examination results, and the review of reinstatement form.

**Contact:** Edna S. Anthony, Acting Assistant Director, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8508

## LEGISLATIVE

No legislative meetings were submitted for this issue.

## CHRONOLOGICAL LIST OPEN MEETINGS

**January 21, 1985**

Lee-Jackson-King Day - Holiday  
Accountancy, Virginia State Board of  
Air Pollution Control Board  
Housing and Community Development, Board of

**January 22**

Accountancy, Virginia State Board of  
Air Pollution Control Board  
Optometry, Virginia Board of  
Water Control Board, State

**January 23**

State Board Examination and Diagnostic  
Pharmaceutical  
Agents, Examinations  
Health Services Cost Review Commission, Virginia  
Mental Health and Mental Retardation, Department of  
Real Estate Commission, Virginia

Water and Wastewater Works, State Board  
for Certification of Operators of

**January 24**

Aging, Governor's Advisory Board on

**January 25**

Commerce, Virginia Board of  
Fire Commission, Virginia  
Mental Health and Mental Retardation, Department of

**January 28**

Air Pollution Control Board  
Alcoholic Beverage Control Commission, Virginia  
Barber Examiners, Virginia Board of  
Library Board, Virginia State

**January 29**

Architects, Professional Engineers, Land Surveyors  
and Certified Landscape Architects,  
Virginia State Board of  
Health Coordinating Council, Virginia Statewide  
Mental Health and Mental Retardation, Department of  
Nursing, Virginia State Board of

**January 30**

Contractors, State Board for  
Health Coordinating Council, Virginia Statewide  
Nursing, Virginia State Board of  
Real Estate Commission, Virginia

**February 1**

General Services, Department of  
Mental Health and Mental Retardation, Department of

**February 4**

Air Pollution Control Board, State  
Mental Health and Mental Retardation, Department of

**February 8**

General Services, Department of, Division of  
Consolidated Laboratory Services Advisory Board

**February 11**

Alcoholic Beverage Control Commission, Virginia  
Water and Sewer Assistance Authority, Virginia

**February 12**

Children's Facilities, Interdepartmental Committee  
on Rate-Setting for

**February 14**

Veterinary Medicine, Virginia Board of

**February 15**

Architects, Professional Engineers, Land Surveyors and  
Certified Landscape Architects, Virginia State  
Board of  
Veterinary Medicine, Virginia Board of

## PUBLIC HEARINGS

- February 16**  
Veterinary Medicine, Virginia Board of
- February 18**  
Washington's Birthday - Holiday
- February 22**  
Opticians, Virginia State Board of
- February 25**  
Alcoholic Beverage Control Commission, Virginia
- February 22**  
Mental Health and Mental Retardation, Department of
- February 26**  
Marine Resources Commission
- February 27**  
Geology, Virginia State Board of
- March 1**  
General Services, Department of
- March 5**  
Water and Sewer Assistance Authority, Virginia
- March 8**  
Architects, Professional Engineers, Land Surveyors  
and Certified Landscape Architects,  
Virginia State Board of
- March 11**  
Alcoholic Beverage Control Commission, Virginia
- March 13**  
Corrections, Board of
- March 22**  
Architects, Professional Engineers, Land Surveyors  
and Certified Landscape Architects,  
Virginia State Board of
- March 25**  
Alcoholic Beverage Control Commission, Virginia
- April 8**  
Alcoholic Beverage Control Commission, Virginia
- April 22**  
Alcoholic Beverage Control Commission, Virginia
- January 24**  
Social Services, Department of
- January 28**  
Nursing, Virginia State Board of
- February 7**  
Health Regulatory Boards, Virginia Commission of  
Health Regulatory Boards, Virginia Department of
- February 8**  
Water and Sewer Assistance Authority, Virginia
- February 11**  
Water and Sewer Assistance Authority, Virginia
- February 13**  
Corrections, Department of  
Social Services, Department of, Division of Licensing  
Programs
- February 20**  
Social Services, Department of, Division of Licensing  
Programs
- February 26**  
Taxation, Department of
- February 27**  
Emergency Services, Department of
- March 5**  
Water and Sewer Assistance Authority, Virginia
- March 28**  
Education, Virginia Board of

# Calendar of Events

---