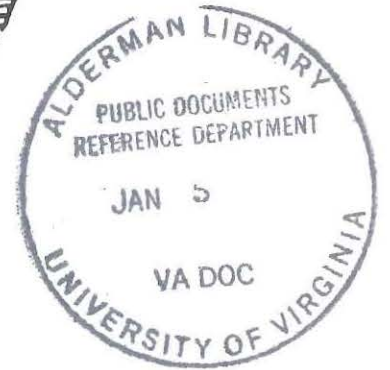
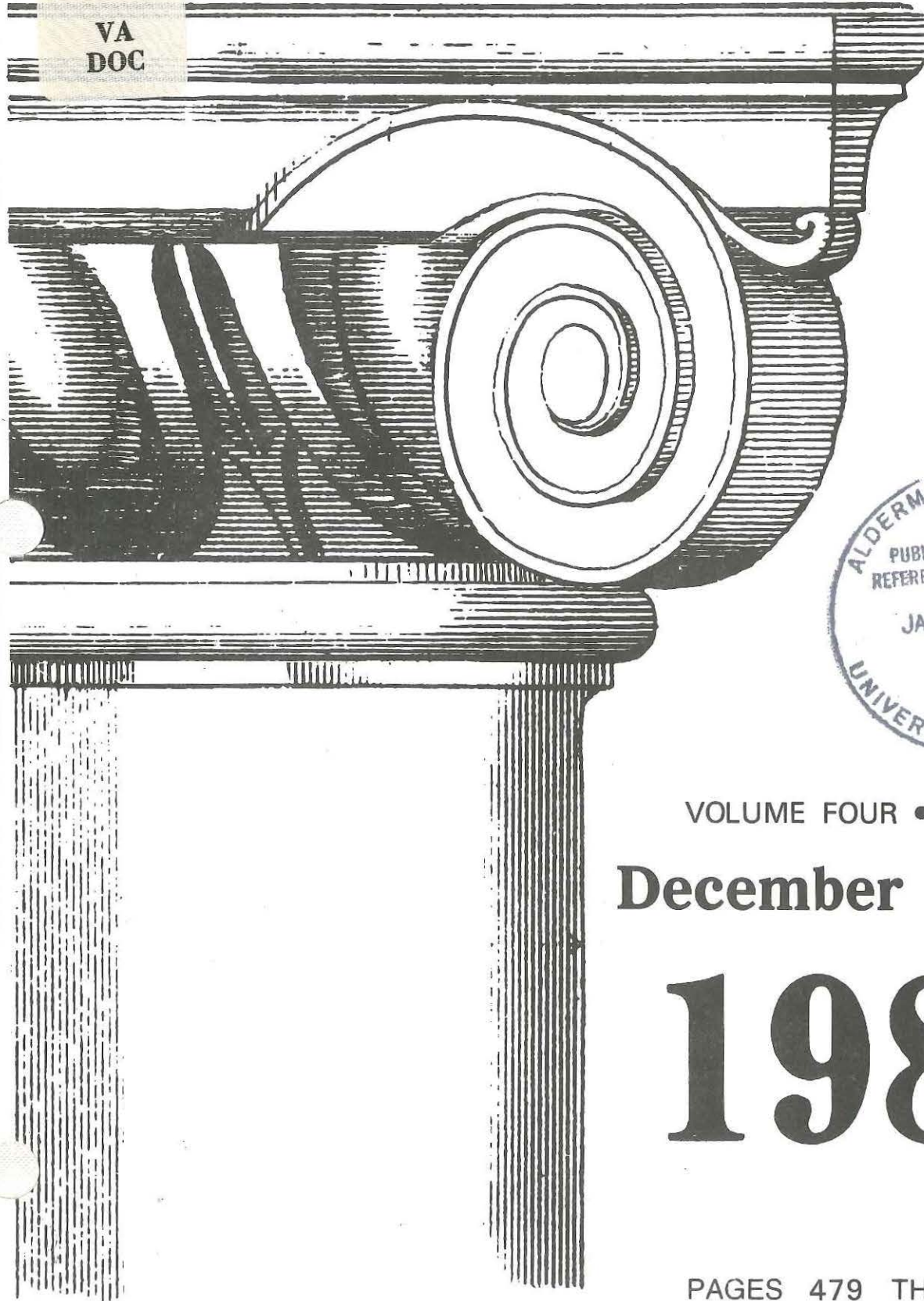


# THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME FOUR • ISSUE SIX

**December 21, 1987**

# 1987

PAGES 479 THROUGH 582

# 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

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## Symbol Key

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

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes from Article 2 regulations which consist only of changes in style or form or corrections of technical errors. The State Seed Potato Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 115-03-08. Rules and Regulations for the Enforcement of the Virginia Seed Potato Inspection Law.

**Statutory Authority:** § 3.1-289 of the Code of Virginia.

### Summary:

*These regulations provide (i) standards to be used by the Department of Agriculture and Consumer Services in determining if seed potatoes are disease free, (ii) rules and regulations for certification of disease free potatoes, and (iii) a procedure for the State Seed Potato Board to review differences of opinion.*

*The purpose of the amendments is to clarify and update language in the existing regulations under the regulatory review process. The State Seed Potato Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.*

VR 115-03-08. Rules and Regulations for the Enforcement of the Virginia Seed Potato Inspection Law.

### Regulation I.

#### § 1. Notification of arrival date and location of potatoes.

All person upon receiving seed Irish potatoes in Virginia, for the commercial production of Irish potatoes, shall notify the nearest office of the Virginia Seed Potato Inspection Service of arrival date and location of potatoes intended for seed potatoes.

### Regulation II.

#### § 2. Requirements for shipment.

All Irish potatoes shipped into Virginia for seed must meet U.S. No. 1 or U.S. No. 1, size "B," requirements, except that the tolerance for shatter bruising, dirt and

greening may be that designated for U.S. No. 2.

### Regulation III.

#### § 3. Certification.

All Irish potatoes shipped into Virginia for seed must be certified according to the regulations established by the officially recognized certifying agency in the state, province of Canada, or the government of a foreign country, wherein said seed potatoes were produced provided such seed potatoes meet the requirements specified in Regulation II § 2 and are within tolerances established by Regulation VI. § 6.

### Regulation IV.

#### § 4. Inspection.

The Commissioner of Agriculture and Immigration Consumer Services, or his duly authorized agents shall have the right to draw a reasonable sample from any lot of seed Irish potatoes for the purpose of inspection and observation by the personnel of the Virginia Truck Eastern Shore Agricultural Experiment Station. These samples may be planted for observation and comparison, and the results of these tests may be published.

### Regulation V.

#### § 5. Certificate of inspection.

A certificate of inspection shall be issued by the Commissioner of Agriculture and Immigration Consumer Services or his duly authorized agents at the time of inspection if all requirements of the Virginia Seed Potato Inspection Law and the its rules and regulations promulgated thereunder have been met. Seed Irish Potatoes which fail to comply shall be placed under "stop sale" order and the executive secretary chairman of the Commission State Seed Potato Board shall be promptly notified of such this action. Any lot of seed potatoes placed under "stop sale" order shall be held until an official release is issued by the commissioner or his authorized agents in accordance with § 3.1-292 of the Virginia Seed Potato Inspection Law. The commissioner or his authorized agents shall verify the removal of certification tags from all bags on lots released for nonpropagational purposes.

### Regulation VI.

#### § 6. Tolerances.

# Final Regulations

The following tolerances will be allowed on examination by Virginia inspectors:

Spindle Tuber .....	1.0%
Late Blight .....	1.0%
Ring Rot .....	0.0%
Fusarium Dry Rot .....	4.0%
Black Leg .....	1.0%
Fusarium Wilt .....	1.0%
Net Necrosis .....	1.0%

Scab and Rhizoctonia same as U.S. No. 1 tolerance

## Regulation VII.

### § 7. Advisory review committee.

The chairman of the State Seed Potato Commission board may appoint an advisory review committee comprised of three members of the Commission board to evaluate circumstances involved in any differences of opinion regarding any lot of seed Irish potatoes inspected. This committee shall make recommendations to the Commissioner of Agriculture and Immigration Consumer Services or his representative.

## ALCOHOLIC BEVERAGE CONTROL BOARD

**Title of Regulation:** VR 125-01-1. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations.

**Statutory Authority:** § 4-11 of the Code of Virginia.

**Effective Date:** January 21, 1988

### Summary:

This adopted amendment provides an adequate discovery process in Wine and Beer Franchise Act cases. The board may issue subpoenas for the production of documents, attendance of witnesses, requests for admissions, interrogatories, depositions and other forms of discovery.

These changes provide for discovery in Wine and Beer Franchise cases as provided in changes to §§ 4-118.11 and 4-118.31 of the Code of Virginia, at the 1987 General Assembly.

This adopted amendment parallels the Virginia Supreme Court Rules of Discovery.

These provisions should have a minimal impact on the

board in that most discovery proceedings will involve only the litigants and their council.

VR 125-01-1. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations.

## PART III. WINE AND BEER FRANCHISE ACTS.

§ 3.5. Discovery, prehearing procedures [ and production at hearings ].

### A. Introduction.

The rules in this section shall apply in all proceedings under the Beer and Wine Franchise Acts, Chapters 2.1 and 2.2 of Title 4 of the Code of Virginia [ , including arbitration proceedings when necessary pursuant to §§ 4-118.10 and 4-118.30 of the Code of Virginia ].

No provision of any of the rules in this section shall affect the practice of taking evidence at a hearing, but such practice, including that of generally taking evidence *ore tenus* only at hearings before hearing officers, shall continue unaffected hereby.

### B. Definitions.

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

"Board" means the Virginia Alcoholic Beverage Control Board and the officers, agents and employees of the board, including the secretary and the hearing officer(s), unless otherwise specified or unless the context requires otherwise.

[ "Commencement" of proceedings under this Part III of VR 125-01-1 means the date of the board's notice to the complainant(s) and the respondent(s), pursuant to § 3.1, that reasonable cause exists to believe that there has been a violation of either the Wine or Beer Franchise Acts. ]

"Manufacturer" means a winery or brewery, as those terms are defined in §§ 4-118.23 and 4-118.4, respectively, of the Code of Virginia.

"Person" means a winery, brewery, importer or wholesaler, as well as those entities designated as "persons," within the meaning of §§ 4-118.23 and 4-118.4 of the Code of Virginia.

"Secretary" means the Secretary of the Virginia Alcoholic Beverage Control Board.

[ "Commencement" of proceedings under this Part III of VR 125-01-1 means (i) the date a complaint is referred in writing to the secretary of the board or (ii) the date that the board mails to the respondent(s) notice that



reasonable cause exists to believe there has been a violation of either the Wine or Beer Franchise Acts, whichever may first occur. ]

## C. General provisions governing discovery.

1. *Discovery methods.* Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; and requests for admission. Unless the board orders otherwise under paragraph 3 of this subsection or paragraph 1 of subsection P, the frequency of use of these methods is not limited.

2. *Scope of discovery.* Unless otherwise limited by order of the board in accordance with this § 3.5, the scope of discovery is as follows:

a. *In general.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending proceeding, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

b. *Applicability.* Discovery as provided under this § 3.5 shall apply to all proceedings or hearings of Wine or Beer Franchise Act cases while pending before hearing officers or arbitrators. Discovery under this section shall not be authorized during the course of appeals to the board, unless the board has first granted leave to proceed with additional discovery.

c. *Hearing preparation: materials.* Subject to the provisions of paragraph 2 [ ~~(a)~~ ] of this subsection C, a party may obtain discovery of documents and tangible things otherwise discoverable under paragraph 2 [ ~~(a)~~ ] of this subsection C and prepared in anticipation of litigation or for the hearing by or for another party or by or for that other party's representative (including his attorney, consultant, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the board shall protect against disclosure of the mental

impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

A party may obtain without the required showing a statement concerning the proceeding or its subject matter previously made by that party. For purposes of this paragraph, a statement previously made is (i) a written statement signed or otherwise adopted or approved by the person making it, or (ii) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

d. *Hearing [ Preparations: preparation: ] experts; costs.* Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of paragraph 2 [ ~~(a)~~ ] of this subsection C and acquired or developed in anticipation of litigation or for the hearing, may be obtained only as follows:

(1) (i) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at the hearing, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion; (ii) upon motion, the board may order further discovery by other means, subject to such restrictions as to scope and such provisions, pursuant to paragraph 2.d [ (3) ] of this subsection C, concerning fees and expenses as the board may deem appropriate.

(2) A party may discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for the hearing and who is not expected to be called as a witness at the hearing, only upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(3) Unless manifest injustice would result, (i) the board shall require that the party seeking discovery pay the expert a reasonable fee for time spent and his expenses incurred in responding to discovery under subparagraph [ ~~d(1)(b)~~ d(1)(ii) ] and d(2) of this subsection C; and (ii) with respect to discovery obtained under [ ~~subdivision d(1)(b)~~ subparagraph d(ii) ] of this subsection C the board may require, and with respect to discovery obtained under subsection d(2) of this subsection C the board shall require, the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining



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facts and opinions from the expert.

3. *Protective orders.* Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the board may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (i) that the discovery not be had; (ii) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (iii) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (iv) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (v) that discovery be conducted with no one present except persons designated by the board; (vi) that a deposition after being sealed be opened only by order of the board; (vii) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (viii) that the parties simultaneously file specified document or information enclosed in sealed envelopes to be opened as directed by the board.

If the motion for a protective order is denied in whole or in part, the board may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of paragraph 1.d of subsection [ M O ] apply to the award of expenses incurred in relation to the motion.

4. *Sequence and timing of discovery.* Unless the board upon motion, or pursuant to subsection N of this section, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

5. *Supplementation of responses.* A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired except as follows:

a. A party is under a duty seasonably to supplement his response with respect to any question directly addressed to (i) the identity and location of persons having knowledge of discoverable matters, and (ii) the identity of each person expected to be called as an expert witness at a hearing, the subject matter on which he is expected to testify, and the substance of his testimony.

b. A party is under a duty seasonably to amend a prior response if he obtains information upon the basis of which (i) he knows that the response was incorrect when made, or (ii) he knows that the

response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

c. A duty to supplement responses may be imposed by order of the board, agreement of the parties, or at any time prior to the hearing through new requests for supplementation of prior responses.

6. *Service under this part.* Except for the service of the notice required under D.1.b of this § 3.5, any notice or document required or permitted to be served under this § 3.5 by one party upon another shall be served as provided in Rule 1:12 of the Rules of the Supreme Court of Virginia. Any notice or document required or permitted to be served under this § 3.5 by the board upon one or more parties shall be served as provided in §§ 1.7, 1.14, 2.5 or 2.9 of Parts I and II of VR 125-01-1.

7. *Filing.* Any request for discovery under this § 3.5 and the responses thereto, if any, shall be filed with the secretary of the board except as otherwise herein provided.

[ (Ref: Rule 4:1, Rules of Virginia Supreme Court.) ]

D. *Depositions before proceeding or pending appeal.*

1. *Before proceeding.*

a. *Petition.* A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable before the board under this section may file a verified petition before the board. The petition shall be entitled in the name of the petitioner and shall show: (i) that the petitioner expects to be a party to a proceeding under Part III of these regulations but is presently unable to bring it or cause it to be brought; (ii) the subject matter of the expected action and his interest therein; (iii) the facts which he desires to establish by the proposed testimony and his reasons for desiring to perpetuate it; (iv) the names or a description of the persons he expects will be adverse parties and their addresses so far as known; and (v) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

b. *Notice and service.* The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the board, at a time and place named therein, for the order described in the petition. At

least 21 days before the date of hearing the notice shall be served in the manner provided in § 1.14 or 2.9 of Parts I and II of VR 125-01-1; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the board may make such order as is just for service by publication or otherwise.

c. *Order and examination.* If the board is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with § 3.5. The attendance of witnesses may be compelled by subpoena, and the board may make orders of the characters provided for by subsection K of this § 3.5.

d. *Cost.* The cost of such depositions shall be paid by the petitioner, except that the other parties in interest who produce witnesses on their behalf or who make use of witnesses produced by others shall pay their proportionate part of the cost of the transcribed testimony and evidence taken or given on behalf of each of such parties.

e. *Filing.* The depositions shall be certified as prescribed in subsection G of this § 3.5 and then returned to and filed by the secretary.

f. *Use of deposition.* If a deposition to perpetuate testimony is taken under these provisions or if, although not so taken, it would be admissible in evidence in the courts of the state in which it is taken, it may be used in any proceeding involving the same subject matter subsequently brought before the board pursuant to Part III of these regulations in accordance with the provisions of subsection C of § 3.5.

2. *Pending appeal.* If an appeal has been taken from a ruling of the board or before the taking of an appeal if any time therefor has not expired and for good cause shown, the board may allow the taking of depositions of witnesses to perpetuate their testimony for use in the event of further proceedings. In such case the party who desires to perpetuate the testimony may make a motion before the board for leave to take the depositions, upon the same notice and service thereof as if the proceeding was pending therein. The motion shall show (i) the names and addresses of persons to be examined and the substance of the testimony which he expects to elicit from each; and (ii) the reasons for perpetuating their testimony. If the board finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make orders of the character provided for by subsection K of § 3.5 and thereupon the depositions

may be taken and used in the same manner and under the same conditions as are prescribed in this § 3.5 for depositions taken in pending actions.

3. *Perpetuation of testimony.* This subsection D provides the exclusive procedure to perpetuate testimony before the board.

[ (Ref: Rule 4:2, Rules of Virginia Supreme Court.) ]

E. *Persons before whom depositions may be taken.*

1. *Within this Commonwealth.* Within this Commonwealth depositions under this § 3.5 may be taken before any person authorized by law to administer oaths, and if certified by his hand may be received without proof of the signature to such certificate.

2. *Within the United States.* In any other state of the United States or within any territory or insular possession subject to the dominion of the United States, depositions under this § 3.5 may be taken before any officer authorized to take depositions in the jurisdiction wherein the witness may be, or before any commissioner appointed by the Governor of this Commonwealth.

3. *No commission necessary.* No commission by the Governor of this Commonwealth shall be necessary to take a deposition under this § 3.5 whether within or without this Commonwealth.

4. *In foreign countries.* In a foreign state or country depositions under this § 3.5 shall be taken (i) before any American minister plenipotentiary, charge d'affaires, secretary of embassy or legation, consul general, consul, vice-consul, or commercial agent of the United States in a foreign country, or any other representative of the United States therein, including commissioned officers of the armed services of the United States, or (ii) before the mayor, or other magistrate of any city, town or corporation in such country, or any notary therein.

5. *Certificate when deposition taken outside Commonwealth.* Any person before whom a deposition under this § 3.5 is taken outside this Commonwealth shall certify the same with his official seal annexed; and, if he has none, the genuineness of his signature shall be authenticated by some officer of the same state or country, under his official seal, except that no seal shall be required of a commissioned officer of the armed services of the United States, but his signature shall be authenticated by the commanding officer of the military installation or ship to which he is assigned.

[ (Ref: Rule 4:3, Rules of Virginia Supreme Court.) ]

F. *Stipulations regarding discovery.*

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Unless the board orders otherwise, the parties may by written stipulation (i) provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions and (ii) modify the procedures provided by these rules for other methods of discovery. Such stipulations shall be filed with the deposition.

[ (Ref: Rule 4:4, Rules of Virginia Supreme Court.) ]

## G. Depositions upon oral examination.

1. When depositions may be taken. Twenty-one days after commencement of the proceeding, any party may take the testimony of any person, including a party, by deposition upon oral examination. The attendance of witnesses may be compelled by subpoena. The deposition of a person confined in prison may be taken only by leave of the board upon such terms as the board prescribes, subject to any authorization and limitations that may be imposed by any court within the Commonwealth.

2. Notice of examination. General requirements; special notice; nonstenographic recording; production of documents and things; deposition of organization.

a. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the proceeding. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

b. (Reserved)

c. The board may for cause shown enlarge or shorten the time for taking the deposition.

d. (Reserved)

e. The notice to a party deponent may be accompanied by a request made in compliance with subsection [ K M ] of this § 3.5 for the production of documents and tangible things at the taking of the deposition. The procedure of subsection [ K M ] of this § 3.5 shall apply to the request.

f. A party may in his notice name as the deponent a public or private corporation or a partnership or association or governmental agency and designate with reasonable particularity the matters on which examination is requested. The organization so named shall designate one or more officers, directors, or

managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify. The persons so designated shall testify as to matters known or reasonably available to the organization. This [ paragraph subparagraph ] 2.f does not preclude taking a deposition by any other procedure authorized in this § 3.5.

g. The parties may stipulate in writing or the board may on motion order that a deposition be taken by telephone. A deposition taken by telephone shall be taken before an appropriate officer in the locality where the deponent is present to answer questions propounded to him.

3. Examination and cross-examination; record of examination; oath; objections. Examination and cross-examination of witnesses may proceed as permitted at the hearing. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means authorized by this § 3.5. If requested by one of the parties, the testimony shall be transcribed.

All objections made at time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examinations, parties may serve written questions in a sealed envelope on the party taking the deposition and he shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

4. Motion to terminate or limit examination. At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the board may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subsection C.3 of § 3.5. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the board. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of subsection O.1.d apply to the award of expenses incurred in relation to the motion.

5. Submission to witness; changes; signing. When the testimony is fully transcribed, the deposition shall be

submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in forms or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 21 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under subsection J.4.d of this § 3.5 the board holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

6. Certification and filing by officer; exhibits; copies; notice of filing.

a. The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then lodge it with the attorney for the party who initiated the taking of the deposition, notifying the secretary of the board and all parties of such action. Depositions taken pursuant to this subsection G or subsection H shall not be filed with the secretary until the board so directs, either on its own initiative or upon the request of any party prior to or during the hearing.

Documents and things produced for inspection during the examination of the witness, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (i) the person producing the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and (ii) if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the board, pending final disposition of the case.

b. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

c. The party taking the deposition shall give prompt

notice of its filing to all other parties.

7. Failure to attend or to serve subpoena; expenses.

a. If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the board may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

b. If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party attends in person or by attorney because he expects the deposition of that witness to be taken, the board may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

H. Deposition upon written questions.

1. Serving questions; notice. Twenty-one days after commencement of the proceeding, any party may take the testimony of any person, including a party, by deposition upon written questions. The attendance of witnesses may be compelled by the use of subpoena. The deposition of a person confined in prison may be taken only by leave of the board upon such terms as the board prescribes subject to any authorization and limitations that may be required or imposed by any court within the Commonwealth.

A party desiring to take the deposition upon written questions shall serve them upon every other party with a notice stating that (i) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and (ii) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of subsection G.2.f of § 3.5.

Within 21 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 10 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 10 days after being served with redirect questions, a party may serve recross questions upon all other parties. The board may for cause shown enlarge or shorten the time.

2. Officer to take responses and prepare record. A

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copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by paragraphs 3, 4 and 5 of subsection G of § 3.5, to take the testimony of the witness in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by him.

3. Notice of filing. When the deposition is filed, the party taking it shall promptly give notice thereof to all other parties.

[ (Ref: Rule 4:6, Rules of Virginia Supreme Court.) ]

## I. Limitation [ of on ] depositions.

No party shall take the deposition of more than five witnesses for any purpose without leave of the board for good cause shown.

[ (Ref: Rule 4:6A, Rules of Virginia Supreme Court.) ]

## J. Use of depositions in proceedings under the Beer and Wine Franchise Acts.

1. Use of depositions. At the hearing or upon the hearing of a motion, [ or during an interlocutory proceeding, any part or all of a deposition, ] so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

a. (Reserved)

b. Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

c. The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under paragraph 2.f of subsection G or paragraph 1 of subsection H of this § 3.5 to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

d. The deposition of a witness, whether or not a party, may be used by any party for any purpose if the board finds: (i) that the witness is dead; or (ii) that the witness is at a greater distance than 100 miles from the place of hearing, or is out of this Commonwealth, unless it appears that the absence of the witness was procured by the party offering the deposition; or (iii) that the witness is unable to attend or testify because of age, illness, infirmity, or

imprisonment; or (iv) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (v) that the witness is a judge, or is in any public office or service the duties of which prevent his attending hearings before the board provided, however, that if the deponent is subject to the jurisdiction of the board, the board may, upon a showing of good cause or sua sponte, order him to attend and to testify *ore tenus*; or (vi) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally, to allow the deposition to be used.

e. If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

f. No deposition shall be read in any proceeding against a person under a disability unless it be taken in the presence of the guardian ad litem appointed or attorney serving pursuant to § 8.01-9, or upon questions agreed on by the guardian or attorney before the taking.

g. In any proceeding, the fact that a deposition has not been offered in evidence prior to an interlocutory decree or order shall not prevent its thereafter being so offered except as to matters ruled upon in such interlocutory decree or order, provided, however, that such deposition may be read as to matters ruled upon in such interlocutory decree [ or ] order if the principles applicable to after-discovered evidence would permit its introduction.

Substitution of parties does not affect the right to use depositions previously taken; and when there are pending before the board several proceedings between the same parties, depending upon the same facts, or involving the same matter of controversy, in whole or in part, a deposition taken in one of such proceedings, upon notice to the same party or parties, may be read in all, so far as it is applicable and relevant to the issue; and, when an action in any court of the United States or of this or any other state has been dismissed and a proceeding before the board involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the one action may be used in a proceeding before the board as if originally taken therefor.

2. Objections to admissibility. Subject to the provisions of paragraph 4.c of subsection J of § 3.5, objection may be made at the hearing to receive in evidence

any deposition or part thereof for any reason which would require the exclusion of the evidence if the witnesses were then present and testifying.

3. *Effect of taking or using depositions.* A party does not make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition under paragraph 1.c of this subsection J. At the hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

4. *Effect of errors and irregularities in depositions.*

a. *As to notice.* All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

b. *As to disqualification of officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

c. *As to taking of deposition.*

(1) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions and answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(3) Objections to the form of written questions submitted under subsection H of § 3.5 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions and within five days after service of the last questions authorized.

d. *As to completion and return of deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed,

transmitted, filed or otherwise dealt with by the officer under subsections G and H of § 3.5 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

5. (Reserved)

6. *Record.* Depositions shall become a part of the record only to the extent that they are offered in evidence.

[ (Ref: Rule 4:7, Rules of Virginia Supreme Court.) ]

K. *Audio-visual depositions.*

1. *When depositions may be taken by audio-visual means.* Any depositions permitted under these rules may be taken by audio-visual means as authorized by and when taken in compliance with law.

2. *Use of clock.* Every audio-visual deposition shall be timed by means of a timing device, which shall record hours, minutes and seconds which shall appear in the picture at all times during the taking of the deposition.

3. *Editing.* No audio-visual deposition shall be edited except pursuant to a stipulation of the parties or pursuant to order of the board and only as and to the extent directed in such order.

4. *Written transcript.* If an appeal is taken in the case, the appellant shall cause to be prepared and filed with the secretary a written transcript of that portion of an audio-visual deposition made a part of the record at the hearing to the extent germane to an issue on appeal. The appellee may designate additional portions to be so prepared by the appellant and filed.

5. *Use.* An audio-visual deposition may be used only as provided in subsection [ K J ] of § 3.5.

6. *Submission, etc.* The provisions of [ Rule 5(e) subsection G.5 ] shall not apply to an audio-visual deposition. The other provisions of subsection G of § 3.5 shall be applicable to the extent practicable.

[ (Ref: Rule 4:7A, Rules of Virginia Supreme Court.) ]

L. *Interrogatories to parties.*

1. *Availability; procedures for use.* Upon the commencement of any proceedings under this Part III, any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party.

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2. *Form.* The party serving the interrogatories shall leave sufficient space between each interrogatory so as to permit the party answering the interrogatories to make a photocopy of the interrogatories and to insert the answers between each interrogatory. The party answering the interrogatories shall use a photocopy to insert answers and shall precede the answer with the word "Answer." In the event the space which is left to fully answer any interrogatory is insufficient, the party answering shall insert the words, "see supplemental sheet" and shall proceed to answer the interrogatory fully on a [ separate ] sheet [ or sheets ] of paper containing the heading "Supplemental Sheet" and identify the answers by reference to the number of [ the ] interrogatory. The party answering the interrogatories shall prepare a separate sheet containing the necessary oath to the answers, which shall be attached to the answers filed with the court to the copies sent to all parties and shall contain a certificate of service.

3. *Filing.* The interrogatories and answers and objections thereto shall not be filed in the office of the secretary unless the board directs their filing on its own initiative or upon the request of any party prior to or during the hearing. For the purpose of any consideration of the sufficiency of any answer or any other question concerning the interrogatories, answers or objections, copies of those documents shall be made available to the board by counsel.

4. *Answers.* Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 21 days after the service of the interrogatories. The board may allow a shorter or longer time. The party submitting the interrogatories may move for an order under paragraph 1 of subsection O with respect to any objection to or other failure to answer an interrogatory.

5. *Scope; use.* Interrogatories may relate to any matters which can be inquired into under paragraph 2 of subsection C, and the answers may be used to the extent permitted by the rules of evidence. Only such interrogatories and the answers thereto as are offered in evidence shall become a part of the record.

An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the board may order that such an interrogatory need not be answered until after designated discovery has been completed or until a prehearing conference or other later time.

6. *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries.

7. *Limitation on interrogatories.* No party shall serve upon any other party, at any one time or cumulatively, more than 30 written interrogatories, including all parts and subparts without leave of the board for good cause shown.

[ (Ref: Rule 4:8, Rules of Virginia Supreme Court.) ]

M. *Production of documents and things and entry on land for inspection and other purposes; production at the hearing.*

1. *Scope.* Any party may serve on any other party a request (i) to produce and permit the party making the request, or someone acting on his behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, any tangible things which constitute or contain matters within the scope of paragraph 2 of subsection C and which are in the possession, custody, or control of the party upon whom the request is served; or (ii) to produce any such documents to the board at the time of the hearing; or (iii) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection, surveying, and photographing the property or any designated object or operation thereon, within the scope of paragraph 2 of subsection C of § 3.5.

[ When the physical condition or value of a party's plant, equipment, inventory or other tangible asset is in controversy, the board, upon motion of an adverse party, may order a party to submit same to physical inventory or examination by one or more representatives of the moving party named in the order and employed by the moving party. The order may be made only by agreement or on motion for relevance shown and upon notice to all parties, and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons



by whom it is to be made. ]

2. *Procedure.* The request may, without leave of the board, except as provided in paragraph 4 of this subsection M, be served after commencement of the proceeding. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, period and manner of making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within 21 days after the service of the request. The board may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under paragraph 1 of subsection O with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

3. *Production by a person not a party.* Upon written request therefor filed with the secretary by counsel of record for any party or by a party having no counsel in any pending case, with a certificate that a copy thereof has been mailed or delivered to counsel of record and to parties having no counsel, the secretary shall, subject to paragraph 4 of this subsection [ M ], issue a person not a party therein a subpoena which shall command the person to whom it is directed, or someone acting on his behalf, to produce the documents and tangible things (including writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form) designated and described in said request, and to permit the party filing such request, or someone acting in his behalf, to inspect and copy any tangible things which constitute or contain matters within the scope of paragraph 2 of subsection C which are in the possession, custody or control of such person to whom the subpoena is directed, at a time and place and for the period specified in the subpoena; but, the board, upon written motion promptly made by the person so required to produce, or by the party against whom such production is sought, may (i) quash or modify the subpoena if it is unreasonable and oppressive or (ii) condition denial of the motion to quash or modify upon the advancement by the party in whose behalf the subpoena is issued of the reasonable cost of producing the documents and tangible things so designated and described.

Documents subpoenaed pursuant to this paragraph 3 of

subsection M shall be returnable only to the office of the secretary unless counsel of record agree in writing filed with the secretary as to a reasonable alternative place for such return. Upon request of any party in interest, or his attorney, the secretary shall permit the withdrawal of such documents by such party or his attorney for such reasonable period of time as will permit his inspection, photocopying, or copying thereof.

4. *Certain officials.* No request to produce made pursuant to paragraph 2 of this subsection M, above, shall be served, and no subpoena provided for in paragraph 3 of this subsection M, above, shall issue, until prior order of the board is obtained when the party upon whom the request is to be served or the person to whom the subpoena is to be directed is the Governor, Lieutenant Governor, or Attorney General of this Commonwealth, or a judge of any court thereof; the President or Vice President of the United States; any member of the President's Cabinet; any ambassador or consul; or any military officer on active duty holding the rank of admiral or general.

5. *Proceedings on failure or refusal to comply.* If a party fails or refuses to obey an order made under paragraph 2 of this subsection M, the board may proceed as provided by subsection O.

6. *Filing.* Requests to a party pursuant to paragraphs 1 and 2 of subsection M shall not be filed in the office of the secretary unless requested in a particular case by the board or by any party prior to or during the hearing.

[ (Ref: Rule 4:9, Rules of Virginia Supreme Court.) ]

N. *Requests for admission.*

1. *Request for admission.* Upon commencement of any proceedings under this Part III, a party may serve upon any other party a written request for the admission, for purposes of the pending proceeding only, of the truth of any matters within the scope of paragraph 2 of subsection C set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 21 days after service of the request, or within such shorter or longer time as the board may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney. If objection is made, the reasons therefor shall be stated. The answer shall specifically

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deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for hearing may not, on that ground alone, object to the request; he may, subject to the provisions of paragraph 3 of subsection O, deny the matter or set forth reasons why he cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the board determines that an objection is justified, it shall order that an answer be served. If the board determines that an answer does not comply with the requirements of this subsection N, it may order either that the matter is admitted or that an amended answer be served. The board may, in lieu of these orders, determine that final disposition of the request be made at a prehearing conference or at a designated time prior to the hearing. The provisions of paragraph 1.d of subsection O apply to the award of expenses incurred in relation to the motion.

2. *Effect of admission.* Any matter admitted under this rule is conclusively established unless the board on motion permits withdrawal or amendment of the admission. Subject to the provisions of subsection P governing amendment of a prehearing order, the board may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the board that withdrawal of amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by [ a ] party under this rule is for the purpose of the pending proceeding only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

3. *Filing.* Requests for admissions and answers or objections shall be served and filed as provided in subsection L.

[ 4. *Part of record.* Only such requests for admissions and the answers thereto as are offered in evidence shall become a part of the record.

(Ref: Rule 4:11, Rules of Virginia Supreme Court.) ]

## O. Failure to make discovery: sanctions.

1. *Motion for order compelling discovery.* A party, upon reasonable notice to other parties and all persons affected thereby, may apply to the board for an order compelling discovery as follows:

a. (Reserved)

b. *Motion.* If a deponent fails to answer a question propounded or submitted under subsections G and H, or a corporation or other entity fails to make a designation under paragraph [ 2, subparagraph f 2.f ] of subsection G and paragraph 1 of subsection H, or a party fails to answer an interrogatory submitted under subsection L, or if a party, in response to a request for inspection submitted under subsection M, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. When taking a deposition or oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order.

If the board denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to paragraph 3 of subsection C.

c. *Evasive or incomplete answer.* For purposes of this subsection an evasive or incomplete answer is to be treated as a failure to answer.

d. *Award of expenses of motion.* If the motion is granted and the board finds that the party whose conduct necessitated the motion acted in bad faith, the board shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees.

If the motion is denied and the board finds that the moving party acted in bad faith in making the motion, the board shall, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees.

If the motion is granted in part and denied in part, the board may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

## 2. Failure to comply with order.

a. Suspension or revocation of licenses, monetary penalties, failure to comply with any order of the board under this § 3.5 (Discovery) shall constitute grounds for action by the board under § 4-37 A(1)(b) of the Code of Virginia.

b. Sanctions by the board. If a party or an officer, director, or managing agent of a party or a person designated under paragraph 2.f of subsection G or paragraph 1 of subsection H to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under paragraph 1 of this subsection, the board may make such orders in regard to the failure as are just, and among others the following:

(1) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the proceeding in accordance with the claim of the party obtaining the order;

(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence;

(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the proceeding or any part thereof, or rendering a judgment or decision by default against the disobedient party.

In lieu of any of the foregoing orders or in addition thereto, if the board finds that a party acted in bad faith in failing to obey an order to provide or permit discovery, the board shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expenses, including attorney's fees, caused by the failure.

3. Expenses on failure to admit. If a party fails to admit the genuineness of any document or the truth of any matter as requested under subsection N, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, he may apply to the board for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The board shall make the order if it finds that the party failing to admit acted in bad faith. A party will not be found to have acted in bad faith if the board finds that (i) the request was held objectionable pursuant to paragraph 1 of subsection N, or (ii) the admission sought was of no substantial importance, or (iii) the party failing to admit had reasonable ground to believe that he might prevail on the matter, or (iv) there was other good reason for the failure to admit.

4. Failure of party to attend at own deposition or

serve answers to interrogatories or respond to request for inspection. If a party or an officer, director or managing agent of a party or a person designated under paragraph 2.f of subsection G or paragraph 1 of subsection H to testify on behalf of a party fails (i) to appear before the officer who is to take his deposition, after being served with a proper notice, or (ii) to serve answers or objections to interrogatories submitted under subsection L, after proper service of the interrogatories, or (iii) to serve a written response to the request for inspection submitted under subsection M, after proper service of the request, the board on motion may make such orders in regard to the failure as are just, [ and ] among others it may take any action authorized under subparagraphs b(1), b(2) and b(3) of paragraph 2 of this subsection [ O ]. In lieu of any order or in addition thereto, if the board finds that a party in bad faith failed to act, the board shall require the party failing to act or the attorney advising him or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the board finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

The failure to act described in this subsection may not be excused merely on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by paragraph 3 of subsection C.

[ (Ref: Rule 4:12, Rules of Virginia Supreme Court.) ]

P. Prehearing procedure; formulating issues.

1. The [ hearing officer(s) or the ] board, may in [ his or ] its discretion direct the attorneys for the parties to appear before [ # such hearing officer(s) or the board ] for a conference to consider:

- a. A determination or clarification of the issues;
- b. A plan and schedule of discovery;
- c. Any limitations on the scope and methods of discovery, including deadlines for the completions of discovery;
- d. The necessity or desirability of amendments to the pleadings;
- e. The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, as well as obtaining stipulations as to the evidence;
- f. The limitation of the number of expert witnesses;
- g. The possibility of filing bills of particulars and grounds of defense by the respective parties;
- h. Such other matters as may aid in the disposition

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of the action.

2. The [ hearing officer(s) or the ] board, shall make an order which recites the action taken at the conference, the amendments allowed to the pleadings, the agreements made by the parties as to any of the matters considered, and which limits the issues for trial to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.

[ (Ref: Rule 4:13, Rules of Virginia Supreme Court.) ]

## Q. Disposition of discovery material.

Any discovery material not admitted in evidence filed in the secretary's office may be destroyed by the secretary after one year after entry of the final order or decision. But if the proceeding is the subject of an appeal, such material shall not be destroyed until the lapse of one year after receipt of the decision or mandate on appeal or the entry of any final judgment or decree thereafter.

[ (Ref: Rule 4:14, Rules of Virginia Supreme Court.) ]

## R. Interlocutory appeals to the board.

If any party to a proceeding under Part III of VR 125-01-1 is aggrieved by a decision or order of the hearing officer(s) relating to discovery or other matters contained in this section, such aggrieved party may appeal such interlocutory decision or order to the board pursuant to VR 125-01-1, Part III, § 2.1.

\* \* \* \* \*

**Title of Regulations:** VR 125-01-2. Advertising.

**Statutory Authority:** § 4-11 of the Code of Virginia.

**Effective Date:** January 21, 1988

### Summary:

The amendment to § 2 permits retailers to have interior advertising of any brand of alcoholic beverages sold in their state; provided, that such advertising materials are printed materials which are not furnished by manufacturers or wholesalers of alcoholic beverages. It also permits retailers to give patrons point-of-sales materials on contests and sweepstakes in retail establishments as long as no purchase is required and the point-of-sale is restricted to cut case cards.

Section 6 permits order blanks at the point-of-sale for novelty and specialty items on cut case cards. Wholesalers may not be involved in the redemption process.

Section 9 defines and gives an example of "normal retail price."

The amendment to § 10 allows distilleries, wineries and breweries to sponsor public events for a limited duration. Also, such manufacturers could sponsor cultural events.

## VR 125-01-2. Advertising.

§ 1. Advertising generally; cooperative advertising; federal laws; beverages and cider; exceptions; restrictions.

A. Generally. All alcoholic beverages and beverage advertising is permitted in this state Commonwealth except that which is prohibited or otherwise limited or restricted by this regulation and those following, and such advertising shall not be blatant or obtrusive. Any editorial or other reading matter in any periodical or publication or newspaper for the publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any permittee does not constitute advertising.

B. Cooperative advertising. There shall be no cooperative advertising as between a producer, manufacturer, bottler, importer or wholesaler and a retailer of alcoholic beverages. The term "cooperative advertising" shall mean the payment or credit directly or indirectly by any manufacturer, bottler, importer or wholesaler whether licensed in this state Commonwealth or not to a retailer for all or any portion of advertising done by the retailer.

C. Federal laws. Advertising regulations adopted by the appropriate federal agency pertaining to alcoholic beverages shall be complied with except where they conflict with regulations of the board.

D. Beverages and cider. Advertising of beverages, and cider as defined in § 4-27 of the Code of Virginia, shall conform with the requirements of advertising beer.

E. Exceptions. The board may issue a permit authorizing a variance from these advertising regulations for good cause shown.

F. Restrictions. No advertising shall contain any statement, symbol, depiction or reference that:

1. Would intend to induce minors to drink, or would tend to induce persons to consume to excess;
2. Is lewd, obscene or indecent, or depicts any person or group of persons which is immodest, undignified or in bad taste, or is suggestive of any illegal activity;
3. Incorporates the use of any present or former athlete or athletic team or [Incorporates the use of any present or former athlete or athletic team or] implies that the product enhances athletic prowess;
4. Is false or misleading in any material respect, or

implies that the product has a curative or therapeutic effect, or is disparaging of a competitor's product;

5. Implies or indicates, directly or indirectly, that the product is government endorsed by the use of flags, seals or other insignia or otherwise;

6. Makes any reference to the intoxicating effect of any alcoholic beverages;

7. Makes any appeal to order alcoholic beverages by mail;

8. Offers a special price on alcoholic beverages, unless such advertisement significantly conforms in size and content to the advertising of nonalcoholic merchandise offered for sale, except for coupons offered by manufacturers as provided in § 9 of these regulations.

9. Is a contest or other offer to pay anything of value to a consumer where a purchase is required for participation.

## § 2. Advertising; interior; retail licensees; show windows.

A. Interior advertising generally. The advertising of alcoholic beverages inside retail establishments is within the discretion of the licensee, with the following exceptions:

1. No references may be made to any brand or manufacturer of alcoholic beverages offered for sale in this state *Commonwealth* on decorations, materials or furnishings on or supported by any wall, ceiling, floor or counter, unless such references are:

a. Contained in works of art.

b. Displayed in connection with the sale over the counter of novelty and specialty items as provided in § 6 of these regulations.

c. Used in connection with the sponsorship of conservation and environmental, athletic and sporting, or charitable events in accordance with § 10 of these regulations.

d. Displayed on service items such as placemats, coasters, glasses and table tents. Further, alcoholic beverage brands or manufacturer references may be contained in wine "neckers," recipe booklets and brochures relating to the wine manufacturing process, vineyard geography and history of a wine manufacturing area, which *must shall* be shipped in the case.

[ *e. Used in printed paper advertising materials which may be displayed, provided such material is not obtained, directly or indirectly, from any manufacturer, bottler, wholesaler or importer of alcoholic beverages.* ]

2. Advertising materials regarding responsible drinking or moderation in drinking may not be used inside licensed retail establishments except under the following conditions:

a. Such materials shall contain no depictions of an alcoholic beverage product and no reference to any brands of alcoholic beverages.

b. Such materials shall contain no more than two minor references to the name of the alcoholic beverage manufacturer or its corporate logo.

c. Such materials are limited to posters of reasonable size and table tents.

d. Such materials shall be approved in advance by the board.

3. Each draft beer knob *must shall* indicate the brand of beer offered for sale.

4. *Point-of-sale entry blanks, relating to contest and sweepstakes, may be affixed to cut case cards as defined in § 9.F of VR 125-01-3. Beer and wine wholesalers may attach such entry blanks to cut case cards at the retail premises, if done for all retail licensees and after obtaining the consent, which may be a continuing consent, of each retailer or his representative. Wholesale licensees in Virginia may not put entry blanks on the package at the wholesale premises and entry blanks may not be shipped in the case to retailers.*

B. Manufacturers, wholesalers, etc. No manufacturer, bottler, wholesaler or importer of alcoholic beverages, whether licensed in this state *Commonwealth* or not, may directly or indirectly sell, rent, lend, buy for or give to any retailer any advertising materials, decorations or furnishings under any circumstances otherwise prohibited by law, nor may any retailer induce, attempt to induce, or consent to any such supplier of alcoholic beverages furnishing such retailer any such advertising. However, furnishing materials relating to moderation in drinking or responsible drinking programs is permitted subject to the provisions of paragraph A.2 of this section.

C. Show windows. No advertising of alcoholic beverages may be displayed in show windows facing outside the licensed establishment except that contained on table menus, or on newspaper tear sheets, provided such alcoholic beverage advertising is subordinate in size to the main advertising matter.

## § 6. Advertising; novelties and specialties.

A. Distribution of novelty and specialty items, including wearing apparel, bearing alcoholic beverage advertising, shall be subject to the following limitations and conditions:

1. [ *Only* ] Items not in excess of \$2.00 in wholesale

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value may be given away.

2. Items in excess of \$2.00 in wholesale value may be donated by distilleries, wineries and breweries only to participants or entrants in connection with the sponsorship of conservation and environmental programs, events of a charitable nature or athletic or sporting events, but otherwise ~~must~~ shall be sold at the reasonable open market price:

- a. By mail upon request, and
- b. Over the counter at retail establishments customarily engaged in the sale of novelties and specialties.

3. Wearing apparel distributed ~~must~~ shall be in adult sizes.

4. *Point-of-sale order blanks, relating to novelty and specialty items, may be affixed to cut case cards as defined in § 9.F of VR 125-01-3. Beer and wine wholesalers may attach such order blanks to cut case cards at the retail premises, if done for all retail licensees equally and after obtaining the consent, which may be a continuing consent, of each retailer or his representative. Wholesale licensees in Virginia may not put order blanks on the package at the wholesale premises and order blanks may not be shipped in the case to retailers. [ Wholesalers may not be involved in the redemption process. ]*

## § 9. Advertising; coupons.

A. *Definitions. "Normal retail price" means the average retail price of the brand and size of the product in a given market, and not a reduced or discounted price.*

B. Coupons may be advertised in accordance with the following conditions and restrictions:

A. 1. Manufacturers of spirits, wine and beer may use only refund, not discount, coupons. The coupons may not [ *exceed 50% of the normal retail price and may not* ] be honored at a retail outlet but ~~must~~ shall be mailed directly to the manufacturer or its designated agent. Such agent may not be a wholesaler or retailer of alcoholic beverages. Coupons are permitted in the print media, by direct mail to consumers or as part of, or attached to, the package. Coupons may be part of, or attached to, the package only if the winery or brewery put them on at the point of manufacture [ ; *however, beer and wine wholesalers may attach coupon pads on holders to case cards at the retail premises, if done for all retail licensees equally and after obtaining the consent, which may be a continuing consent, of each retailer or his representative* ]. Wholesale licensees in Virginia may not put them on the package at the wholesale premises and coupons may not be shipped in the case to retailers.

~~B.~~ 2. Manufacturers offering coupons on distilled spirits and wine sold in state government stores ~~must~~ shall notify the board at least 45 days in advance of issuance of the coupons of its amount, its expiration date and the area of the state *Commonwealth* in which it will be primarily used, if not used statewide.

~~C.~~ 3. Wholesale licensees of the board are not permitted to offer coupons.

~~D.~~ 4. Retail licensees of the board may offer coupons on wine and beer sold for off-premises consumption only. Retail licensees may offer coupons in the print media, at the point-of-sale or by direct mail to consumers. Coupons offered by retail licensees ~~must~~ shall appear in an advertisement with nonalcoholic merchandise and conform in size and content to the advertising of such merchandise.

~~E.~~ 5. No retailer may be paid a fee by manufacturers or wholesalers of alcoholic beverages for display or use of coupons; the name of the retail establishment may not appear on any coupons offered by manufacturers and no manufacturer or wholesaler may furnish any coupons or materials regarding coupons to retailers.

~~F.~~ 6. Retail licensees or employees thereof may not receive refunds on coupons obtained from the packages before sale at retail.

~~G.~~ 7. No coupons may be honored for any individual below the legal age for purchase.

## § 10. Advertising; sponsorship of public events; restrictions and conditions.

A. Generally. Alcoholic [ ~~beverages~~ *beverage* ] advertising in connection with the sponsorship of public events shall be limited to sponsorship of conservation and environmental programs, *professional, semi-professional, or amateur* athletic and sporting events and events of a charitable *or cultural* nature by distilleries, wineries, and breweries.

### B. Restrictions and conditions:

1. Programs and events on a *college*, high school or younger age level ~~and college intramural events~~ are prohibited.

~~2. Events on an amateur, semi-professional or intercollegiate level, are prohibited except for manufacturers of beer. Intercollegiate events must be approved in advance by the appropriate educational institutions.~~

~~3.~~ 2. Cooperative advertising as defined in § 1 of these regulations is prohibited.

~~4.~~ 3. Awards or contributions of alcoholic beverages

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are prohibited.

~~5.~~ 4. Advertising of alcoholic beverages ~~must shall~~ conform in size and content to the other advertising concerning the event and advertising regarding charitable events ~~must shall~~ place primary emphasis on the charitable and fund raising nature of the event.

~~6.~~ 5. A charitable event is one held for the specific purpose of raising funds for a charitable organization which is exempt from federal and state taxes.

~~7.~~ 6. Advertising in connection with the sponsorship of an event may be only in the media, on the inside of licensed or unlicensed retail establishments and at the site of the event.

~~8.~~ 7. Point-of-sale advertising materials may not be furnished to retailers by manufacturers, bottlers, or wholesalers. However, at the request of the charity involved, employees of a wholesale licensee may deliver and place such material relating to charitable events which have been furnished to them by the charity involved. Wholesale licensees of the board may deliver to retailers point-of-sale advertising materials relating to charitable events which have been furnished to them by a third party provided that the charity involved so requests.

~~9.~~ 8. Point-of-sale advertising shall be limited to counter cards, cannisters and table tents of reasonable size.

~~10. Public events permissible for sponsorship must be of limited duration such as tournament or limited fund raising events. An entire season of activities such as a college football season may not be sponsored.~~

[ ~~9. Public events permissible for sponsorship shall be of limited duration such as tournaments or limited fund raising events. An entire season of activities such as a football season may not be sponsored.~~ ]

~~11.~~ [ ~~9. 10.~~ ] Prior written notice of the event ~~must shall~~ be submitted to the board describing the nature of the sponsorship and giving the date, time and place of it.

~~12.~~ [ ~~10. 11.~~ ] Manufacturers may sponsor public events and wholesalers may only cosponsor charitable events.

\* \* \* \* \*

Title of Regulation: VR 125-01-3. Tied-House.

Statutory Authority: § 4-11 of the Code of Virginia.

Effective Date: January 21, 1988

Summary:

*This amendment permits the use of three-dimensional printed matter for wine or beer cut case cards and to measure its maximum authorized size. It also permits beer manufacturers and wholesalers to furnish retail licensees beer table tents and beer clip-ons.*

VR 125-01-3. Tied-House.

§ 9. Inducements to retailers; tapping equipment; bottle or can openers; banquet licensees; cut case cards; clip-ons and table tents.

A. Beer tapping equipment. Any manufacturer, bottler or wholesaler may sell, rent, lend, buy for or give to any retailer, without regard to the value thereof, the following:

1. Draft beer knobs, containing advertising matter which ~~must shall~~ include the brand name and may further include only trademarks, housemarks and slogans and shall not include any illuminating devices or be otherwise adorned with mechanical devices which are not essential in the dispensing of draft beer.

2. Tapping equipment, defined as all the parts of the mechanical system required for dispensing draft beer in a normal manner from the carbon dioxide tank through the beer faucet excluding the following:

a. The carbonic acid gas in containers, except that such gas may be sold only at the reasonable open market price in the locality where sold;

b. Gas pressure gauges (may be sold at cost);

c. Draft arms or standards;

d. Draft boxes;

e. Refrigeration equipment or components thereof.

Further, a manufacturer, bottler or wholesaler may sell, rent or lend to any retailer, for use only by a purchaser of draft beer in kegs or barrels from such retailer, whatever tapping equipment may be necessary for the purchaser to extract such draft beer from its container.

B. Wine tapping equipment. Any manufacturer, bottler or wholesaler may sell to any retailer and install in the retailer's establishment tapping accessories such as standards, faucets, rods, vents, taps, tap standards, hoses, cold plates, washers, couplings, gas gauges, vent tongues, shanks, and check valves, if the tapping accessories are sold at a price not less than the cost of the industry member who initially purchased them, and if the price is collected within 30 days of the date of sale.

Wine tapping equipment shall not include the following:

1. Draft wine knobs, which may be given to a retailer;



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2. Carbonic acid gas, nitrogen gas, or compressed air in containers, except that such gases may be sold in accordance with the reasonable open market prices in the locality where sold and if the price is collected within 30 days of the date of the sales;

3. Mechanical refrigeration equipment.

C. Any beer tapping equipment may be converted for wine tapping by the beer wholesaler who originally placed the equipment on the premises of the retail licensee provided that such beer wholesaler is also a wine wholesaler licensee. Moreover, at the time such equipment is converted for wine tapping, it ~~must~~ shall be sold, or have previously been sold, to the retail licensee at a price not less than the initial purchase price paid by such wholesaler.

D. Bottle or can openers. Any manufacturer, bottler or wholesaler of wine or beer may sell or give to any retailer, bottle or can openers upon which advertising matter regarding alcoholic beverages may appear, provided the wholesale value of any such openers given to a retailer by [ ~~an any~~ ] individual manufacturer, bottler or wholesaler does not exceed \$2.00. Openers in excess of \$2.00 in wholesale value may be sold, provided the reasonable open market price is charged therefor.

E. Banquet licensees. Manufacturers or wholesalers of wine or beer may sell at the reasonable wholesale price to banquet licensees paper or plastic cups upon which advertising matter regarding wine or beer may appear.

F. Cut case cards. Any manufacturer, bottler or wholesaler of wine or beer may sell, lend, buy for or give to any retailer of wine or beer cut case cards, which are defined as promotional, nonmechanical, two-dimensional or *three-dimensional* printed matter no larger than ~~double~~ [ ~~triple~~ double] the largest single dimension of the case product to which they refer for use in displaying and advertising in the interior of his establishment, other than in exterior windows, the sale of beer or wines having an alcoholic content of 21% or less by volume, provided such manufacturer, bottler or wholesaler in furnishing such cards conforms with the regulations of the appropriate federal agency, relating to inside signs. Such printed matter ~~must~~ shall be supported by or affixed to, and be an integral part of, the case display. Such printed matter may be supported by a device other than the case itself. With the consent of the retail licensee, which may be a continuing consent, a wholesaler may mark or affix retail prices on such cut case cards.

G. Wine and beer clip-ons and table tents. Any manufacturer, bottler or wholesaler of wine or beer may sell, lend, buy for or give to any retailer of wine or beer, clip-ons and table tents containing the listing of not more than four wines or beers.

H. A retail licensee who consents to any violation of this section shall also be in violation.

\* \* \* \* \*

Title of Regulation: VR 125-01-4. Requirements for Product Approval.

Statutory Authority: § 4-11 of the Code of Virginia.

Effective Date: January 21, 1988

Summary:

*The amendment deletes subsection B.2 of § 2 because the board will not disqualify a wine merely because it contains fruit juices or coloring.*

VR 125-01-4. Requirements for Product Approval.

§ 2. Wines; qualifying procedures; disqualifying factors; samples; exceptions.

A. Qualifying procedures. All wines sold in the Commonwealth shall be first approved by the board as to content, container and label.

1. A certification acceptable to the board or on a form prescribed by the board describing the merchandise may accompany each new brand and type of wine offered for sale in the Commonwealth. A certification fee and a registration fee in such amounts as may be established by the board shall be included with each new certification.

2. In lieu of the aforementioned certification, there shall be submitted a sample and registration and analysis fees in such amounts as may be established by the board; provided, however, that wine already offered for sale by another state with which this Commonwealth has an analysis and certification exchange agreement and wine sold through government stores shall be subject only to a registration fee in such amount as may be established by the board.

3. All wine sold in this Commonwealth shall conform with regulations adopted by the appropriate federal agency, relating to labels, definitions and standards of identity. Applicants shall submit a certified copy of the approval of the label by such federal agency.

4. Subsequent sales under an approved label shall conform to the certification and analysis of the wine originally approved by the board.

5. The board may approve a wine without benefit of a certification or analysis for good cause shown. Good cause includes, but is not limited to, wine which is rare.

B. Disqualifying factors as to contents. While not limited thereto, the board shall withhold approval of any wine:

1. Which is an imitation or substandard wine as defined under regulations of the appropriate federal agency;

2. To which fruit juice, or artificial coloring has been added, except fruit juice and artificial coloring may be contained in wine coolers containing 14% or less alcohol by volume and in sangria-type wines;

3. 2. If the alcoholic content exceeds 21% by volume;

4. 3. Which is a wine cocktail containing any ingredient other than wine.

C. Disqualifying factors as to labels. While not limited thereto, the board shall withhold approval of any label:

1. Which contains the name of a cocktail generally understood to contain spirits;

2. Where the name of a state is used as a designation of the type of wine, but the contents do not conform to the wine standards of that state;

3. Which contains the word "cocktail" without being used in immediate conjunction with the word "wine" in letters of the same dimensions and characteristics, except labels for sherry wine;

4. Which contain the word "fortified" or implies that the contents contain spirits, except that the composition and alcoholic content may be shown if required by regulations of an appropriate federal agency;

5. Which contains any subject matter or illustration of a lewd, obscene or indecent nature;

6. Which contains subject matter designed to induce minors to consume alcoholic beverages, or is suggestive of the intoxicating effect of wine;

7. Which contains any reference to a game of chance;

8. Which contains any design or statement which is likely to mislead the consumer.

D. Samples. A person holding a license as a winery, farm winery or a wholesale wine distributor shall upon request furnish the board without compensation a reasonable quantity of such brand sold by him for chemical analysis; provided, however, that the board may require recertification of the merchandise involved in lieu [ of analysis ] of such a sample. A fee in such amount as may be established by the board shall be included with each recertification.

E. Exceptions. Any wine whose content, label or container does not comply with all requirements of this section shall be exempt therefrom provided that such wine was sold at retail in this Commonwealth as of December

1, 1960, and remains the same in content, label and container.

\* \* \* \* \*

Title of Regulations: VR 125-01-5. Retail Operations.

Statutory Authority: § 4-11 of the Code of Virginia.

Effective Date: January 21, 1988

Summary:

*Section 1 amends the regulation to prohibit the sale and consumption of beer by a person under the age of 21 years. Section 2 amends the regulation by deleting any independent reference to "Virginia's operator's license" and substituting "Department of Motor Vehicles" for the "Virginia Division of Motor Vehicles."*

*The amendment to § 11 defines designated room as a room "or area" to be approved by the board. Section 18 has been added and allows volunteer fire departments and rescue squads to exercise the privileges of banquet facility licenses on premises other than their stations which are under their control.*

VR 125-01-5. Retail Operations.

§ 1. Restrictions upon sale and consumption of alcoholic beverages and beverages.

A. Prohibited sales. Except as may be otherwise permitted under § 4-48 or 4-50 of the Code of Virginia, no licensee shall sell any alcoholic beverage or beverage to a person whom he shall know or have reason at the time to believe is:

1. Under the age of 21 years ; ~~except as to beer and beverages, as provided herein ;~~
2. Is intoxicated;
3. Is an interdicted person.

~~No licensee shall sell beer or beverages to another person whom he shall know or have reason at the time to believe had not attained the age of 19 by July 1, 1985 .~~

B. Prohibited consumption. No licensee shall allow the consumption of any alcoholic beverage or beverage upon his licensed premises by any person to whom such alcoholic beverage or beverage may not lawfully be sold under this section.

§ 2. Determination of legal age of purchaser.

A. In determining whether a licensee, or his employee or agent, has reason to believe that a purchaser is not of

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legal age, the board will consider, but is not limited to, the following factors:

1. Whether an ordinary and prudent person would have reason to doubt that the purchaser is of legal age based on the general appearance, facial characteristics, behavior and manner of the purchaser.

2. Whether the seller demanded, was shown and acted in good faith in reliance upon bona fide evidence of legal age, as defined herein, and that evidence contained a photograph and physical description consistent with the appearance of the purchaser.

B. Such bona fide evidence of legal age shall include a valid ~~Virginia operator's or chauffeur's license, a valid operator's or chauffeur's license issued by any other state or motor vehicle driver's license issued by any state of the United States or the District of Columbia, Armed Forces identification card, United States passport or foreign government visa, valid special identification card issued by the Virginia Division Department of Motor Vehicles, or any valid identification issued by any other federal or state government agency~~, which identification ~~shall contain~~ *shall* contain a photograph and signature of the subject, with the subject's height, weight and date of birth.

C. It shall be incumbent upon the licensee, or his employee or agent, to scrutinize carefully the identification, if presented, and determine it to be authentic and in proper order. Identification which has been altered so as to be apparent to observation or has expired shall be deemed not in proper order.

§ 10. Definitions and qualifications for retail off-premises wine and beer licenses and off-premises beer licenses; exceptions; further conditions; temporary licenses.

A. Wine and beer. Retail off-premises wine and beer licenses may be issued to persons operating the following types of establishments provided the total monthly sales and inventory (cost) of the required commodities listed in the definitions are not less than those shown:

1. Delicatessen. An establishment which sells a variety of prepared foods or foods requiring little preparation such as cheeses, salads, cooked meats and related condiments.

Monthly sales..... \$2,000

Inventory (cost)..... \$2,000

2. Drugstore. An establishment selling medicines prepared by a registered pharmacist according to prescription and other medicines and articles of home and general use.

Monthly sales..... \$3,500

Inventory (cost)..... \$3,500

3. Grocery store. An establishment which sells edible items intended for human consumption, including a variety of staple foodstuffs used in the preparation of meals.

Monthly sales..... \$2,000

Inventory (cost)..... \$2,000

4. Convenience grocery store. An establishment which has an enclosed room in a permanent structure where stock is displayed and offered for sale, and which sells edible items intended for human consumption, consisting of a variety of such items of the type normally sold in grocery stores, and does not sell any petroleum related service with the sale of petroleum products.

Monthly sales..... \$2,000

Inventory (cost)..... \$2,000

In regard to both grocery stores and convenience grocery stores, edible items shall mean such items normally used in the preparation of meals, including liquids, and which ~~must~~ *shall* include a variety (at least five) of representative items from each of the basic food groups: dairy, meat, grain, vegetables and fruit.

5. Specialty shop. An establishment provided with adequate shelving and storage facilities which sell products such as cheese and gourmet foods.

Monthly sales..... \$2,000 [ ~~\$750~~ 2,000]

Inventory (cost)..... \$2,000 [ ~~\$750~~ 2,000]

B. Beer. Retail off-premises beer licenses may be issued to persons operating the following types of establishments provided the total monthly sales and inventory (cost) of the required commodities listed in the definitions are not less than those shown:

1. Delicatessen. An establishment as defined in subsection A above.

Monthly sales..... \$1,000

Inventory (cost)..... \$1,000

2. Drugstore. An establishment as defined in subsection A above.

Monthly sales..... \$1,500

Inventory (cost)..... \$1,500

3. Grocery store. An establishment as defined in subsection A above.

Monthly sales..... \$1,000

Inventory (cost)..... \$1,000

4. Marina store. An establishment operated by the owner of a marina which sells food and nautical and fishing supplies.

Monthly sales..... \$750

Inventory (cost)..... \$750

C. Exceptions. The board may grant to an establishment not meeting the qualifying figures in A and B above provided it affirmatively appears that there is a substantial public demand for such an establishment and that public convenience will be promoted by the issuance of the license.

D. Further conditions. The board in determining the eligibility for a license of an establishment shall give consideration to, but shall not be limited to, the following:

- 1. The extent to which sales of required commodities are secondary or merely incidental to sales of all products sold in such establishment.
2. The extent to which a variety of edible items of the types normally found in grocery stores are sold.
3. The extent to which such establishment is constructed, arranged or illuminated to allow reasonable observation of the age and sobriety of purchasers of alcoholic beverages.

E. Temporary licenses. Notwithstanding the above the board may issue a temporary license for any of the above retail operations. Such licenses may be issued only after application has been filed in accordance with the provisions of § 4-30 of the Code of Virginia and in cases where the sole objection to issuance of a license is that the establishment will not be qualified in terms of the sale of food or edible items. If a temporary license is issued, the board shall conduct an audit of the business after a reasonable period of operation not to exceed 180 days. Should the business be qualified, the license applied for may be issued. If the business is not qualified, the application will become the subject of a hearing if the applicant so desires. No further temporary license shall be issued to the applicant or to any other person with respect to that establishment for a period of one year from the expiration and, once the application becomes the subject of a hearing, no temporary license may be issued.

§ 11. Definitions and qualifications for retail on-premises and on-and-off premises licenses generally; mixed beverage licensee requirements; exceptions; temporary licenses.

A. Generally. The following definitions shall apply to retail licensees and mixed beverage licensees where appropriate:

- 1. Designated room. A room or area in which a

licensee may exercise the privilege of his license, the location, equipment and facilities of which room or area have been approved by the board;

2. Dining car, buffet car or club car. A vehicle operated by a common carrier of passengers by rail, in interstate or intrastate commerce and in which food and refreshments are sold;

3. "Meals." In determining what constitutes a "meal" as the term is used in this section, the board may consider the following factors, among others:

- a. The assortment of foods commonly offered for sale;
b. The method and extent of preparation and service required;
c. The extent to which the food served would be considered a principal meal of the day as distinguished from a snack.

4. "Habitual" sales. In determining what constitutes "habitual" sales of specific foods the board may consider the following factors, among others:

- a. The business hours observed as compared with similar type businesses;
b. The extent to which such food or other merchandise is regularly sold;
c. Present and anticipated sales volume in such food or other merchandise.

5. "Sale" and "sell." The definition of "sale" and "sell" in VR 125-01-7 § 9 of these regulations shall apply to this section.

B. Wine and beer. Retail on- or on-and-off premises licenses may be granted to persons operating the following types of establishments provided the total monthly food sales for consumption in dining rooms and other designated rooms on the premises are not less than those shown:

1. Boat. A common carrier of passengers operating by water on regular schedules in interstate or intrastate commerce, habitually serving in a dining room meals prepared on the premises;

Monthly sales..... \$3,000

2. Restaurant. A bona fide dining establishment habitually selling meals with entrees and other foods prepared on the premises;

Monthly sales..... \$3,000

3. Hotel. Any duly licensed establishment, provided

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with special space and accommodation, where, in consideration of payment, meals with entrees and other food prepared on premises and lodging are habitually furnished to persons and which has 10 or more bedrooms;

Monthly sales..... \$3,000

In regard to both restaurants and hotels at least \$1,000 of the required monthly sales must be in the form of meals with entrees.

C. Beer. Retail on- or on-and-off premises licenses may be granted to persons operating the following types of establishments provided the total monthly food sales for consumption in dining rooms on the premises are not less than those shown:

1. Boat. A common carrier of passengers operating by water on regular schedules in interstate or intrastate commerce, habitually serving in a dining room food prepared on the premises;

Monthly sales..... \$1,800

2. Restaurant. An establishment habitually selling food prepared on the premises;

Monthly sales..... \$1,800

3. Hotel. See B.3 above;

Monthly sales..... \$1,800

4. Tavern. An establishment where food and refreshment, including beer or beverages, are habitually sold for on-premises consumption.

D. Mixed beverage licenses. The following shall apply to mixed beverage licenses where appropriate:

1. Bona fide, full-service restaurant. An established place of business where meals with substantial entrees are habitually sold to persons and which has adequate facilities and sufficient employees for cooking, preparing and serving such meals for consumption at tables in dining rooms on the premises. In determining the qualifications of such restaurant the board may consider the assortment of entrees and other food sold. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

2. Monetary sales requirements. The monthly sale of food prepared on the premises shall not be less than \$5,000 of which at least \$3,000 shall be in the form of meals with entrees.

3. Dining room. A public room in which meals are regularly sold at substantially all hours that mixed beverages are offered for sale therein.

4. Designated room. A public room the location, equipment and facilities of which have been approved by the board. The facilities shall be such that patrons may purchase food prepared on the premises for consumption at tables on the premises at all times the mixed beverages are offered for sale therein. The seating area or areas of such designated room or rooms shall not exceed the seating area of the required public dining room or rooms, nor shall the seating capacity of such room or rooms be included in determining eligibility qualifications.

5. Outside terraces or patios. An outside terrace or patio, the location, equipment and facilities of which have been approved by the board may be approved as a "dining room" or as a "designated room" in the discretion of the board but the seating capacity of an outside "dining room" or "designated room" shall not be included in determining eligibility qualifications of the establishment, and generally a location adjacent to a public sidewalk, street or alley will not be approved where direct access is permitted from such sidewalk, street or alley by more than one well-defined entrance therefrom.

6. Tables and counters.

a. A "table" shall be considered to be an article of furniture generally having a flat top surface supported by legs, a pedestal or a solid base and designed to accommodate the serving of food and refreshments (though such food and refreshments need not necessarily be served together) and provided with seating for customers. If any table is located between two-backed benches, commonly known as a booth, at least one end of the structure shall be open permitting an unobstructed view therein.

b. While the definition of a "table" set forth above shall be sufficient to include a "counter," insofar as the surface area is concerned, a "counter" shall have characteristics sufficient to make it readily distinguishable from the "tables" used by the licensee, either by the manner of service and use provided, or by the type of seating provided for patrons, or [ *in* ] both regards. Counters shall be located only in dining rooms or designated rooms as defined in D.3 and 4, and the length of the counter shall not exceed one foot for each qualifying seat at the tables in such dining or designated room including employee service areas.

c. This subsection shall not be applicable to a room otherwise lawfully in use for private meetings and private parties limited in attendance to members and guest of a particular group.

E. Exceptions. The board may grant a license to an establishment not meeting the qualifying figures in this section, provided the establishment otherwise is qualified

under the applicable provisions of the Code of Virginia and this section, if it affirmatively appears that there is a substantial public demand for such an establishment and that the public convenience will be promoted by the issuance of the license.

F. Temporary licenses. Notwithstanding the above the board may issue a temporary license for any of the above retail operations. Such licenses may be issued only after application has been filed in accordance with the provisions of § 4-30 of the Code of Virginia, and in cases where the sole objection to issuance of a license is that the establishment will not be qualified in terms of the sale of food or edible items. If a temporary license is issued, the board shall conduct an audit of the business after a reasonable period of operation not to exceed 180 days. Should the business be qualified, the license applied for may be issued. If the business is not qualified, the application will become the subject of a hearing if the applicant so desires. No further temporary license shall be issued to the applicant or to any other person with respect to the establishment for a period of one year from expiration and, once the application becomes the subject of a hearing, no temporary license may be issued.

§ 18. Volunteer fire departments or volunteer rescue squads; banquet facility licenses.

A. Qualifications. Pursuant to § 4-25(pl) of the Code of Virginia, the board may grant banquet facility licenses to volunteer fire departments and volunteer rescue squads:

- 1. Providing volunteer fire or rescue squad services, and
- 2. Has as its premises a fire or rescue squad station regularly occupied by such fire department or rescue squad duly recognized by the governing body of the city, county or town in which it is located.

B. Privileges. The license authorizes the following:

- 1. The consumption of legally acquired alcoholic beverages on the premises of the licensee or on premises other than such fire or rescue squad station which are occupied and under the control of the licensee while the privilege of its license is being exercised, by any person, association, corporation or other entity, and bona fide members and guests thereof, otherwise eligible for a banquet license and entitled to such privilege for a private affair or special event.

C. Restrictions and conditions. In addition to other applicable statutes and regulations of the board, the following restrictions and conditions apply to persons holding such banquet licenses:

- 1. Alcoholic beverages cannot be sold or purchased by the licensee.

2. Alcoholic beverages cannot be sold or charged for in any way by the person, association, corporation or other entity permitted to use the premises.

3. The private affair referred to in B.1 above, shall be a social function which is attended only by persons who are members of the association, corporation or other entity and their bona fide guests.

4. The volunteer fire department or rescue squad shall notify the board in writing at least two calendar days in advance of any affair or event at which the license will be used away from the fire department or rescue squad station. The notice shall include the date, time, location and address of the event and the identity of the group, and the affair or event. Such records of off-site affairs and events should be maintained at the fire department or rescue squad station for a period of two years.

5. A photocopy of the banquet facility license shall be present at all affairs or events at which the privileges of the license are exercised away from the fire or rescue squad station.

6. The fire department or rescue squad shall comply with the requirements of the local governing body concerning sanitation, health, construction or equipment and shall obtain all local permits or licenses which may be required to exercise the privilege of its license.

\* \* \* \* \*

Title of Regulation: VR 125-01-6. Manufacturers and Wholesalers Operators.

Statutory Authority: § 4-11 of the Code of Virginia.

Effective Date: January 21, 1988

Summary:

The amendments to this regulation permit wholesale wine distributors to take an actual physical inventory on a quarterly rather than a monthly basis as presently required.

VR 125-01-6. Manufacturers and Wholesalers Operators.

§ 2. Wines; purchase orders generally; wholesale wine distributors.

A. Purchase orders generally. Purchases of wine from the board, between licensees of the board and between licensees and persons outside the state Commonwealth shall be executed only on orders on forms prescribed by the board and provided at cost if supplied by the board.

B. Wholesale wine distributors. Wholesale wine distributors shall comply with the following procedures;

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1. Purchase orders. A copy of each purchase order for wine and a copy of any change in such order shall be forwarded to the board by the wholesale wine distributor at the time the order is placed or changed. Upon receipt of shipment, one copy of such purchase order shall be forwarded to the board by the distributor reflecting accurately the date received and any changes;

2. Sales in the [ state Commonwealth ]. Separate invoices shall be used for all nontaxed wine sales in the state Commonwealth and a copy of each such invoice shall be furnished to the board upon completion of the sale;

3. Out of state sales. Separate sales invoices shall be used for wine sold outside the state Commonwealth and a copy of each such invoice shall be furnished to the board upon completion of the sale;

4. Peddling. Wine shall not be peddled to retail licensees;

5. Repossession. Repossession of wine sold to a retailer shall be accomplished on forms prescribed by the board and provided at cost if supplied by the board, and in compliance with the instructions on the forms;

6. Reports to the board. Each month wholesale wine distributors shall, on forms prescribed by the board and in accordance with the instructions set forth therein, report to the board the purchases and sales made during the preceding month ; , and the amount of state wine tax collected from retailers pursuant to § 4-22.1 of the Code of Virginia ; ~~and the quantity of wine on hand at the close of business on the last day of the month based on the actual physical inventory by brands .~~ Each wholesale wine distributor shall on forms prescribed by the board on a quarterly basis indicate to the board the quantity of wine on hand at the close of business on the last day of the month of the preceding quarter based on actual physical inventory by brands. Reports shall be accompanied by remittance for the amount of taxes collected, less any refunds, replacements or adjustments and shall be postmarked no later than the 15th day of the month or, if the 15th day is not a business day, the next business day thereafter.

## DEPARTMENT OF FORESTRY

Title of Regulation: VR 312-01-1. Public Participation Guidelines.

Statutory Authority: §§ 9.6.14:7.1 and 10-31.2 of the Code of Virginia.

Effective Date: February 1, 1988

Summary:

*The guidelines prescribe the procedure to be followed by the Department of Forestry in the development and adoption of regulations. The procedures follow the Administrative Process Act enacted as Chapter 5 of the 1984 Acts of Assembly (§ 9-6.14:7.1).*

*The guidelines establish a procedure for initiation of rule making, rule development, public participation in rule development, notice of intended regulatory action, public hearings, approval by the board, public comment, final public comment and adoption.*

### VR 312-01-1. Public Participation Guidelines.

#### § 1. Introduction.

*Amendments to the Administrative Process Act enacted as Chapter 5 of the 1984 Acts of Assembly (§ 9-6.14:7.1) require each regulatory agency to develop, adopt, and use public participation guidelines for seeking comments from interested parties when developing, revising, or repealing regulations. These guidelines shall be followed during the formulation, promulgation, and adoption of all regulations adopted after October 1, 1984. These regulations have been developed to fulfill this requirement.*

#### § 2. Statutory authority.

*These regulations are adopted under the rule-making authority of the Department of Forestry as specified in the Code of Virginia including but not limited to § 10-31.2.*

#### § 3. Applicability.

*These guidelines shall apply to all regulations subject to the Administrative Process Act which are administered by the State Forester or the Department of Forestry. They shall not apply to regulations adopted on an emergency basis.*

#### § 4. Initiation of rule making.

*Rule making procedures may be initiated at any time by the State Forester. A petition for amendment, addition or repeal of any regulation may be filed with the State Forester at any time by any group or individual. It shall be at the State Forester's discretion to initiate the procedures as a result of such a petition or petitions.*

*[ The State Forester will respond in writing to such petitioner of his proposed disposition of the petition and his rationale therefor within 30 days of its receipt. In his written response the State Forester will specifically address his comments to the issues raised in the petitions. ]*

*The petition shall contain the following information:*

- 1. Name of petitioner.*
- 2. Petitioner's mailing address and telephone number.*



3. Recommended addition, deletion, or amendment of specific regulation(s).

4. Why is change needed? What problem is it meant to address?

5. What is the anticipated effect of not making the change?

6. Estimated costs or savings to regulated entities, the public, or others incurred by this change as compared to current regulations.

7. Who is affected by recommended change? How affected?

8. References and supporting documents (if available).

The State Forester may also consider any other written request for regulatory change at his discretion.

## § 5. Rule making procedures.

A. Upon direction of the State Forester the department shall:

### 1. Identify

a. Parties interested in the development of new regulations, and compile a Regulation Development List. This shall be done through a special exploratory mailing to every individual or group who has given oral testimony at a public meeting or written comment on this group of regulations within the past two years or is otherwise known to have an interest in the regulations. The mailing may require written response from the interested parties within 30 days of the date of any exploratory mailing.

b. Media in which notices concerning changes to each set of regulations will be published including but not limited to newspapers, agency publications, or other publications identified as serving the agency's clients. A Virginia Media List shall be compiled for each set of regulations.

While the initial exploratory mailing is taking place, acceptable coverage will be achieved by sending out the mailings to the department's newsletters mailing lists, and to the media list as well. Failure of the persons, organizations or publications on either list to receive any documents described herein shall not affect the validity or any regulations otherwise properly adopted under the Administrative Process Act.

An exploratory mailing similar to the initial mailing shall be made on June first of every year to each person who has expressed interest in the regulations. All persons or organizations from which written responses have not been received within 30 days of

the date of any exploratory mailing may be removed from the list. Where mail is returned as undeliverable, an effort will be made to verify the address before deletion from the list.

2. Form a work committee consisting of persons selected from the Regulation Development List to make recommendations on the proposed regulation and formulate draft language. Each draft of the regulation will be labeled with the word "Draft" and the date on which it was written.

3. Prepare a Notice of Intended Regulatory Action, which shall include:

a. Subject of the proposed action.

b. Identification of the entities that will be affected.

c. Discussion of the purpose of the proposed action and the issues involved.

d. Regulatory alternatives.

e. Regulatory or legal constraints.

f. Tentative determinations by the agency, if any.

g. Listing of applicable laws or regulations, and location where these documents can be reviewed or obtained.

h. Timetable for reaching a decision.

i. Request for comments from interested parties and deadline for receipt of written comments.

j. Notification of time and place of public meeting.

k. Name, address and telephone number of staff person to be contacted for further information.

4. Disseminate Notice of Intended Regulatory Action to the public via:

a. Distribution by mail to persons on the Regulation Development List.

b. Publication in the department's newsletters, if schedule permits.

c. Publication in the [ Notices section of the ] Virginia Register of Regulations [ , Notices section ].

d. Press release to media on media list.

5. Schedule a regulation development public meeting to receive views and comments and answer questions of the public. The meeting will be held at least 30 days following publication of the notice. It normally will be held in Richmond, but if the proposed

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regulation will apply only to a particular area of the Commonwealth, the meeting will be held in the area affected. The public meeting may be waived, at the discretion of the State Forester, for amendments or deletions of existing regulations.

6. After consideration of public input, prepare a final proposed draft regulation and prepare the necessary document for forwarding to the Governor's office.

7. Send a copy of the draft regulation to the work committee and to all who offered testimony at the regulation development public meeting or submitted comments.

8. Submit the proposed regulation for approval by The Board of the Department of Forestry.

9. Submit the proposed regulation for a 60 day final public hearing/comment period by forwarding the following documents to the Registrar two weeks prior to the desired date of publication and beginning of comment period:

a. Notice of public hearing/comment period (the hearing notice), which shall contain the following:

(1) The date, time and place of the hearing.

(2) The legal authority of the department to act.

(3) The name, address and telephone number of an individual to contact for further information.

(4) Summary of regulation.

b. Full text of regulation.

c. Statement of subject, substance, issues, basis, purpose and impact.

10. Concurrently with the preceding step, submit required documentation to the Governor's office [ and the Department of Planning and Budget as required by Executive Order number 5 (86) ].

11. Upon receiving the department's proposed regulation and documentation, the Virginia Registrar will publish the hearing notice in the Virginia Register and in Richmond area newspapers. The regulation will also be published in the Register. The department, in cooperation with the Registrar, shall publish the hearing notice in other media listed in its media list. The department shall also mail a copy of the notice to persons on its Regulation Development List.

B. During the final public comment period, the regulation will be reviewed concurrently by the following:

1. The public

2. The Governor

3. The Legislature

4. The Cabinet Secretary

5. The Attorney General

C. Upon expiration of the public comment period, the remaining steps in the adoption process shall be carried out in accordance with the provisions of the Administrative Process Act.

§ 6. Annual public review.

The State Forester shall hold an annual public meeting at which any person may submit oral or written comments to the State Forester concerning any regulation. This meeting shall be publicized in the same manner as other public meetings required by these regulations. It shall be at the State Forester's discretion to initiate rule making procedures as a result of comments received prior to or at the public meeting.

## DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

**Note:** The Department of Game and Inland Fisheries is exempted from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, it is required by § 9-6.14:22 to publish all proposed and final regulations.

**Title of Regulation:** VR 325-03-1. Fishing Generally.

**Statutory Authority:** §§ 29.1-501 and 29.1-502 of the Code of Virginia.

**Effective Date:** January 1, 1988

**Summary:**

Summaries are not provided since, in most instances, the summary would be as long or longer than the full text.

VR 325-03-1. Fishing Generally.

§ 4. Sale of game fish or catfish prohibited ; exception.

It shall be unlawful to sell, offer for sale or buy any species of freshwater game fish or catfish, provided that this shall not apply to game fish sold alive for propagation purposes or sold pursuant to VR 325-03-2, §§ 15 and 16, or to any catfish taken from tidewater or artificially raised. Culture and sale of striped bass and hybrid striped bass conducted in accordance with VR 450-01-0034 of the Virginia Marine Resources Commission shall be exempt from this regulation.

\* \* \* \* \*

## SECTION I - General.

Title of Regulation: VR 325-03-2. Trout Fishing.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 1988

VR 325-03-2. Trout Fishing.

§ 11. Special provision applicable to certain portions of Little River, Smith Creek and Snake Creek.

It shall be lawful to fish using only artificial lures with single hooks in that portion of Little River in Floyd County extending one mile upstream from and two miles downstream from Route 615 bridge, and in that portion of Smith Creek in Alleghany County from the Clifton Forge Reservoir Dam downstream to a sign at the Forest Service boundary above the C & O Dam, and on Snake Creek in Carroll County upstream from its mouth to Hall's Ford on Big Snake Fork and to the junction of Routes 922 and 674 on Little Snake Fork. All trout caught in these waters under 12 inches in length shall be immediately returned to the water unharmed. It shall be unlawful for any person to have in his possession any natural bait or any trout under 12 inches in length in these areas.

## VIRGINIA BOARD OF GEOLOGY

Title of Regulation: VR 335-01-2. Rules and Regulations of the Virginia Board of Geology.

Statutory Authority: § 54-963 of the Code of Virginia.

Effective Date: February 1, 1988

### Summary:

The regulations set the standards for certifying geologists in the Commonwealth of Virginia based on a combined education, experience and examination process.

The regulations apply directly to approximately 530 actively certified professional geologists and indirectly to the clients of certified professional geologists.

The amended portions are to provide clarification of language and adaptation to the format and style dictated by the Virginia Register of Regulations. The only substantive change regards the removal of the fee schedule from the regulations so that the board can assure continuing compliance with the Callahan Act.

VR 335-01-2. Rules and Regulations of the Virginia Board of Geology.

The following definitions, and those additional definitions found in the Virginia Code § 54-962, shall apply unless the context clearly requires a different meaning:

1.1 "Commonwealth" means the Commonwealth of Virginia.

1.2 All certified professional geologists desiring a replacement wall certificate issued by the Board shall make a request in writing to the Assistant Director. The written request shall contain a statement that the certificate was lost or destroyed, or shall have the damaged certificate attached. The appropriate fee shall accompany this request.

### PART I. GENERAL.

§ 1.1. Who is a Virginia Certified Professional Geologist. (Reserved for § 54-962.4)

§ 1.2. Determining qualifications for applicants.

In determining the qualifications of an applicant for certification, a majority vote of members of the board shall be required.

§ 1.3. Fees.

All fees for application, examination, renewal, and reinstatement shall be established by the board pursuant to § 54-1.28:1 of the Code of Virginia. All fees are nonrefundable and shall not be prorated.

§ 1.4. Expiration, renewal and fee of certificate holders.

A. Certificates issued under these regulations shall expire on August 31 of the odd-numbered year following the date of issuance. Certificate holders shall be notified by mail of the fee and the procedure for certificate renewal at least 45 days before the certificate expires. Each certificate holder desiring to renew his certificate shall submit the renewal notice with the appropriate fee before the certificate expires.

B. Any certificate holder failing to renew the certificate one month following the date of expiration shall be required to pay a penalty fee equal to twice the renewal fee.

C. Failure to receive written notice from the Department of Commerce does not relieve the regulant from the requirement to renew his certificate. If the certificate holder fails to receive the renewal notice, a copy of the certificate may be submitted with the required fee.

D. The date a fee is received by the Department of Commerce, or its agent, will be used to determine whether

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a penalty fee or the requirement for reinstatement of a certificate is applicable.

E. Revoked or suspended certificates are not renewable until reinstated by the board.

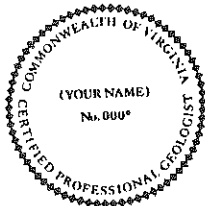
## § 1.5. Reinstatements.

If the certificate holder fails to renew the certificate within six months following the expiration date, the certificate holder will be required to apply for reinstatement of the certificate. The applicant will be required to present reasons that the certificate was allowed to expire, and the board may grant reinstatement of the certificate, or require requalification or reexamination, or both. The application fee for reinstatement of a certificate shall be an amount equal to twice the renewal fee.

## § 1.6. Use of seal.

A certified professional geologist may apply a rubber stamp or preprinted seal to final and complete cover sheets and to each original sheet of plans or drawings prepared or reviewed and approved by the regulant. The seal may be applied to the cover sheet of technical reports and specifications prepared or reviewed and approved prepared by the regulant.

1. All seal imprints on final documents shall be signed.
2. Application of the seal and signature indicates acceptance of responsibility for work shown thereon.
3. The seal shall conform in detail and size to the design illustrated below:



\* The number referred to is the number, usually three or four digits, as shown on the wall certificate and is the license renewal number issued each biennium as indicated on the licensee's pocket card. The number \* will not change every two years, but is permanent.

## SECTION II - Entry

2.1 ISSUANCE OF CERTIFICATES - The Board shall issue a certificate as a certified professional geologist to any qualified applicant who has submitted a formal application and fee(s) and been approved by the Board. (§ 54-064)

## 2.2 FEES - (§ 54-1.28(4))

2.2.1 All fees shall be non-refundable.

2.2.2 The application fee shall be \$50.00.

2.2.3 Should the applicant be required to take an examination, he shall pay an additional fee of \$50.00 for each examination or re-examination. The applicant should submit the examination fee only upon receiving notice of approval to take the examination.

2.2.4 The fee for replacement of wall certificates shall be \$20.00.

## 2.3 RENEWAL OF CERTIFICATES

2.3.1 Certificates issued under these regulations shall expire on August 31 of the odd-numbered year next following the date of issuance. Certificate holders shall be notified by mail of the fee and the procedure for certificate renewal at least 45 days before his certificate expires. Each certificate holder desiring to renew his certificate should submit the renewal notice with a \$50.00 fee before the certificate expires. For any licensee failing to renew the license one month following the date it expires a penalty fee equal to twice the renewal will be required. Failure to receive written notice from the Department of Commerce does not relieve the regulant from the requirement to renew his certificate.

2.3.2 If the certified professional geologist fails to renew his certificate within six months following the expiration date of his last valid certificate, he will be required to apply for reinstatement of his certificate. The applicant shall present reasons why his certificate was allowed to expire, and the Board may grant reinstatement of the certificate, or require a requalification and/or re-examination. The application fee for reinstatement of a certificate shall be equal to twice the renewal fee. (§ 54-064)

2.3.2.1 The date the renewal application and fee are received in the office of the Department shall be the factor determining whether a certificate shall be renewed without penalty fees or shall be subject to reinstatement procedures.

2.4 QUALIFICATIONS FOR CERTIFICATION - Each applicant for certification as a certified professional geologist in Virginia shall meet the education, experience, and examination requirements specified in Chapter 132, § 54-065, Code of Virginia.

## PART II. ENTRY.

### § 2.1. Qualifications for certification.

Each applicant for certification as a certified professional geologist in Virginia shall meet the education,

experience and examination requirements as specified in § 54-965 of the Code of Virginia.

## § 2.2. Certification by reciprocity.

Any person certified, registered or licensed in another state, jurisdiction or territory of the United States may be granted a Virginia certificate without written examination, provided that:

1. The applicant meets all the requirements for certification in Virginia; and
2. The applicant holds a currently valid license in good standing in another jurisdiction based upon successful completion of a comparable exam.

### SECTION PART III.

#### STANDARDS OF PRACTICE AND CONDUCT .

## § 3.1. Disclosure.

A certified professional geologist (~~§ 54-967.B~~) :

- ~~3.1.1~~ 1. Shall not submit any false statements or fail to disclose any facts requested concerning his or another's application for certification.
2. Shall not falsely or maliciously attempt to injure the reputation or business of another.
- ~~3.1.2~~ 3. Shall not engage in any fraud, deceit, or misrepresentation in advertising, in soliciting or in providing professional services.
- ~~3.1.3~~ 4. Shall not knowingly sign, stamp, or seal any plans, drawings, blueprints, surveys, reports, specifications, or other documents not prepared or reviewed and approved by the certificate holder ; or ~~not prepared by any employee under his direct supervision .~~
- ~~3.1.4~~ 5. Shall make full disclosure to all parties of:
  - ~~3.1.4.1~~ a. Any transaction involving payments made to any person for the purpose of securing a contract, assignment, or engagement; or
  - ~~3.1.4.2~~ b. Any monetary, financial or beneficial interest he may have in any contract or entity services, other than his professional services, to a project or engagement.
- ~~3.1.5~~ 6. Shall express an opinion only when it is founded on adequate knowledge of established facts in at issue, on a background of technical competence in the subject matter, and on an honest conviction of the accuracy of the testimony when serving as an expert or technical witness before any court, commission, or other tribunal.

~~3.1.6~~ 7. Shall provide adequate representation of his qualifications and scope of responsibilities for all previous experience claimed when negotiating with prospective clients.

## § 3.2. Compliance with other laws.

A certified professional geologist: (~~§ 54-967.B.2~~)

~~3.2.1~~ 1. Shall comply with all federal, state, and local building, fire, safety, real estate, or mining codes, as well as any other laws, codes, ordinances, or regulations pertaining to the practice of geology.

~~3.2.2~~ 2. Shall not violate any state or federal criminal statute involving fraud, misrepresentation, embezzlement, bribery, theft, forgery, or breach of fiduciary duty relating to his professional practice.

~~3.2.3~~ 3. Shall immediately notify the client or employer and the appropriate regulatory agency if his professional judgment is overruled and not adhered to in circumstances of a serious threat to the public health, safety, or welfare. If appropriate remedial action is not taken within a reasonable amount of time after making the report, he shall notify the appropriate governmental authority of the specific nature of the public threat.

~~3.2.4~~ 4. Shall give written notice to the board, and shall cooperate with the board and the department in furnishing any further information or assistance needed, if he knows or believes that another geologist/firm may be violating any of the provisions of Chapter 30, Title 54 of the Code of Virginia, or these regulations.

## § 3.3. Conflicts of interest.

A certified professional geologist shall not : (~~§ 54-967~~)

~~3.3.1~~ 1. Shall not Accept any work on any project or other professional engagement when a duty to a client or to the public would conflict with his personal interest or the interest of another client, unless immediate disclosure of all material facts of the conflict is made to each client related to the project or engagement.

~~3.3.2~~ 2. Shall not Accept compensation for services related to the same project or professional engagement from more than one party without making prior full disclosure to all parties involved.

~~3.3.3~~ 3. Shall not Offer, either directly or indirectly, any commission, political contribution, or other consideration in seeking work except to secure a salaried position through employment agencies.

## § 3.4. Competence for assignments.

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A certified professional geologist: (~~§ 54-967~~)

~~3.4.1~~ 1. Shall exercise reasonable care when rendering professional services and shall apply the technical knowledge and skills ordinarily applied by practicing geologists.

~~3.4.2~~ 2. Shall not accept any professional assignment or engagement that he is not competent to perform by way of education, technical knowledge, or experience. An assignment requiring education or experience outside his field of competence may be accepted provided:

~~3.4.2.1~~ a. His professional services are restricted to those phases of the project in which he is qualified; and

~~3.4.2.2~~ b. All other phases of the project are performed by qualified associates, consultants, or employees.

§ 3.5. Grounds for suspension, revocation, or denial to renew or grant certification. (~~§ 54-1.28.(7)~~)

~~3.5.1~~ A. The board may suspend, revoke, or refuse to renew the certification of any geologist who, after a hearing as provided in the Administrative Process Act (Virginia Code § 9-6.14:1 through 9-6.14:21), is found to have committed:

~~3.5.1.1~~ 1. Fraud or deceit in obtaining certification (See § 54-1.20(5); or

~~3.5.1.2~~ 2. Any violation of ~~Section Part III - Standards of Practice and Conduct~~, other regulations of the board, or governing statutes of the board; or

~~3.5.1.3~~ 3. An act or acts of negligence, incompetence, or misconduct in the practice of geology as a certified professional geologist.

~~3.5.2~~ B. A person shall not be refused a certificate based solely on the prior conviction of a crime unless that conviction directly relates to the geology profession.

§ 3.6. Reissuance of certificate after revocation.

An individual whose certificate has been revoked in accordance with § 3.5 above ~~may not again be certified except by filing a new application and receiving approval of the Board shall file a new application and obtain approval of the board to regain the certificate.~~ (~~§ 54-967 C.~~)

All previous regulations of the Virginia Board of Geology are repealed as adopted on September 10, 1984 and effective October 26, 1984.

## VIRGINIA BOARD OF GEOLOGY

APPLICANT CHECK-OFF FORM

Dear Applicant:

Please review your application and qualifications prior to making application, since your application fee is non-refundable. The following check-off sheet is provided for your convenience (not to be returned to the Board) as your application package cannot be reviewed by the Board without the appropriate information.

Prior to mailing my application package to the Board, I have made certain that the following items were complete and appropriate:

- \_\_\_\_\_ 1. Application fee of \$50.00 made payable to the Treasurer of Virginia.
- \_\_\_\_\_ 2. Completed and notarized application form.
- \_\_\_\_\_ 3. Verification of my registration if registered in another State.
- \_\_\_\_\_ 4. DOC Form G-4 and transcripts reflecting all college course work and verification of my degree.
- \_\_\_\_\_ 5. All experience listed under Item 10 of the application verified.
- \_\_\_\_\_ 6. Three references from qualified geologists, certified geologists, or professional engineers.

Effective 4-1-86

## VIRGINIA STATE BOARD OF GEOLOGY

DEPARTMENT OF COMMERCE  
3600 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230-1066

APPLICATION FOR CERTIFICATION AS A  
VIRGINIA CERTIFIED PROFESSIONAL GEOLOGIST

## INSTRUCTIONS

1. All applicants must have a thorough knowledge of the Rules and Regulations of the Board.
2. Forms shall be typewritten or printed legibly in their entirety except for signatures. The applicant shall assume full responsibility for filing all required documentation, references, and verifications.
3. RECIPROCITY: If you are registered or certified in another jurisdiction, reciprocity will be routinely considered. Should you be registered or certified in another state, show all states in item 12 (DOC Form G-2) in which you took a written examination. Please have Form G-3 completed.
4. EDUCATION: Your degree in Geology must be verified (Form G-4) and a transcript of all college courses for which credit is sought submitted.
5. REFERENCES: One copy of DOC Form G-5 shall be supplied to each of the references listed in Item 14 (DOC Form G-2). All references must be Geologists or Professional Engineers. The three required references must accompany the initial application. One reference must be from a qualified or certified Geologist.
6. TRAINING AND EXPERIENCE RECORD: Under Item (DOC Form G-2) 10 show all training and experience. USE SEPARATE SHEETS IF NECESSARY. Make concise and explicit statements giving a description of your tasks, duties and nature of work performed for each period of employment. List your experience in chronological order with the most recent engagement first. Each period of employment must be verified by a signature in Column 10-F. This includes periods of self-employment, which may be verified by an associate. This may be done by copying the completed Form G-2 and submitting that copy with the required signature. However, an Experience Record is not normally required prior to 1945. All verifications must accompany the initial application form.
7. FEES: Each application must be accompanied by an application fee. Exam fees should not be sent at this time. Checks must be made payable to the Treasurer of Virginia and returned in the enclosed envelope.
8. All supplementary papers accompanying the application must be identified with the applicant's name.
9. Please call the Board's office at (804) 257-8555 to determine the next examination date. It is suggested that you submit your application at least 90 days prior to the exam.

APPLICATIONS NOT COMPLETED IN ACCORDANCE WITH THESE INSTRUCTIONS WILL BE PROMPTLY RETURNED TO THE APPLICANT

Effective 4-1-86

DOC Form G-1



# Final Regulations

## 10. EXPERIENCE AND TRAINING RECORD

Record your active professional practice (include all training) in sequence under Column B, starting with your most recent position. Where possible, please mention important projects in which you have been engaged during any period of experience. Attach an additional sheet, if necessary.

A		B	C			D	E	F
DATE		TITLE OF POSITION, NAME OF EMPLOYER AND A BRIEF JOB DESCRIPTION.	TIME SPENT (Years and Months)			Signature with typewritten name, address and telephone number on th form, (or copy) of some responsibi person familiar with each engage ment, preferably employer or perso to whom applicant reported or with whom associated. Include title of individual verifying employment.		
(Month / Year)			(1)	(2)	(3)			
From	To		Sub- ordinate	In Responsible Charge	Total Time (1 plus (2)			

(Attach additional sheets if needed.)

FEE: \$30.00  
(Please make all checks payable  
to the Treasurer of Virginia.)

VIRGINIA BOARD OF GEOLOGY  
COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF COMMERCE

3600 West Broad Street, Richmond, Virginia 23220-1066  
APPLICATION FOR CERTIFICATION AS A  
VIRGINIA CERTIFIED PROFESSIONAL GEOLOGIST

Please type or print clearly.  
Please place each letter or  
number in a separate block  
and leave an empty block to  
indicate a space between words  
or numbers.

1) Applicant's Last Name Only (Place one letter in each block):

Applicant's First Name Only:

Applicant's Middle Name Only:

2) Applicant's Legal Residence  
Street Address  
3) City  
State Zip Code

4) Home Phone Number:

5) Social Security Number:

6) Business Name and Address:  
Street Address  
State Zip Code

7) Place of Birth: City: State

8) Have you ever been convicted of a felony or misdemeanor?  
If the answer is "YES", attach an explanatory letter.

9) EDUCATION. (State in chronological order the name and location of each school or other institution, beyond high school, time spent at each, if graduate, the year of graduation from college or university. (Attach Form 1-4 in transcripts for all work if you do not hold a degree in accordance with § 54-2865.)

NAME OF INSTITUTION	YEARS ATTENDED	DEGREE RECEIVED	GRADUATE WORK COMPLETED	HOURS

Effective 4-1-86

DOC Form G

17. REASONS FOR REJECTION OF CERTIFICATION BY RECIPROCIITY

Board Member  
Initials  
and Date

Reason(s) for Rejection

APPROVED FOR RECIPROCIITY WITH

Board members initials and date

18. REASONS FOR REJECTION FOR EXAMINATION

Board Member  
Initials  
and Date

Reason(s) for Rejection

APPROVED FOR EXAMINATION

Board members initials and date

WAIVED FROM EXAMINATION:

Board members initials and date

EXAMINATION RESULTS:

Table with columns: DATE, I.D. NUMBER, GRADE REQUIRED, RECEIVED, PASSED, FAILED

16. Name as you want it to appear on your certificate (please print or type).

My Commission Expires:

Signature of Notary Public

(NOTARY SEAL)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signature of Applicant:

The undersigned being duly sworn deposes and says that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect the application, and that he has read and understands the affidavit.

County or City of \_\_\_\_\_

State \_\_\_\_\_

15) AFFIDAVIT

C. \_\_\_\_\_

B. \_\_\_\_\_

A. \_\_\_\_\_

NAME

ADDRESS

STATE OF REGISTRATION  
(IF APPLICABLE)

The following Geologists or Professional Engineers can attest to the applicant's character and ability to practice as a Certified Professional Geologist in the Commonwealth. These references have agreed to complete Form G-5 and return it to the applicant.

14) REFERENCES  
(At least one reference must be a qualified or Certified Geologist.)

If the answer is yes, please explain.

13) Has any state denied you registration/certification, revoked or declined same?

License# \_\_\_\_\_

Exam I.D. \_\_\_\_\_

12) In which state was your registration/certification granted on the basis of a written examination?  
(Please have this state to submit a certification verification Form G-3 on you.)

11) Are you currently registered/certified/licensed as a Geologist in another jurisdiction?  
If so, please indicate the state you are licensed in, the date of such license, and your registration or certificate number.

Yes or No box

VIRGINIA BOARD OF GEOLOGY  
VERIFICATION OF DEGREE GRANTED

Applicant shall complete the upper portion of this form.

Name in full \_\_\_\_\_  
Residence Address \_\_\_\_\_  
Business Address \_\_\_\_\_  
Birth Date \_\_\_\_\_ Social Security Number \_\_\_\_\_  
College or University Attended \_\_\_\_\_  
Applicant's Signature \_\_\_\_\_

(After completion of above, applicant shall send this form to the college or university from which he/she has obtained a degree in Geology. Please request that the following certificate be completed and that a transcript and this form be returned directly to the applicant if the applicant does not have a degree as required by § 54-965 of the Code of Virginia.)

CERTIFICATE

I hereby certify that the above named applicant has been graduated from this institution with a degree of:

\_\_\_\_\_ Major  
on \_\_\_\_\_

Signature \_\_\_\_\_  
Official Position \_\_\_\_\_  
Institution \_\_\_\_\_  
Date \_\_\_\_\_  
(College Seal)

Effective 4-1-86

DOC Form G-4

VIRGINIA BOARD OF GEOLOGY  
VERIFICATION OF REGISTRATION

The applicant should complete this portion.

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please return this verification to:

Applicant's Name \_\_\_\_\_ Soc. Sec. No. \_\_\_\_\_  
Applicant's Address \_\_\_\_\_

I. The above named person was registered as:

Geologist	Certificate No.	Date License Issued	Expiration Date
_____	_____	_____	_____

This portion should be completed by the State Board listed.

II. Minimum Requirements were:

- A. \_\_\_\_\_ Years of education, \_\_\_\_\_ years of experience.
- B. \_\_\_\_\_ Written Examination

Please specify:

- 1. Name of examination \_\_\_\_\_
- 2. Date of examination \_\_\_\_\_
- 3. Number of hours \_\_\_\_\_
- 4. Score \_\_\_\_\_
- 5. Cut-off score \_\_\_\_\_  
Cut-off score based on \_\_\_\_\_ Group Data \_\_\_\_\_ National Data or  
Other (specify) \_\_\_\_\_
- C. \_\_\_\_\_ Oral Examination. \_\_\_\_\_ Hours.
- D. \_\_\_\_\_ Reciprocity with \_\_\_\_\_
- E. \_\_\_\_\_ Other: Please give details below: \_\_\_\_\_

F. Is the applicant currently registered and in good standing? \_\_\_\_\_

III. By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

(BOARD SEAL)

Effective Date 4-1-86

DOC Form C-3

VIRGINIA BOARD OF GEOLOGY  
(To Be Completed By The Applicant)

Name: _____ Last                    First                    Middle
Address: _____

An application for certification as a Virginia Certified Professional Geologist has been filed with the Board by the above named applicant. The Virginia Board of Geology requests that you, a Geologist or Professional Engineer, provide complete information with regard to the character of the applicant in order that the Board might better assess his/her qualifications.

Please return the completed form to the applicant in order that he/she may include it with the application to the Board.

1. Applicant's Name \_\_\_\_\_ Approx. Age \_\_\_\_\_
2. Your business/personal relationship to the applicant \_\_\_\_\_
3. Number of years you have known him/her \_\_\_\_\_
4. Do you have knowledge of the applicant's participation in professional misconduct? \_\_\_\_\_  
If "Yes", please explain \_\_\_\_\_
5. How long has he/she been engaged in geological work? \_\_\_\_\_
6. In your professional opinion, has this applicant demonstrated competence and knowledge in the geology profession? \_\_\_\_\_ Please explain \_\_\_\_\_
7. Your comments and recommendations \_\_\_\_\_

Signature \_\_\_\_\_ Occupation \_\_\_\_\_  
Name \_\_\_\_\_ Reg. No. \_\_\_\_\_  
(Please Type or Print)  
Address \_\_\_\_\_ State \_\_\_\_\_ Expir. Date \_\_\_\_\_

Effective 4-1-86

DOC Form G-5

# Final Regulations

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## VIRGINIA STATE BOARDS OF MEDICINE AND NURSING

### Title of Regulation:

VR 465-07-1. Virginia State Board of Medicine.  
VR 495-02-1. Virginia State Board of Nursing, Regulations Governing the Certification of Nurse Practitioners.

Statutory Authority: § 54-274 of the Code of Virginia.

Effective Date: January 21, 1988

### Summary:

These regulations set forth the requirements for certification and fees for certifying nurse practitioners. The criteria for practice, approval of nurse practitioner educational programs and disciplinary provisions are included. The regulations are the result of the comprehensive review of the existing regulations completed in 1985 pursuant to Executive Order 52 (84) of Governor Charles S. Robb.

This review resulted in proposals to delete some existing regulations, amend or relocate other existing regulations and add some new regulations. As the result of comments received, amendments were adopted in the definition of protocol and supervision and minor changes were made in several areas for clarity. The Committee of the Joint Boards of Medicine and Nursing recommended that the Boards of Medicine and Nursing adopt the proposed regulations as amended at their respective November, 1987 meetings. Comments received from Governor Gerald L. Baliles in a letter dated November 12, 1987, raised questions that were addressed by each board by amending § 2.4 adding a new subsection B. Following this amendment, the Board of Nursing adopted the regulations on November 16, 1987, and the Board of Medicine adopted the regulations on November 21, 1987.

### Preamble:

Authority granted under these regulations may be expanded or restricted, or totally revoked, if the boards are of the opinion that the public health, safety or welfare is not being served or protected by the regulations. It should be clearly understood by each applicant and the recipient of certification as a nurse practitioner that the conditions stated herein are a part of such certification.

All provisions of these regulations are to be narrowly construed. Nothing herein is to be deemed to limit or prohibit a nurse from engaging in those activities which normally constitute the practice of nursing or those which may be performed by persons without the necessity of a license from the State Board of Medicine.

VR 465-07-1. Virginia State Board of Medicine.  
VR 495-02-1. Virginia State Board of Nursing, Regulations Governing the Certification of Nurse Practitioners.

## PART I. GENERAL PROVISIONS.

### § 1.1. Definitions.

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

"Accredited program" means a nurse practitioner education program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs/Schools, American College of Nurse Midwives, American Nurses' Association or National League for Nursing.

"Approved program" means a nurse practitioner education program that meets the criteria set forth in these regulations.

"Boards" means the Virginia State Board of [ ~~Medicine~~ Nursing ] and the Virginia State Board of [ ~~Nursing~~ Medicine ].

"Certified nurse practitioner" means a registered nurse who has met the requirements for certification as stated in Part II of these regulations and has been certified by the boards.

"Committee" means the Committee of the Joint Boards of [ ~~Medicine~~ Nursing ] and [ ~~Nursing~~ Medicine ].

"Controlling institution" means the college or university offering a nurse practitioner education program.

"Licensed physician" means a person licensed by the Board of Medicine to practice medicine or osteopathy.

"National certifying body" means a national organization that has as one of its purposes the certification of nurse anesthetists, nurse midwives or nurse practitioners, referred to in these regulations as professional certification, and whose certification of such persons by examination is accepted by the committee.

"Preceptor" means a physician or a certified nurse practitioner

"Protocol" means a written statement, jointly developed [ and signed ] by the physician(s) and the nurse practitioner(s) participating in an arrangement for treatment of clients, that delineates and directs the procedures to be followed and the delegated medical acts appropriate to the specialty practice area to be performed by the nurse practitioner(s) in the care and management of clients.

"Supervision" means [ that ] the [ physician's physician documents ] being readily available for medical consultation by the certified nurse practitioner or the client, with the physician maintaining ultimate responsibility for the [ specific agreed upon ] course of medical treatment.

§ 1.2. Delegation of authority.

A. The boards hereby delegate to the Executive Director of the Virginia State Board of Nursing the authority to issue the initial certification and the biennial renewal of such certification to those persons who meet the requirements set forth in these regulations. Questions of eligibility shall be referred to the Committee of the Joint Boards of [ Medicine Nursing ] and [ Nursing Medicine ].

B. All records and files related to the certification of nurse practitioners shall be maintained in the office of the Virginia State Board of Nursing.

§ 1.3. Committee of the Joint Boards of [ Medicine Nursing ] and [ Nursing Medicine ].

The presidents of the Boards of [ Medicine Nursing ] and [ Nursing Medicine ] respectively shall each appoint three members from their boards to the Committee of the Joint Boards of [ Medicine Nursing ] and [ Nursing Medicine ]. The purpose of this committee shall be to administer the Regulations Governing the Certification of Nurse Practitioners.

§ 1.4. Advisory Committee on the Certification of Nurse Practitioners.

The Committee of the Joint Boards of [ Medicine Nursing ] and [ Nursing Medicine ], in its discretion, may appoint an Advisory Committee on the Certification of Nurse Practitioners. Such an advisory committee shall be comprised of four licensed physicians and four certified nurse practitioners, of whom one shall be a nurse midwife practitioner, one shall be a nurse anesthetist practitioner and two shall be nurse practitioners from other categories. Appointment to the advisory committee shall be for four years, with one physician and one certified nurse practitioner appointed annually. Members may be appointed for one additional four-year period.

§ 1.5. Fees.

Fees required in connection with the certification of nurse practitioners are:

- 1. Application ..... \$50
- 2. Biennial certification renewal ..... \$30
- 3. Reinstatement of certification ..... \$25
- 4. Verification of certification to another jurisdiction ..... \$25

5. Duplicate [ certificate certification ] ..... \$10

6. Return check charge ..... \$15

## PART II. CERTIFICATION.

§ 2.1. Certification, general.

A. No person shall perform services as a nurse practitioner in the Commonwealth of Virginia except as prescribed in these regulations and when certified by the Joint Boards of [ Medicine Nursing ] and [ Nursing Medicine ].

B. The boards shall certify applicants who meet the qualifications for certification as set forth in § 2.3 of these regulations.

§ 2.2. Categories of certified nurse practitioners.

A. The boards shall certify nurse practitioners in the following categories:

- 1. Adult nurse practitioner
- 2. Family nurse practitioner
- 3. Pediatric nurse practitioner
- 4. Family planning nurse practitioner
- 5. Obstetric/Gynecologic nurse practitioner
- 6. Emergency room nurse practitioner
- 7. Geriatric nurse practitioner
- 8. Certified registered nurse anesthetist practitioner
- 9. Certified nurse midwife practitioner
- 10. School nurse practitioner
- 11. Medical nurse practitioner
- 12. Maternal child health practitioner
- 13. Neonatology nurse practitioner
- 14. Women's health care practitioner.

B. Other categories of nurse practitioners shall be certified if the Committee of the Joint Boards of [ Medicine Nursing ] and [ Nursing Medicine ] determines that the category meets the requirements of these regulations.

§ 2.3. Qualifications for initial certification.

A. An applicant for initial certification as a nurse

# Final Regulations

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practitioner shall:

1. Be currently licensed as a registered nurse in Virginia; and
2. Submit evidence of completion of an educational program designed to prepare nurse anesthetists, nurse midwives or nurse practitioners that is either:
  - a. Approved by the boards as provided in §§ 4.1 through 4.4 of these regulations; or
  - b. Accredited by an agency identified in § 1.1 Definitions, "Accredited Program"; and
3. Submit evidence of [ professional ] certification by an agency identified in § 2.4 of these regulations as an agency accepted by the boards; and
4. File the required application; and
5. Pay the application fee prescribed in § 1.5 of these regulations.

## B. Provisional certification.

Provisional certification may be granted to an applicant who satisfies all requirements of § 2.3 of these regulations with the exception of § 2.3.A.3 only until the release of the results of the first national certifying examination for which he is eligible following his application.

## § 2.4. Certifying agencies.

[ A. ] The boards shall accept the [ professional ] certification by examination of the following:

1. American College of Nurse Midwives for nurse midwife practitioners;
2. American Nurses' Association for nurse practitioners;
3. Council on Certification of Nurse Anesthetists for nurse anesthetist practitioners;
4. National Board of Pediatric Practitioners and Associates for nurse practitioners; and
5. Nurses' Association of the American College of Obstetricians and Gynecologists Certification Corporation for nurse practitioners.

[ B. The boards may accept professional certification from other certifying agencies on recommendation of the Committee of the Joint Boards of Nursing and Medicine provided that the professional certification is awarded on the basis of:

1. Completion of an educational program that meets the criteria of Part IV of these regulations; and

2. Achievement of a passing score on an examination.

## § 2.5. Renewal of certification.

A. Certification of a nurse practitioner shall be renewed biennially at the same time the license to practice as a registered nurse in Virginia is renewed.

B. The application for renewal of the certification shall be mailed by the committee to the last known address of each nurse practitioner.

C. The nurse practitioner shall complete the application and return it with the certification renewal fee prescribed in § 1.5 of these regulations.

## § 2.6. Reinstatement of certification.

### A. Reinstatement of lapsed [ ~~certificate~~ certification ].

1. An applicant for reinstatement of [ a ] lapsed [ ~~certificate~~ certification ] shall:

- a. File the required application and fee;
- b. Be currently licensed as a registered nurse in Virginia; and
- c. Provide evidence of current professional certification or, if applicable, licensure or certification in another jurisdiction.

B. Reinstatement of [ ~~certificate~~ certification ] following suspension or revocation.

1. An applicant for reinstatement of [ a ~~certificate~~ certification ] following suspension or revocation [ ~~of a certificate~~ ] shall:

- a. Petition for a hearing pursuant to the Administrative Process Act, § 9-6.14:12 of the Code of Virginia, before a committee of the boards; and
- b. Present evidence that he is currently licensed to practice nursing in Virginia; and
- c. Present evidence that he is currently to resume practice as a certified nurse practitioner in Virginia.

## PART III.

### PRACTICE OF CERTIFIED NURSE PRACTITIONERS.

§ 3.1. A certified nurse practitioner shall be authorized to engage in practices constituting the practice of medicine under the supervision and direction of a licensed physician in accordance with § 3.2 of these regulations.

§ 3.2. The practice of certified nurse practitioners shall be based on specialty education preparation as outlined in Part IV of these regulations and in accordance with

written protocols as defined in § 1.1 of these regulations.

§ 3.3. A certified registered nurse anesthetist practitioner shall practice in accordance with the functions and standards defined by the American Association of Nurse Anesthetists and under the supervision of a dentist in accordance with rules and regulations promulgated by the Board of Dentistry, or a doctor of medicine or a doctor of osteopathy.

§ 3.4. A certified nurse midwife practitioner shall practice in accordance with the [ ~~functions and~~ ] Standards [ for the Practice of Nurse-Midwifery ] defined by the American College of Nurse Midwives.

§ 3.5. Practice as a certified nurse practitioner [ shall be prohibited if ]:

[ Practice as a certified nurse practitioner shall be prohibited if: ]

1. The [ ~~certificate~~ certification ] is lapsed; or
2. The [ ~~certificate~~ certification ] is revoked or suspended.

#### PART IV. CRITERIA FOR APPROVAL OF NURSE PRACTITIONER EDUCATION PROGRAMS.

§ 4.1. Criteria for program approval.

The committee may delegate to the staff of the committee the authority to approve nurse practitioner education programs that meet the following criteria.

##### A. Administration.

1. The nurse practitioner education program shall be offered either:
  - a. By a nationally accredited school of nursing that offers a master's degree in nursing; or
  - b. Jointly by a nationally accredited school of medicine and a nationally accredited school of nursing that offers a master's degree in nursing.
2. The authority and responsibility for the conduct of the program shall be vested in a nurse educator or coadministered by a physician and a nurse educator who hold faculty appointments at the controlling institution.
3. The controlling institution shall provide each student who successfully completes the program a certificate of completion or equivalent official document.

##### B. Philosophy and objectives.

There shall be clearly written statements of philosophy

and objectives of the program that shall include a description of the category of nurse practitioner being prepared.

##### C. Faculty.

1. Nurse faculty shall include nurse practitioners each currently certified in the area of specialization in which he is teaching.
2. Medical faculty shall include currently licensed physicians each having preparation in his specialty area.

##### D. Curriculum.

1. The program shall be at least one academic year in length including planned clinical practice under the direction of a preceptor.
2. Course descriptions and objectives shall be available in writing.
3. The curriculum shall provide:
  - a. Instruction in the biological, behavioral, medical and nursing sciences relevant to practice as a nurse practitioner in the specialized field;
  - b. Instruction in legal, ethical and professional responsibilities of a nurse practitioner; and
  - c. Supervised clinical practice of those skills essential for a nurse practitioner in the specialized field.
4. Major curriculum changes shall be approved by the boards.

§ 4.2. Denial of approval of programs.

Approval will be denied if the program does not meet the criteria set forth in § 4.1 of these regulations. The controlling institution may request a hearing before the Committee, and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

§ 4.3. Continued approval of programs.

Each program shall be subject to periodic review by the boards to determine whether standards for approval are being maintained.

§ 4.4. Withdrawal of approval.

A. If the boards determine that an approved program is not maintaining the standards set forth in these regulations, the controlling institution shall be given a reasonable period of time to correct the identified deficiencies.



# Final Regulations

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B. If the controlling institution fails to correct the identified program deficiencies within the time specified, the boards shall withdraw the approval following a hearing held pursuant to the provisions of the Administrative Process Act.

## § 4.5. Exemptions from program approval requirements.

Programs accredited by any agency listed in the definition of accredited program in § 1.1 of these regulations are exempt from the program approval requirements of these regulations.

### PART V. DISCIPLINARY PROVISIONS.

## § 5.1. Grounds for disciplinary action against the [ ~~certificate~~ certification ] of a certified nurse practitioner.

A. The boards may deny certification or recertification, revoke or suspend certification, or place on probation, censure or reprimand a nurse practitioner upon proof that the [ ~~certificate holder~~ nurse practitioner ]:

1. Has had his license to practice nursing [ in this Commonwealth or in another jurisdiction ] revoked or suspended or [ ~~has been~~ ] otherwise disciplined;
2. Has directly or indirectly held himself out or represented himself to the public that he is a physician, or is able to, or will practice independently of a physician;
3. Has exceeded his authority as a certified nurse practitioner;
4. Has violated or cooperated in the violation of the laws of regulations governing the practice of medicine, nursing or nurse practitioners;
5. Has become unable to practice with reasonable skill and safety to patients as the result of a physical or mental illness or the excessive use of alcohol, drugs, narcotics, chemicals or any other type of material; or
6. Has violated or cooperated with others in violating or attempting to violate any law or regulation, state or federal, relating to the profession, use, dispensing, administration or distribution of drugs.

## § 5.2. Hearings.

A. The provisions of the Administrative Process Act shall govern proceedings on questions of violation of § 5.1 of these regulations.

B. The Committee of the Joint Boards of [ ~~Medicine~~ Nursing ] and [ ~~Nursing~~ Medicine ] shall conduct all hearings prescribed herein and shall take action on behalf of the boards.

C. When a person's license to practice nursing has been suspended or revoked by the Board of Nursing, the nurse practitioner [ ~~certificate~~ certification ] shall be suspended pending a hearing simultaneously with the institution of proceedings for a hearing.

D. Sanctions or other terms and conditions imposed by consent orders entered by the Board of Nursing on the license to practice nursing may apply to the nurse practitioner [ ~~certificate~~ certification ], provided the consent order has been accepted by the Committee of the Joint Boards of [ ~~Medicine~~ Nursing ] and [ ~~Nursing~~ Medicine ].

### STATE BOARD OF PHARMACY

## Title of Regulation: VR 530-01-1. Virginia Board of Pharmacy Regulations.

Statutory Authority: §§ 54-524.16 and 54-524.19 of the Code of Virginia.

Effective Date: February 1, 1988

### Summary:

The proposed regulations state the requirements for licensure; the standards for the practice of pharmacy and businesses in which the dispensing, manufacturing, or distribution of drugs and devices occurs; and disciplinary provisions and fees.

The comprehensive review of existing regulations mandated pursuant to Executive Order 52 (84) of former Governor Charles S. Robb resulted in proposals to delete, amend or relocate many provisions in the existing regulations.

As a result of comments received, amendments were adopted by the board to provide clarity or to correct minor problems cited in the comments of the Governor, the Council on Health Regulatory Boards, the Virginia Society of Hospital Pharmacists and other agencies and individuals. The board notes especially that the Department of Mental Health, Mental Retardation and Substance Abuse Services expressed concern that § 11.2.H requiring a monthly drug regimen review of patients in nursing homes would add considerable cost to their program. It has been determined subsequently that the proposed regulation applies to nursing homes only and not to mental health/retardation facilities.

VR 540-01-1. Virginia Board of Pharmacy Regulations.

### PART I. GENERAL PROVISIONS.

## § 1.1. Public participation guidelines.

## A. Mailing list.

The executive director of the board will maintain a list of persons and organizations who will be mailed the following documents:

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceeding," the subject of which is proposed or existing regulation.
3. Final regulation adopted.

## B. Being placed on list: deletion.

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board may, in its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in subsection A of this section. Those on the list may be periodically requested to indicate their desires to continue to receive documents or to be deleted from the list. After 30 days, the names of the persons who do not respond will be deleted from the list.

## C. Notice of intent.

At least 30 days prior to the publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

## D. Informational proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulation. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceeding may be held separately or in conjunction with other informational proceedings.

## E. Petition for rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received in a timely manner shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

## F. Notice of formulation and adoption.

At any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register of Regulations.

## G. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and review of regulations.

## § 1.2. Definitions.

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

"Board" means the Virginia State Board of Pharmacy.

"Expiration date" means that date placed on a drug package by the manufacturer or repacker beyond which the product may not be dispensed or used.

"Generic drug name" means the nonproprietary name listed in the United States Pharmacopeia-National Formulary (USP-NF) or in the USAN and the USP Dictionary of Drug Names.

"Hermetic container" means a container that is impervious to air or any other gas under the ordinary or customary conditions of handling, shipment, storage, and distribution.

"Hospital" or "nursing home" means those facilities as defined in Title 32.1 of the Code of Virginia or as defined in regulations by the Virginia Department of Health.

"Light resistant container" means a container that protects the contents from the effects of light by virtue of the specific properties of the material of which it is composed, including any coating applied to it. Alternatively, a clear and colorless or a translucent container may be made light-resistant by means of an opaque covering, in which case the label of the container bears a statement that the opaque covering is needed until the contents have been used. Where a monograph directs protection from light, storage in a light-resistant container is intended.

"Nuclear pharmacy" means a pharmacy providing radiopharmaceutical services.

"Personal supervision" means the pharmacist must be physically present and render direct, personal control over the entire service being rendered or act(s) being performed. Neither prior nor future instructions shall be sufficient nor, shall supervision rendered by telephone.

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written instructions, or by any mechanical or electronic methods be sufficient.

"Radiopharmaceutical" means any article that exhibits spontaneous decay or disintegration of any unstable atomic nucleus, usually accompanied by the emission of ionizing radiation and any nonradioactive reagent kit or nuclide generator which is intended to be used in the preparation of any such article.

"Repackaged drug" means any drug removed from the manufacturer's original package and placed in different packaging.

"Safety closure container" means a container which meets the requirements of the Federal Poison [ Preventing Prevention ] Packaging Act, i.e, in testing such containers, that 85% of a test group of 200 children of ages 41-52 months are unable to open the container in a five minute period and that 80% fail in another five minutes after a demonstration of how to open it and that 90% of a test group of 100 adults must be able to open and close the container.

"Special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open to obtain a toxic or harmful amount of the drug contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

"Special use permit" means a permit issued to conduct a pharmacy of a special scope of service that varies in any way from the provisions of any board regulation.

"Storage temperature" means those specific directions stated in some monographs with respect to the temperatures at which pharmaceutical articles shall be stored, where it is considered that storage at a lower or higher temperature may produce undesirable results. The conditions are defined by the following terms:

1. "Cold" means any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which temperature [ ~~is~~ is ] maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is maintained thermostatically between -20° and -10°C (-4° and 14°F).

2. "Room temperature" means the temperature prevailing in a working area.

3. "Controlled room temperature" is a temperature maintained thermostatically between 15° and 30°C (50° and 86°F).

4. "Warm" means any temperature between 30° and 40°C (86° and 104°F).

5. "Excessive heat" means any temperature above 40°C (104°F).

6. "Protection from freezing" means where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency, or to the destructive alteration of the dosage form, the container label bears an appropriate instruction to protect the product from freezing.

"Tight container" means a container that protects the contents from contamination by extraneous liquids, solids, or vapors, from loss of the drug, and from efflorescence, deliquescence, or evaporation under the ordinary or customary conditions of handling, shipment, storage, and distribution, and is capable of tight reclosure. Where a tight container is specified, it may be replaced by a hermetic container for a single dose of a drug and physical tests to determine whether standards are met shall be as currently specified in United States Pharmacopoeia-National Formulary.

"Unit-dose container" means a container that is a single-unit container, as defined in United States Pharmacopoeia-National Formulary, for articles intended for administration by other than the parenteral route as a single dose, direct from the container.

"Unit dose package" means a container that contains a particular dose ordered for [ a ] patient.

"Unit dose system" means a pharmacy coordinated method of drug dispensing and control in which drugs are distributed in properly labeled unit-dose containers or single-unit containers in ready to administer form as far as possible, in a supply for not more than seven days.

"U.S.P.-N.F." means the United States Pharmacopoeia-National Formulary.

"Well-closed container" means a container that protects the contents from extraneous solids and from loss of the drug under the ordinary or customary conditions of handling, shipment, storage, and distribution.

## § 1.3. Fees.

The fee which shall accompany an application or a renewal for a license, permit, registration or the charge for the delinquent payment of a renewal shall be as follows:

A. The application fee for pharmacist examination shall be \$300. If applicant withdraws the application after the deadline for filing, all but \$25 of the fee will be refunded.

B. The application fee for a temporary or probationary or reciprocal license shall be \$300.

C. Renewal of pharmacist license shall be \$20.

1. The application fee for a person whose license has been revoked or suspended indefinitely shall be \$50.

2. If a pharmacist does not maintain a license within the Commonwealth, all back renewal fees and a \$10 delinquent fee shall be paid before a renewal of the license will be issued.

D. Permit to conduct a pharmacy shall be \$75 annually.

E. Physician drug dispensing license shall be \$75 annually.

F. 1. Nonrestricted manufacturing permit shall be \$200 annually.

2. Restricted manufacturing permit shall be \$200 annually.

3. Wholesaler or distributor shall be \$200 annually.

G. Controlled substances registration shall be \$20 annually.

H. If a licensee fails to renew a required license, registration or permit prior to the expiration date for the license or registration, a \$10 late fee shall be assessed.

I. Duplicate certificate of registration for a pharmacist or the certification of grades and registration for a pharmacist shall be \$15.

## PART II. ENTRY AND LICENSURE REQUIREMENTS.

### § 2.1. Practical experience required.

A. Each applicant for licensure by examination shall have gained practical experience in prescription compounding and dispensing within a pharmacy for a period of not less than six months.

B. During the six months of practical experience required, the applicant shall accumulate a minimum of 1,000 hours. For purposes of this regulation, credit will not be given for more than 40 hours in any one week.

C. All practical experience credit required shall only be gained after completion of the first professional year in an approved school of pharmacy.

D. Practical experience gained in a college of pharmacy which has a program designed to provide the applicant with practical experience in all phases of pharmacy practice and which program is approved by the American Council on Pharmaceutical Education will be accepted by the board for the time period during which the student is actually enrolled. The applicant will be required to gain any additional experience needed toward fulfilling the six months of experience required.

E. An applicant shall not be admitted to the examination unless all of the practical experience has been gained.

### § 2.2. Procedure for gaining practical experience.

A. Each pharmacy student, except those enrolled in an approved college clerkship program, who desires to gain practical experience in a pharmacy within the Commonwealth shall register with the board on a form provided by the board prior to becoming so engaged. This requirement shall also apply to students gaining practical experience within the Commonwealth for licensure in another state. The student shall be called a "student externe."

B. Graduates in pharmacy of an approved school of pharmacy who wish to gain practical experience within the Commonwealth shall register with the board prior to being so engaged. Such graduates shall be called "pharmacy interne." Experience gained in another state must be certified by the board in the state in which the experience was gained.

C. The applicant shall be supervised by a pharmacist who holds an unrestricted license and assumes full responsibility for the training, supervision and conduct of the externe or the interne. The supervising pharmacist shall not supervise more than one interne or externe during the same time period for experience during or after the last professional year.

D. The practical experience of the student externe shall be gained nonconcurrent with the school year excepting that gained in any program of a pharmacy school which meets the requirements of § 54-524.21 of the Code of Virginia.

E. Any practical experience gained within any state by a student externe or a pharmacy interne who has not registered with the board in the state in which the experience is being gained will not be accepted by this board nor certified to another state by the board.

F. All practical experience of the student externe shall be evidenced by an affidavit which shall be filed with the application for examination for licensure.

G. An applicant for examination shall file the certificate of experience no less than 30 days prior to the date of the examination, and such certificates required in G and H of this section shall be on a form prescribed by the board.

H. The registration of a student externe shall be valid only while the student is enrolled in a school of pharmacy. The registration card issued by the board shall be returned to the board upon failure to be enrolled.

### § 2.3. Curriculum and approved colleges of pharmacy.

A. Length of curriculum.

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The following educational requirements for licensure for the specified periods shall be recognized by the board for the purpose of licensure.

1. On and after June 1, 1928, but before June 1, 1936, the applicant for licensure shall have been graduated from a three-year course of study with a pharmacy graduate or pharmacy college degree in pharmacy awarded.

2. On and after June 1, 1936, but before June 1, 1964, the applicant for licensure shall have been graduated from a four-year course of study with a Bachelor of Science degree in pharmacy awarded.

3. On and after June 1, 1964, the applicant for licensure shall have been graduated from a five-year course of study with a Bachelor of Science degree in pharmacy awarded.

## B. First professional degree required.

In order to be licensed as a pharmacist within this Commonwealth, the applicant shall have been granted the first professional degree from a program of a college of pharmacy which meets the requirements of § 54-524.21 of the Code of Virginia.

## § 2.4. Content of the examination and grades required.

A. [ The examination for licensure as a pharmacist shall consist of the examination (NABPLEX) provided by the National Association of Boards of Pharmacy and law examinations provided by the board. The examination for licensure as a pharmacist shall consist of an integrated examination of pharmacy practice, pharmacology, pharmacy mathematics, and such other subjects as are necessary to assure that the candidate possesses the necessary knowledge and skills to practice pharmacy. Additional examination of the candidates' knowledge of federal and state laws related to pharmacy practice shall be provided by the board. ]

## B. Passing requirements.

[ On and after June 23, 1986, subjects will not be identified on the examination (NABPLEX) and a passing grade shall not be less than 75. The passing grade on pharmacy law examinations shall not be less than 75. The passing grade on the integrated pharmacy examination shall be not less than 75. The passing grade on the law examination shall be not less than 75. ]

## C. Limitation on admittance to examination.

When an applicant for licensure by examination fails to meet the passing requirements of paragraph B of this section on three occasions, he shall not be readmitted to the examinations until he has completed an additional six months of practical experience as a pharmacy interne as set forth in § 2.2.

## [ § 2.5. Acceptance of official reciprocal application.

The executive director of the board may accept an application from a pharmacist licensed in another state, who possesses the legal qualifications, and issue a license; such application shall be subject to acceptance by the board at the first board meeting subsequent to the filing of the application.

## PART III. PHARMACIES.

### § 3.1. Pharmacy permits generally.

A. A pharmacy permit shall not be issued to a pharmacist to be simultaneously in charge of more than one pharmacy.

B. The pharmacist-in-charge or the pharmacist on duty shall control all aspects of the practice of pharmacy. Any decision overriding such control of the pharmacist-in-charge or other pharmacist on duty by nonpharmacist personnel shall be deemed the practice of pharmacy.

C. When the pharmacist-in-charge ceases practice at a pharmacy, an application for a new pharmacy permit shall be filed within 10 days.

### § 3.2. Special or limited-use pharmacy permits.

For good cause shown, the board may issue a special or limited-use pharmacy permit, when the scope, degree or type of pharmacy practice or service to be provided is of a special, limited or unusual nature as compared to a regular pharmacy service. The permit to be issued shall be based on special conditions of use requested by the applicant and imposed by the board in cases where certain requirements of regulations may be waived. The following conditions shall apply:

1. A policy and procedure manual detailing the type and method of operation, hours of operation, and method of documentation of continuing pharmacist control must accompany the application.

2. The issuance and continuation of such permits shall be subject to continuing compliance with the conditions set forth by the board.

### § 3.3. Pharmacies going out of business.

Ten days prior to the closing date, the board shall be notified by the pharmacist-in-charge or other responsible person of the closing of the pharmacy. At that time, the disposition of all Schedule II through VI drugs shall be reported to the board. If the pharmacy drug stock is to be transferred to another licensee, the pharmacist-in-charge or other responsible person shall inform the board of the name and address of the licensee to whom the drugs are being transferred.

## § 3.4. New pharmacies.

### A. Inspection and notice required for new pharmacies.

1. The proposed location of a pharmacy practice area shall be inspected by an agent of the board prior to the issuance of a permit.
2. Pharmacy permit applications which indicate a requested inspection date, or requests which are received after the application is filed, shall be honored provided a 14-day notice is allowed prior to the requested inspection date.
3. Requested inspection dates which do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.

B. At the time of the inspection, the dispensing area shall comply with §§ 3.5, 3.6, 3.7, 3.8, and 3.10 of these regulations.

C. Drugs shall not be stocked within the proposed pharmacy until adequate safeguards against diversion have been provided and approved by the board or its authorized agent.

## § 3.5. Physical standards for all pharmacies.

### A. Space requirements.

The area which is to be used for the storage, compounding, and preparation of prescriptions for Schedule II through VI drugs shall not be less than 240 square feet. The patient waiting area or the area used for devices, cosmetics, and proprietary medicines shall not be considered a part of the minimum 240 square feet. The total area shall be consistent with the size and scope of the services provided.

### B. Access to dispensing area.

Access to stock rooms, rest rooms, and other areas other than an office that is exclusively used by the pharmacist shall not be through the dispensing area or drug storage area. This subsection shall not apply to dispensing areas which are established prior to the effective date of this regulation.

C. The pharmacy shall be constructed of permanent and secure materials. Trailers or other moveable facilities or temporary construction shall not be permitted.

D. The entire area of the location of the pharmacy practice, including all areas where drugs are stored shall be well lighted [ ; and ] well ventilated; [ the ] proper storage temperature shall be maintained to meet U.S.P.-N.F. specifications for drug storage.

E. The counter work space shall be used only for the

compounding and dispensing of drugs and necessary record keeping.

F. A sink with hot and cold running water shall be within the immediate compounding and dispensing area.

G. Adequate refrigeration facilities for the storage of drugs requiring cold storage temperature shall be maintained within the compounding and dispensing area.

## § 3.6. Sanitary conditions.

A. The entire area of any place bearing the name of a pharmacy shall be maintained in a clean and sanitary manner and in good repair and order.

B. The dispensing area and work counter space and equipment in the dispensing area shall be maintained in a clean and orderly manner.

C. Adequate trash disposal facilities and receptacles shall be available.

## § 3.7. Required minimum equipment.

The pharmacist-in-charge shall be responsible for maintaining the following equipment:

A. A current copy of the United States Pharmacopeia Dispensing Information Reference Book.

B. A set of Prescription Balances, sensitive to 15 milligrams, and weights.

C. A refrigerator with a monitoring thermometer.

D. A copy of the current Virginia Drug Control Act and board regulations.

E. A current copy of the Virginia Voluntary Formulary.

F. A laminar flow hood for pharmacies engaging in the compounding of sterile product(s).

## § 3.8. Safeguards against diversion of drugs.

A device for the detection of breaking shall be installed in each dispensing and drug storage area of each pharmacy. The installation and the device shall be based on accepted burglar alarm industry standards, and shall be subject to the following conditions:

A. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.

B. The device shall be maintained in operating order.

C. The device shall fully protect the immediate drug compounding, dispensing and storage areas and shall be capable of detecting breaking by any means whatsoever in

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the area when the pharmacy or other business in which the pharmacy is located is closed.

D. The alarm system must have an auxiliary source of power.

E. This regulation shall not apply to pharmacies which have been granted a permit prior to the effective date of this regulation provided a previously approved security alarm system is in place and provided further that a breaking and loss of drugs does not occur.

## § 3.9. Special security requirements.

A. If the compounding and dispensing area is to be closed while the remainder of the pharmacy or business in which the dispensing area is located is open for the conduct of business, an alarm system shall be installed in the dispensing area and be subject to the following requirements:

1. The alarm system is activated and operated separately from any other alarm system in the pharmacy or the business in which the dispensing area is located.

2. The alarm system will detect breaking in the dispensing area when it is closed.

3. The alarm system is controlled only by the pharmacist.

B. An emergency key or access code to the system shall be maintained as set forth in § 3.10 of these regulations.

C. If the dispensing and drug storage area is enclosed from floor to ceiling, the separately activated alarm system referred to in this regulation shall not be required.

## § 3.10. Dispensing area enclosures.

A. The drug dispensing and drug storage areas of each pharmacy shall be provided with enclosures subject to the following conditions:

1. The enclosure shall be constructed in such a manner that it protects the controlled drug stock from unauthorized entry and from pilferage at all times whether or not a pharmacist is on duty.

2. The enclosure shall be of sufficient height as to prevent anyone from reaching over to gain access to the drugs.

3. Entrances to the enclosed area must have a door which extends from the floor and which is at least as high as the adjacent counters or adjoining partitions.

4. Doors to the area must have [ adequate ] locking devices which will prevent entry in the absence of the pharmacist.

B. The door keys to the dispensing areas shall be subject to the following requirements:

1. Only pharmacists practicing at the pharmacy and authorized by the pharmacist-in-charge shall be in possession of any keys to the locking device on the door to such enclosure.

2. The pharmacist may place a key in an envelope or other container which contains a seal and a signature placed by the pharmacist on the envelope or container in a safe or vault within

3. The key may be used to allow emergency entrance to the dispensing area by other pharmacists.

## C. Restricted access to the dispensing area.

The prescription drug compounding and dispensing area is restricted to pharmacists, externes, and internes who are practicing at the pharmacy. Clerical assistants and other persons designated by the pharmacist may be allowed access by the pharmacist but only during the hours the pharmacist is on duty.

## § 3.11. Drugs outside of dispensing area.

Any Schedule II through VI drug not stored within the prescription compounding and dispensing area and kept for stock replenishing shall be secured and access to it shall be restricted to the pharmacist and persons authorized by the pharmacist.

## § 3.12. Prescriptions awaiting delivery.

Prescriptions prepared for delivery to the patient may be placed in a secure place outside of the compounding and dispensing area and access to the prescriptions restricted by the pharmacist to designated clerical assistants. The prepared prescriptions may be transferred to the patient whether or not a pharmacist is on duty.

## § 3.13. Dispersion of Schedule II drugs.

Schedule II drugs may be dispersed with other schedules of drugs or [ shall be ] maintained within a locked cabinet, drawer, or safe.

## § 3.14. Safeguards for controlled paraphernalia.

Controlled paraphernalia shall not be placed on open display or in an area completely removed from the drug compounding and dispensing area whereby patrons will have free access to such items or where the pharmacist cannot exercise reasonable supervision and control.

## § 3.15. Expired drugs; security.

Any drug which has exceeded the expiration date shall be separated from the stock used for dispensing and may be maintained in a designated area with the unexpired

stock prior to the disposal of the expired drug.

§ 3.16. Destruction of Schedule II through V drugs in pharmacies.

If a pharmacist-in-charge wishes to destroy unwanted Schedule II through V drugs kept for dispensing, in lieu of returning the drugs to the Drug Enforcement Administration (DEA), he shall use the following procedures for the drug destruction:

A. At least 14 days prior to the destruction date, the pharmacist-in-charge shall provide a written notice to the board office; the notice shall state the following:

1. Date, time, and manner or place of destruction.
2. The names of the pharmacists who will witness the destruction process.

B. If the destruction date is to be changed or the destruction does not occur, a new notice must be provided to the board office as set forth above in this subsection.

C. The DEA Drug Destruction Form No. 41 must be used to make a record of all drugs to be destroyed.

D. The drugs must be destroyed by burning in an incinerator; an alternate method of flushing [ ~~or appropriate covering at a landfill~~ ] may be used if incineration is not possible and if permitted by the municipality.

E. The actual destruction shall be witnessed by the pharmacist-in-charge and another pharmacist not employed by the pharmacy.

F. Each form shall show the following information:

1. Legible signatures of the pharmacist-in-charge and the witnessing pharmacist;
2. The license numbers of the pharmacists destroying the drugs; and
3. The date of the destruction.

G. At the conclusion of the destruction of the drug stock:

1. Two copies of the completed destruction form shall be sent to Drug Enforcement Administration, Washington Field Division, Room 2558, 400 - 6th Street S.W., Washington, D.C. 20024, Attn: Diversion Control Group.
2. A copy of the completed destruction form shall be sent to the office of the board.
3. A copy of the completed destruction form shall be retained with the pharmacy inventory records.

PART IV.  
NUCLEAR PHARMACIES.

§ 4.1. General requirements for pharmacies providing radiopharmaceutical services.

A. A permit to operate a pharmacy providing radiopharmaceutical services shall be issued only to a qualified nuclear pharmacist. In emergency situations, in the pharmacist's absence, he may designate one or more other qualified pharmacists to have access to the licensed area. These individuals may obtain single doses of radiopharmaceuticals for the immediate emergency and shall document such withdrawals in the control system.

[ B. Pharmacies providing ordinary pharmacy services in addition to radiopharmaceutical services shall comply with all regulations applicable to pharmacies in general. Pharmacies providing only radiopharmaceutical services shall comply with all regulations related to physical standards, sanitary conditions and security. ]

[ ~~B. C.~~ ] The nuclear pharmacy area shall be separate from the pharmacy areas for nonradioactive drugs and shall be secured from unauthorized personnel. All pharmacies handling radiopharmaceuticals shall provide a radioactive storage and product decay area, occupying at least 25 square feet of space, separate from and exclusive of the hot laboratory, compounding, dispensing, quality assurance and office area.

[ ~~C. D.~~ ] A prescription order for a radiopharmaceutical shall be dispensed in a unit-dose package. A pharmacy may furnish the radiopharmaceuticals for office use only to practitioners for an individual patient except for the occasional transfer to a pharmacist.

[ ~~D. E.~~ ] In addition to any labeling requirements of the board for nonradioactive drugs, the immediate outside container of a radioactive drug to be dispensed shall also be labeled with: (i) the standard radiation symbol; (ii) the words "Caution-Radioactive Material"; (iii) the name of the radionuclide; (iv) the chemical form; (v) the amount of radioactive material contained, in millicuries or microcuries; (vi) if a liquid, the volume in milliliters; (vii) the requested calibration time for the amount of radioactivity contained; and (viii) the practitioner's name and the assigned lot number.

[ ~~E. F.~~ ] The immediate inner container shall be labeled with: (i) the standard radiation symbol; (ii) the words "Caution-Radioactive Material"; and (iii) the prescription number.

[ ~~F. G.~~ ] The amount of radioactivity shall be determined by radiometric methods for each individual dose immediately prior to dispensing.

[ ~~G. H.~~ ] Nuclear pharmacies may redistribute approved radioactive drugs if the pharmacy does not process the radioactive drugs in any manner nor violate the product



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packaging.

## § 4.2. Qualification as a nuclear pharmacist.

In order to practice as a nuclear pharmacist, a pharmacist shall possess the following qualifications:

1. Meet Nuclear Regulatory Commission standards of training for medically used or radioactive by-product material.
2. Have received a minimum of 90 contact hours of didactic instruction in nuclear pharmacy.
3. Attain a minimum of 160 hours of clinical nuclear pharmacy training under the supervision of a qualified nuclear pharmacist in a nuclear pharmacy providing nuclear pharmacy services, or in a structured clinical nuclear pharmacy training program in an approved college of pharmacy.
4. Submit an affidavit of experience and training to the board.

## PART V. DRUG INVENTORY AND RECORDS.

### § 5.1. Manner of maintaining records, prescriptions, inventory records.

A. Each pharmacy shall maintain the inventories and records of drugs as follows:

1. Inventories and records of all drugs listed in Schedules I and II shall be maintained separately from all other records of the pharmacy.
2. Inventories and records of drugs listed in Schedules III, IV, and V may be maintained separately or with records of Schedule VI drugs but shall not be maintained with other records of the pharmacy.
3. Location of records. All records of Schedule II through V drugs shall be maintained at the same location as the stock of drugs to which the records pertain.
4. Inventory after drug theft. In the event that an inventory is taken as the result of a theft of drugs pursuant to § 54-524.56(d) of the Drug Control Act, the inventory shall be used as the opening inventory within the current biennial period. Such an inventory does not preclude the taking of the required inventory on the required biennial inventory date.

#### B. Prescriptions.

1. Schedule II drugs. Prescriptions for Schedule II drugs shall be maintained in a separate prescription file.

2. Schedule III through V drugs. Prescriptions for Schedule III through V drugs shall be maintained either in a separate prescription file for drugs listed in Schedules III, IV, and V only or in such form that they are readily retrievable from the other prescriptions of the pharmacy. Prescriptions will be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" no less than one inch high and filed in the prescription file for drugs listed in the usual consecutively numbered prescription file for Schedule VI drugs.

### § 5.2. Automated data processing records of prescriptions.

A. An automated data processing system may be used for the storage and retrieval of original and refill dispensing information for prescriptions instead of manual record keeping requirements, subject to the following conditions:

1. Any computerized system shall provide retrieval (via CRT display or printout) of original prescription information for those prescriptions which are currently authorized for dispensing.
2. Any computerized system shall also provide retrieval via CRT display or printout of the dispensing history for prescriptions dispensed during the past two years.
3. Documentation of the fact that the refill information entered into the computer each time a pharmacist refills an original prescription for a drug is correct shall be provided by the individual pharmacist who makes use of such system. If the system provides a printout of each day's prescription dispensing data, the printout shall be verified, dated and signed by the individual pharmacist who dispensed the prescription. The individual pharmacist shall verify that the data indicated is correct and then sign the document in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith).

a. In place of such printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in dispensing shall sign a statement each day, in the manner previously described, attesting to the fact that the dispensing information entered into the computer that day has been reviewed by him and is correct as shown.

#### b. Printout of dispensing data requirements.

Any computerized system shall have the capability of producing a printout of any dispensing data which the user pharmacy is responsible for maintaining under the Drug Control Act.

## § 5.3. Pharmacy repackaging of drug; records required.

### A. Records required.

Pharmacies in which bulk reconstitution of injectables, bulk compounding or the prepackaging of drugs is performed shall maintain adequate control records for a period of one year or until the expiration, whichever is greater. The records shall show the name of the drug(s) used, strength, if any, quantity prepared, initials of the pharmacist supervising the process, manufacturer's or distributor's name, control number or the assigned number, and an expiration date.

### B. Expiration date.

The drug name, strength, if any, the manufacturer's or distributor's name and control number or assigned control number, and an appropriate expiration date shall appear on any subsequently repackaged or reconstituted units:

1. If U.S.P.-N.F. Class B or better packaging material is used for oral unit dose packages, an expiration date not to exceed six months or the expiration date shown on the original manufacturing bulk container, whichever is less, shall appear on the repackaged or reconstituted unit dose.
2. If it can be documented that the repackaged unit has a stability greater than six months, an appropriate expiration date may be assigned.
3. If U.S.P.-N.F. Class C or less packaging material is used for oral, solid medication, an expiration date not to exceed 30 days shall appear on the repackaged or reconstituted unit doses.

## PART VI. PRESCRIPTION ORDER AND DISPENSING STANDARDS.

### § 6.1. Distribution of a prescription device.

Any person, except those persons who are registered under the provisions of § 54-524.31 of the Drug Control Act, who sells or distributes a Schedule VI device which under the applicable federal or state law may be sold, dispensed, or distributed only by or on the order of prescription of a practitioner, shall maintain every such prescription or order on file for two years.

### § 6.2. Emergency prescriptions for Schedule II drugs.

In case of an emergency situation, a pharmacist may dispense a drug listed in Schedule II upon receiving oral authorization of a prescribing practitioner, provided that:

1. The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period;

2. The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required in § 54-524.67 of the Drug Control Act, except for the signature of the prescribing practitioner;

3. If the pharmacist does not know the practitioner, he shall make a reasonable effort to determine that the oral authorization came from a practitioner using his phone number as listed in the telephone directory or other good-faith efforts to ensure his identity; and

4. Within 72 hours after authorizing an emergency oral prescription, the prescribing practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of § 54-524.67 of the Drug Control Act, the prescription shall have written on its face "Authorization for Emergency Dispensing" and the date of the oral order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail, it must be postmarked within the 72-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. The pharmacist shall notify the nearest office of the Drug Enforcement Administration and the board if the prescribing practitioner fails to deliver a written prescription to him. Failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing practitioner.

### § 6.3. Partial dispensing of Schedule II prescriptions.

A. The partial filling of a prescription for a drug listed in Schedule II is permissible if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription, and he makes a notation of the quantity supplied on the face of the written prescription. The remaining portion of the prescription may be dispensed within 72 hours of the first partial dispensing; however, if the remaining portion is not or cannot be dispensed within the 72-hour period, the pharmacist shall so notify the prescribing practitioner. No further quantity may be supplied beyond 72 hours without a new prescription.

B. Prescriptions for Schedule II drugs written for patients in nursing homes may be dispensed in partial quantities, to include individual dosage units. For each [ patient partial ] dispensing, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained and readily retrievable) the date of the partial dispensing, quantity dispensed, remaining quantity authorized to be dispensed, and the identification [ number ] of the dispensing pharmacist. The total quantity of Schedule II drugs in all partial dispensing shall not exceed the total quantity prescribed. Schedule II prescriptions shall be valid for a

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period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of the drug.

C. Information pertaining to current Schedule II prescriptions for patients in a nursing home may be maintained in a computerized system if this system has the capability to permit:

1. Output (display or printout) of the original prescription number, date of issue, identification of prescribing practitioner, identification of patient, identification of the nursing home, identification of drug authorized (to include dosage form, strength, and quantity), listing of partial dispensing under each prescription and the information required in subsection B of this section.

2. Immediate (real time) updating of the [ ~~prescribing~~ prescription ] record each time a partial dispensing of the prescription is conducted.

§ 6.4. Dispensing of prescriptions; acts restricted to pharmacists.

A. The following acts shall be performed by a pharmacist, or by a student externe or pharmacy interne, provided a method for monitoring such acts of the externe or interne is provided:

1. The accepting of an oral prescription from a practitioner and the reducing of such oral prescription to writing.

2. The personal supervision of the compounding of extemporaneous preparations.

3. The providing of drug information [ , including notice of changes or substitution of medication, ] to practitioners and to the patients.

4. The interpretation of the information contained in medication profile records.

B. Persons assisting pharmacist.

The following shall apply [ ~~only~~ ] to persons present in the compounding and dispensing area:

1. Only one person who is not a pharmacist may be present in the immediate compounding and dispensing area at any given time with each pharmacist for the purpose of assisting the pharmacist in preparing and packaging of prescriptions.

2. In addition to the person authorized in paragraph 1 in this section, personnel authorized by the pharmacist may be present in the immediate compounding and dispensing area for the purpose of performing clerical functions.

C. Certification of completed prescription.

After the prescription has been prepared and prior to the delivery of the order, the [ ~~patient~~ pharmacist ] shall inspect the prescription product to verify its accuracy in all respects, and place his initials on the record of dispensing as a [ ~~certificate~~ certification ] of the accuracy of, and the responsibility for, the entire transaction.

§ 6.5. Refilling of prescriptions.

A. Schedule II drugs.

A prescription for a Schedule II drug shall not be refilled.

B. Schedule III through V drugs.

A prescription for a drug listed in Schedule III, IV, or V shall not be dispensed or refilled more than six months after the date on which such prescription was issued, and no such prescription authorized to be filled may be refilled more than five times.

1. Each refilling of a prescription shall be entered on the back of the prescription, initialed and dated by the pharmacist as of the date of dispensing. If the pharmacist merely initials and dates the prescription, it shall be presumed that the entire quantity ordered was dispensed.

2. Partial dispensing of prescriptions. The partial dispensing of a prescription for a drug listed in Schedule III, IV, or V is permissible, provided that:

a. Each partial dispensing is recorded in the same manner as a refilling;

b. The total quantity of drug dispensed in all partial dispensing does not exceed the total quantity prescribed; and

c. No dispensing occurs after six months after the date on which the prescription order was issued.

C. Schedule VI drugs.

1. A prescription for a drug listed in Schedule IV shall be refilled only as expressly authorized by the practitioner. If no such authorization is given, the prescription shall not be refilled.

2. A prescription for a Schedule VI drug or device shall not be refilled if the prescription is more than two years old. In instances where the drug or device is to be continued, authorization shall be obtained from the prescriber and a new prescription shall be filed.

D. As an alternative to all manual record-keeping requirements provided for in subsections A [ and , ] B [ and C ] of this section, an automated data processing system as provided in § 5.2 may be used for the storage

and retrieval of dispensing information for prescription for drugs dispensed.

## PART VII. LABELING AND PACKAGING STANDARDS FOR PRESCRIPTIONS.

### § 7.1. Labeling of prescription as to content and quantity.

A. Unless otherwise directed by the prescribing practitioner, any drug dispensed pursuant to a prescription shall bear on the label of the container, in addition to other requirements, the following information:

#### 1. The drug name and strength, when applicable;

a. If a trade name drug is dispensed, the trade name of the drug or the generic name of the drug.

b. If a generic drug is dispensed in place of a trade name drug, in addition to the requirements of § 32.1-87.A of the Code of Virginia, one of the following methods shall be used:

(1) The generic name or,

(2) A name for the product dispensed which appears on the generic manufacturer's label.

(3) The generic name followed by the words "generic for" followed by the trade name of the drug for which the generic drug is substituted.

2. The number of dosage units, or if liquid, the number of milliliters dispensed.

### § 7.2. Packaging standards for dispensed prescriptions.

A drug shall be dispensed only in packaging approved by the current U.S.P.-N.F. for that drug. In the absence of such packaging standard for that drug, it shall be dispensed in a well-closed container.

### § 7.3. Special packaging.

A. Each drug dispensed to a person in a household shall be dispensed in special packaging except when otherwise directed in a prescription by a practitioner, when otherwise requested by the purchaser, or when such drug is exempted from such requirements promulgated pursuant to the Poison Prevention Packaging Act of 1970.

B. Each pharmacy may have a sign posted near the compounding and dispensing area advising the patients that nonspecial packaging may be requested.

## PART VIII. STANDARDS FOR PRESCRIPTION TRANSACTIONS.

### § 8.1. Issuing a copy of a prescription that can be refilled.

A. A copy of a prescription for a drug which pursuant to § 54-524.68 of the Code of Virginia, can be refilled at the time the copy is issued shall be given upon request to another pharmacist.

B. The transfer of original prescription information for a drug listed in Schedules III through VI for the purpose of refill dispensing is permissible between pharmacies if the transfer is communicated directly between two pharmacists, and the transferring pharmacist records the following information:

1. Records the word "VOID" on the face of the invalidated prescription;

2. Records on the reverse of the invalidated prescription the name, address, and the Drug Enforcement Administration (DEA), [ ~~except for prescriptions in Schedule VI,~~ ] registry number of the pharmacy to which it was transferred [ , except for a prescription for a Schedule VI drug, ] and the name of the pharmacist receiving the prescription information; and

3. Records the date of the transfer and the name of the pharmacist transferring the information.

C. The pharmacist receiving the transferred prescription information shall reduce to writing the following:

1. Write the word "TRANSFER" on the face of the transferred prescription.

2. Provide all information required to be on a prescription and include:

a. Date of issuance of original prescription;

b. Original number of refills authorized on the original prescription;

c. Date of original dispensing;

d. Number of valid refills remaining and date of last refill;

e. Pharmacy name, address, DEA registry number except for Schedule VI prescriptions, and original prescription number from which the prescription information was transferred; and

f. Name of transferring pharmacist.

3. Both the original and transferred prescription shall be maintained for a period of two years from the date of last refill.

D. Nothing in this regulation shall prevent the giving of a prescription marked "For Information Only" to a patient.

### § 8.2. Issuing a copy of a prescription that cannot be

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refilled.

A. A copy of a prescription for a drug which, pursuant to § 54-524.68 of the Drug Control Act, cannot be refilled at the time the copy is issued, shall be given on request of a patient but such copy shall be marked with the statement "FOR INFORMATION ONLY," the patient's name and address, the date of the original prescription, and the date the copy was given.

B. A copy marked in this manner is not a prescription, as defined in § 54-524.2 of the Drug Control Act, and shall not be refilled.

C. The original prescription shall indicate that a copy has been issued, to whom it was issued, and the issuing date.

## § 8.3. Confidentiality of patient information.

A pharmacist shall not exhibit, dispense, or reveal any prescription or discuss the therapeutic effects thereof, or the nature or extent of, or the degree of illness suffered by or treatment rendered to, any patient served by the pharmacist with any person other than the patient or his authorized representative, the prescriber, or other licensed practitioner caring for this patient, or a person duly authorized by law to receive such information.

## § 8.4. Kickbacks, fee-splitting, interference with supplier.

A. A pharmacist shall not solicit or foster prescription practice by secret agreement with a prescriber of drugs or any other person providing for rebates, "kickbacks", fee-splitting, or special charges in exchange for prescription [ drugs orders ].

B. A pharmacist shall not interfere with the patient's right to choose his supplier of medication or cooperate with any person or persons in denying a patient the opportunity to select his supplier of prescribed medications.

## § 8.5. Returning of drugs and devices.

Drugs or devices shall not be accepted for return or exchange by any pharmacist or pharmacy for resale after such drugs and devices have been taken from the premises where sold, distributed, or dispensed unless such drug or devices are in the manufacturer's original sealed containers or in unit-dose container which meets the U.S.P.-N.F. Class A or Class B container requirement.

## § 8.6. Physician licensed by the board.

Physicians licensed by the board to dispense drugs shall be subject to the following sections of these regulations:

### § 3.8. Safeguards against diversion of drugs.

#### § 5.1. Manner of maintaining records, prescriptions,

inventory records.

#### § 6.4. Filling of prescriptions.

#### § 6.5. Refilling of prescriptions.

#### § 7.1. Labeling of prescriptions.

#### § 7.2. Packaging standards for dispensed prescriptions.

#### § 7.3. Special packaging.

#### § 8.5. Returning of drugs and devices.

## PART IX.

### UNIT DOSE DISPENSING SYSTEMS.

#### § 9.1. Unit dose dispensing system.

A unit dose drug dispensing system may be utilized for the dispensing of drugs to patients in a hospital or nursing home. The following requirements shall apply:

A. If a unit dose system is utilized by a pharmacy, no more than a seven-day supply of drugs shall be dispensed at any one given time.

B. A signed order by the prescribing [ physician practitioner ] shall accompany the requests for a Schedule II drug, except that a verbal order for a hospital patient for a Schedule II controlled substance may be transmitted to a licensed nurse or pharmacist employed by the hospital who will promptly reduce the order to writing in the patient's chart. Such an order shall be signed by the prescriber within 72 hours.

[ C. Properly trained personnel may transcribe the physician's drug orders to a patient profile card, fill the medication carts, and perform other such duties related to a unit dose distribution system provided these are done under the personal supervision of a pharmacist. ]

[ D. ] All dosages and drugs shall be labeled with the drug name, strength, lot number and expiration date when indicated.

[ E. ] The patient's individual drug drawer or tray shall be labeled with the patient's name and location.

[ F. ] All unit dose drugs intended for internal use shall be maintained in the patient's individual drawer or tray unless special storage conditions are necessary.

[ G. ] A back-up dose of a drug of not more than one [ dosage ] unit may be maintained in the patient's drawer, tray, or special storage area provided that the dose is maintained in the patient's drawer, tray, or special storage area with the other drugs for that patient.

[ H. ] A record shall be made and maintained within the pharmacy for a period of one year showing:

1. The date of filling of the drug cart;
2. The location of the drug cart;
3. The initials of person who filled the drug cart; and
4. The initials of the pharmacist checking the drug cart.

[ H. I. ] A patient profile record or medication card will be accepted as the dispensing record of the pharmacy for unit dose dispensing systems only, subject to the following conditions:

1. The record of dispensing must be entered on the patient profile record or medication card at the time the drug drawer or tray is filled.

2. In the case of Schedule II through V drugs, after the patient profile record or medication card has been completed, the card must be maintained for two years.

[ 3. In the case of the computer-based distribution system, a uniformly maintained "fill list" or other document may be accepted as the dispensing record for Schedule II through VI drugs. Records of disposition/administration for floor stock drugs as provided in § 10.5.B will be accepted for drugs distributed as floor stock. A separate record for Schedule VI is not required if disposition records of Schedule II through V are maintained. ]

## PART X. HOSPITAL PHARMACIES.

### § 10.1. Hospital pharmacies: chart order not a prescription.

A chart order is an order for a medication to be dispensed for an inpatient in a hospital. It is not a prescription order as defined in the Drug Control Act.

### § 10.2. Standards for hospital pharmacies.

A. Hospitals not having a full-time pharmacist, but in which drugs are prepackaged or relabeled or drugs transferred from one container to another, shall obtain a pharmacy permit with a part-time pharmacist designed to perform such functions or to provide personal supervision of such functions.

B. If there is no formally organized pharmacy department, the pharmacy service shall be obtained from another hospital having such a service or from a community pharmacy. Properly labeled and prepackaged drugs may then be distributed from the storage area under the supervision and [ ~~discretion~~ direction ] of the pharmacist-in-charge of the service provider.

### § 10.3. Labeling of drugs; preparation and storage of drugs.

#### A. Labeling.

All medications issued as floor stock shall be labeled with the name of the drug, strength, assigned lot number and expiration date when applicable. In the case of a drug order sent to a nursing unit in a multiple dose container for subsequent administration to a particular patient, the drug shall be labeled with the name and the strength of the drug and the name and the location of the patient.

#### B. Equipment.

There shall be adequate equipment, properly maintained, and supplies provided to ensure proper professional and administrative services as may be required for patient safety through proper storage, compounding, dispensing, distribution and administration of drugs. When sterile products are prepared in the pharmacy, the product shall be prepared by qualified personnel in the environment of a laminar flow hood.

#### C. Storage.

All drugs within the pharmacy and throughout the hospital shall be under the supervision of the pharmacist [ -in-charge ]. The drugs shall be stored under proper conditions of temperature, light, sanitation and security.

### § 10.4. After-hours access [ of to ] the pharmacy.

When authorized by the pharmacist-in-charge, a supervisory nurse may have access to the pharmacy in the absence of the [ patient pharmacist ] in order to obtain emergency medication, provided that such drug is available in the manufacturer's original package or in units which have been prepared and labeled by a pharmacist and provided further that a separate record shall be made and left within the pharmacy on a form prescribed by the pharmacist-in-charge and such records are maintained within the pharmacy for a period of one year showing:

1. The date of withdrawal;
2. The patient's name;
3. The name of the drug [ , strength, dosage form ] and dose prescribed;
4. Number of doses removed; and
5. The signature of the authorized nurse.

### § 10.5. Floor stock drugs.

#### A. Proof of delivery.

A delivery receipt shall be obtained for Schedule II through V drugs supplied as floor stock. Receipts shall be maintained in the pharmacy for a period of two years.

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## B. Distribution records.

A record of disposition/administration shall be used to document administration of Schedule II through V drugs when a floor stock system is used for such drugs. The record shall be returned to the pharmacy within three months of its issue. The pharmacist-in-charge or his designee shall:

1. Match returned records with delivery receipts to verify that all records are returned;
2. Periodically audit returned administration records for completeness as to patient's names, dose, date and time of administration, signature or initials of person administering the drug, and date the record is returned;
3. Verify [ the accuracy of all entries; that all additions to inventory are recorded, that all additions to and deductions from inventory are correctly calculated, that sums carried from one record to the next are correctly recorded, and periodically verify that doses documented on administration records are reflected in the medical record; ]
4. Initial or sign the returned record and retain for two years from the date of return; and
5. Establish a system of documentation of administration of drugs in all areas where drugs are stored or administered.

## C. Repackaging.

Drugs repackaged for floor stock shall comply with § 5.3.

### § 10.6. Securing the pharmacy.

The pharmacy shall be locked in the absence of a pharmacist prior to, and after, routine hours of operation and shall be secured from access to other personnel except as provided in § 10.4 of these regulations.

### § 10.7. Emergency room.

All drugs in the emergency department shall be under the control and supervision of the pharmacist-in-charge and shall be subject to the following additional requirements:

A. All drugs kept in the emergency room shall be in a secure place from which unauthorized personnel and the general public are excluded.

B. [ Drugs may be administered by a nurse in the emergency room upon oral or written order of a medical practitioner. ] Oral orders [ for medications ] shall be reduced to writing and shall be signed by the practitioner.

C. In the emergency room, a medical practitioner may dispense drugs for the immediate need of his patient if permitted to do so by the hospital; the drug container and the labeling shall comply with the requirements of these regulations and the Drug Control Act.

D. A record shall be maintained of all drugs administered in the emergency room.

E. A separate record shall be maintained on all drugs, including drug samples, dispensed in the emergency room. The records shall be maintained for a period of two years showing:

1. Date dispensed;
2. Patient's name;
3. Physician's name;
4. Name of drug dispensed, strength, dosage form, quantity dispensed, and dose.

### § 10.8. Outpatient pharmacy permit.

A. An outpatient pharmacy of a hospital shall be operated under a separate pharmacy permit issued to a specific pharmacy-in-charge of each such operation; if the pharmacy dispensed drugs to walk-in customers who are not patients of the hospital, the outpatient pharmacies shall be governed by laws and regulations as they apply to pharmacies in general and shall be operated in a space separated from the hospital pharmacy.

B. An outpatient pharmacy of a hospital may be operated under the permit of the hospital pharmacy, if the drugs are dispensed only:

1. To patients who receive treatments or consultations on the premises;
  2. To inpatients, outpatients, or emergency patients upon discharge for their personal use away from the hospital; and
  3. To the hospital employees, medical staff members, or students for personal use or for the use of their dependents.
- [ 4. Nothing in this regulation shall prohibit a hospital pharmacy not operated under a separate outpatient pharmacy permit from providing such services or drugs, or both, as are not readily available in the community to patients who may not otherwise be served by the hospital pharmacy. ]

### § 10.9. Mechanical devices for dispensing drugs.

A hospital may utilize mechanical devices for the dispensing of drugs pursuant to § 54-524.54 of the Drug Control Act, provided the utilization of such mechanical

devices is under the personal supervision of the pharmacist. Such supervision shall include:

A. The packaging and labeling of drugs to be placed in the mechanical dispensing devices. Such packaging and labeling shall conform to all requirements pertaining to containers and label contents.

B. The placing of previously packaged and labeled drug units into the mechanical dispensing device.

C. The removal of the drug from the mechanical device and the final labeling of such drugs after removal from the dispensing device.

D. In the absence of a pharmacist, a person legally qualified to administer drugs may remove drugs from such mechanical device.

#### § 10.10. Certified emergency medical technician program.

The pharmacy may prepare a drug kit for a Certified Emergency Medical Technician Program provided:

1. The pharmacist-in-charge of the hospital shall be responsible for all controlled drugs contained in this drug kit.

2. The drug kit is sealed in such a manner that it will preclude any possibility of loss of drugs.

3. Drugs may be administered by a technician upon an oral order of an authorized medical practitioner. The oral order shall be reduced to writing by the technician and shall be signed by the physician.

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. A record signed by the physician for the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year.

5. The record of the drugs administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations.

#### § 10.11. Identification for interne or resident prescription form in hospitals.

The prescription form for the prescribing of [ Schedule II through V ] drugs for use by medical interns or residents who prescribe only in a hospital shall bear the prescriber's signature, the legibly printed name, address, and telephone number of the prescriber and an identification number assigned by the hospital. The identification number shall be the Drug Enforcement Administration number assigned to the hospital pharmacy plus a suffix assigned by the institution. The assigned number shall be valid only within the course of duties

within the hospital.

### PART XI. PHARMACY SERVICES TO NURSING HOMES.

#### § 11.1. Drugs in nursing homes.

Drugs, as defined in the Drug Control Act, shall not be floor stocked by a nursing home, except those [ in ] the stat drug box or emergency drug box provided for within these regulations.

#### § 11.2. Pharmacist's responsibilities to nursing homes.

The pharmacist serving a nursing home shall ascertain:

A. That a valid order exists prior to the dispensing of any drug.

B. That the drugs for each patient are kept and stored in the originally received containers and that the medication of one patient shall not be transferred to another patient.

C. That each cabinet utilized for the storage of the drugs for individual patients is locked and accessible only to authorized personnel.

D. That the storage area for patients drugs is well lighted, of sufficient size to permit storage without crowding, and is of the appropriate temperature.

E. That poison and drugs for "external use only" are kept in a cabinet and separate from other medications.

F. That discontinued drugs are destroyed under the following conditions:

1. The drugs are destroyed on the premises of the facility.

2. The drugs are destroyed in the presence of the pharmacist supplying pharmacy service to the facility and the director of nurses of the facility.

3. A complete and accurate record of the drugs destroyed shall be maintained and signed by the pharmacist and director of nurses.

4. All destruction of the drugs is done without 30 days of the time the drug was discontinued.

5. The records of destruction shall be made a part of the records on all Schedule II through V drugs administered in the nursing home.

6. This procedure does not apply to discontinued drugs in unit-dose containers which meet U.S.P.-N.F. Class A or Class B container requirements or the manufacturer's sealed containers. Such drugs may be returned to the issuing pharmacist for reuse.



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G. That drug reference materials are available on the nursing units.

H. That a monthly review of a drug therapy by a pharmacist is conducted for each patient. Such review shall be used to determine any irregularities. The pharmacist shall sign and date the notation of the review. An irregularity shall include such therapy which is not right and proper, and may include drug interactions or drug administration or transcription errors. All significant irregularities shall be brought to the attention of the attending practitioner or other party having authority to correct the potential problem.

## § 11.3. Emergency drug kit.

The pharmacist may prepare an emergency kit for a facility served by the pharmacy provided:

A. The contents of the emergency kit shall be of such a nature that the absence of the drugs would threaten the survival of the patients.

B. The contents of the kit shall be determined by the Pharmacy and Therapeutics Committee of the institutions and shall be limited to drugs for administration by injection or inhalation only, except that Nitroglycerin SL may be included.

C. The kit is sealed in such a manner that it will preclude any possible loss of the drug.

D. The opened kit is maintained under secure conditions and returned to the pharmacy within 72 hours for replenishing.

E. Any drug used from the kit shall be covered by a prescription, signed by the physician, when legally required, within 72 hours.

## § 11.4. Stat-drug box.

An additional drug box called a stat-drug box may be prepared by a pharmacy to provide for initiating therapy prior to the receipt of ordered drugs from the pharmacy and shall be subject to the following conditions:

A. The box is sealed in such a manner that will preclude the loss of drugs.

B. When the stat-drug box has been opened, it is returned to the pharmacy.

C. Any drug used from the box shall be covered by a drug order signed by the [ ~~physician~~ practitioner ], when legally required, within 72 hours.

D. There shall not be more than one box per 200 patients in a facility.

E. There shall be a listing of the contents of the box

maintained in the pharmacy and also attached to the box in the facility. This same listing shall become a part of the policy and procedure manual of the facility served by the pharmacy.

F. The drug listing on the box shall bear an expiration date for the box. The expiration date shall be the day on which the first drug in the box will expire.

## G. Contents of the stat-drug box.

The contents of the box shall be limited to the following classes of drugs, the drug strengths to be selected by the drug committee of the facility in consultation with the providing pharmacist:

1. Antibiotics (injectable) - Not more than five doses of each of four different antibiotics.

2. Antibiotics (oral) - Not more than five doses each of five different antibiotics including two strengths of each antibiotic.

3. Antiemetics - Not more than five doses each of three different antiemetics.

4. Antihistamines - Not more than five doses each of two different antihistamines.

5. Antihypertensives - Not more than five doses each of two different antihypertensives.

6. Antipyretics - Not more than five doses each of two antipyretics.

7. Antipsychotic - Not more than five doses each of five antipsychotics.

8. Diuretics - Not more than five doses each of two diuretics.

9. Antidiarrheals - Not more than five doses of two oral antidiarrheal products.

10. Anticonvulsants - Not more than five doses of two oral anticonvulsants.

11. Analgesics - Not more than five doses of one oral narcotic drug in Schedule III or IV and five doses of one nonnarcotic drug in Schedule III or IV.

## PART XII.

### OTHER INSTITUTIONS AND FACILITIES.

## § 12.1. Drugs in industrial infirmaries/first aid rooms.

A. Controlled drugs purchased by an institution, agency, or business within the Commonwealth, having been purchased in the name of a practitioner licensed by the Commonwealth of Virginia and who is employed by an institution, agency, or business which does not hold a

pharmacy permit, shall be used only for administering to those persons at that institution, agency, or business.

B. All controlled drugs will be maintained and secured in a suitable locked facility, the key to which will be in the possession of the practitioner or nurse who is under the direction and supervision of the practitioner.

C. Such institution, agency, or business shall adopt a specific protocol for the administration of prescription drugs, listing the inventory of such drugs maintained, and authorizing the administering of such drugs in the absence of a physician in an emergency situation when the timely prior verbal or written order of a physician is not possible. Administering of such drugs shall be followed by written orders.

1. For the purpose of this regulation, emergency shall be defined as a circumstance requiring administration of controlled drugs necessary to preserve life or to prevent significant or permanent injury or disability.

2. The protocol shall be maintained for inspection and documentation purposes.

D. A nurse may, in the absence of a practitioner, administer nonprescription drugs and provide same in unit dose containers in quantities which in the professional judgment of the nurse and the existing circumstances will maintain the person at an optimal comfort level until the employee's personal practitioner can be consulted. The administering and providing of such medication must be in accordance with explicit instructions of a specific protocol promulgated by the practitioner in charge of the institution, agency, or business.

## § 12.2. Licensed humane societies and animal shelters; use of pentobarbital.

A humane society or animal shelter, after having obtained the proper permits pursuant to state and federal laws, may purchase, possess and administer Sodium Pentobarbital to euthanize injured, sick, homeless and unwanted domestic pets and animals provided that:

1. The facility shall be under the general supervision of a veterinarian.

2. The person(s) responsible for administering the drug shall have been trained by a veterinarian in the manner of administration.

3. The drug shall be stored in a secure place and only the person responsible for administering the drug may have access to the drug.

4. The drug shall be obtained and administered in the injectable form only.

5. All invoices and order forms shall be maintained for a period of two years.

6. Complete and accurate records shall be maintained on the administration of the drug; the record shall show the date of administration, the species of the animal, the weight of animal, the amount of drug administered and signature of the person administering the drug.

## § 12.3. Drugs in correctional institutions.

All prescription drugs at any correctional unit shall be obtained only on an individual prescription basis from a pharmacy and subject to the following conditions:

1. The prescription orders shall be initiated by the physician or his agent.

2. The number of doses on each prescription order shall be specified.

3. All prepared drugs shall be maintained in a suitable locked facility with only the person responsible for administering the drugs having access.

4. All drugs shall be taken in the presence of the person administering the drug.

5. Drug administration record. Complete and accurate records shall be maintained on all drugs received, administered and discontinued. This record shall consist of a two-part drug administration record. The administration record shall show the:

a. Prescription number;

b. Drug name and strength;

c. Number of dosage units received;

d. Physician's name; and

e. Date, time and signature of person administering the individual dose of drug.

6. Disposal of unused drugs. All unused or discontinued drugs shall be sealed and the amount in the container at the time of the sealing shall be recorded on the drug administration record. Such drugs shall be returned to the provider pharmacy along with Part 2 of the drug administration record within seven days. The drug shall be returned by the same means as it was originally sent.

a. The provider pharmacy shall compare the number of drug dosage units dispensed against Part 2 of the drug administration record, the number of dosage units administered and the number of dosage units returned to the issuing pharmacy.

b. The drug administration records shall be filed in chronological order by the provider pharmacy and maintained for a period of one year or, at the

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option of the facility, the records may be returned by the provider pharmacy to the facility.

c. The returned drugs shall be destroyed at least every 30 days. This destruction shall be carried out by the provider pharmacy and a responsible witness. The Board of Pharmacy shall be notified two weeks prior to the destruction in order that the board may witness any such destruction. An agent of the board shall, from time to time, witness a destruction of such drugs and, prior to the destruction, randomly reconcile the contents of selected containers against the drug administration record.

d. Drugs in the manufacturer's original sealed container may be returned to the stocks of the provider pharmacy.

## 7. Emergency and stat-drug box.

An emergency box and a stat-drug box may be prepared for the facility served by the pharmacy pursuant to §§ 11.3 and 11.4 of the regulations provided:

a. The facility employs one or more full-time physicians, registered nurse, licensed practical nurse or correctional health assistant;

b. No drugs are to be administered from the emergency box or [ ~~stat-drug~~"stat"-drug ] box unless authorized by the physician either in writing or orally. If orally, the order must be signed by the physician within 72 hours.

c. Only the physician, nurse, licensed practical nurse or correctional health assistant may administer a drug from the emergency box or "stat" [ -drug ] box.

d. The emergency drug box or "stat" [ -drug ] box must be sealed in such a manner that it will preclude any possibility of loss of drugs. Any drug box which has been opened must be returned to the pharmacy within 72 hours.

### PART XIII.

#### EXEMPTED STIMULANT OR DEPRESSANT DRUGS AND CHEMICAL PREPARATIONS.

##### § 13.1. Excluded substances.

The list of excluded substances, which may be lawfully sold over the counter without a prescription under the Federal Food, Drug and Cosmetic Control Act (21.U.S.C. 301), as set forth in the Code of Federal Regulations, Title 21, Part 1308.22, is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c) of the Drug Control Act.

##### § 13.2. Exempted chemical preparations.

The list of exempt chemical preparations set forth in the Code of Federal Regulations, Title 21, Part 1308.24 is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c) of the Drug Control Act.

##### § 13.3. Excepted compounds.

The list of excepted compounds set forth in the Code of Federal Regulations, Title 21, Part 1308.32 is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c); the excepted compounds are drugs which are subject to the provisions of § 54-524.84:13 of the Drug Control Act.

### PART XIV.

#### MANUFACTURERS, WHOLESALERS, AND DISTRIBUTORS

##### § 14.1. Manufacturers, wholesalers and distributors.

A permit shall not be issued to any manufacturer or distributor to operate from a private dwelling, unless a separate entrance is provided, and the place of business is open for inspection at all times during normal business hours. In any case, all other state and local laws and ordinances shall be complied with before any permit is issued.

##### § 14.2. Manufacturers and wholesalers safeguards against diversion of drugs.

The following requirements shall comply to manufacturers or wholesaler of drugs:

1. The holder of the permit shall restrict all areas in which Schedule II-V drugs are manufactured, stored, or kept for sale, to a limited number of designated and necessary persons.

2. The holder of the permit shall take reasonable measures to prevent any person from pilfering drugs from the restricted area.

3. The holder of the permit shall not deliver any drug to a licensed business at which there is no one in attendance at the time of the delivery nor to any person who may not legally process such drugs.

4. The holder of a permit to manufacture or wholesale only Schedule VI drugs shall comply with the security requirements set forth in § 3.8.

5. This regulation shall not apply to the holder of a permit to manufacture or wholesale medical gases.

##### § 14.3. Manufacturing of cosmetics.

A. The building in which cosmetics are manufactured, processed, packaged and labeled, or held shall be maintained in a clean and orderly manner and shall be of

*suitable size, construction and location in relation to surroundings to facilitate maintenance and operation for their intended purpose. The building shall:*

- 1. Provide adequate space for the orderly placement of equipment and materials used.*
- 2. Provide adequate lighting and ventilation.*
- 3. Provide adequate washing, cleaning, and toilet facilities.*

**PART XV.  
GOOD MANUFACTURING PRACTICES.**

*§ 15.1. Good manufacturing practices.*

*A. The Good Manufacturing Practices regulations set forth in the Code of Federal Regulations, Title 21, Part [ ~~212~~ 211 ] and effective April 1, 1986, are adopted by reference.*

*B. Each manufacturer of drugs shall comply with the requirements set forth in the federal regulations referred to in subsection A of this section.*

DEPARTMENT OF JUSTICE / DRUG ENFORCEMENT ADMINISTRATION  
 REGISTRANTS INVENTORY OF DRUGS SURRENDERED

OMB Approval No. 1117-0007

PACKAGE No.

The following schedule is an inventory of controlled substances which is hereby surrendered to you for proper disposition.

FROM: *(include Name, Street, City, State and ZIP Code in space provided below)*

Signature of Registrant or authorized agent

Registrant's DEA Number

Registrant's Telephone Number

NOTE: Registrants will fill in Columns 1, 2, 3, and 4 ONLY.

	NAME OF DRUG OR PREPARATION	Number of Containers (If more than one container, specify container number)	CONTENTS (If more than one container, specify container number)	Controlled Substance Code (Each Unit)	FOR DEA USE ONLY	
					DISPOSITION	QUANTITY (GMS, MGS)
1	2	3	4	5	6	7

16  
 DEA Form 1581-1 (Rev. 1980) — 41

\* See instructions on reverse side.  
 Previous edition may be used.

DEPARTMENT OF JUSTICE / DRUG ENFORCEMENT ADMINISTRATION  
 REGISTRANTS INVENTORY OF DRUGS SURRENDERED

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					DISPOSITION	QUANTITY (GMS, MGS)
1	2	3	4	5	6	7

DESTROYED BY: \_\_\_\_\_ SIGNATURE

DATE: \_\_\_\_\_ 19 \_\_\_\_\_

(PRINT NAME)

LICENSE NO.

WITNESSED BY: \_\_\_\_\_

(PRINT NAME)

LICENSE NO.

INSTRUCTIONS

1. List the name of the drug in column 1, the number of containers in column 2, the size of each container in column 3, and in column 4 the number of units in each container. Example: 3 1-pk. 100 tabs., 1/4 gr. (16 ml.) or ampoule. 2. All containers included on a single line should be identical in name, content and controlled substance strength. 3. Prepare this form in triplicate. Mail two (2) copies of this form to the Special Agent in Charge, under separate cover. Retain one copy in the inventory with the drugs. Retain one copy for your records. One copy will be returned to you as a receipt. No further receipt will be furnished to you unless specifically requested. Any further inquiries concerning these drugs should be addressed to the DEA District Office which served your date. 4. There is no provision for payment for drugs surrendered. This is merely a service rendered to registrants enabling them to clear their stocks and records of surrendered items. 5. Drugs should be shipped and packaged in prepaid express or registered mail to Special Agent in Charge, Drug Enforcement Administration, of the DEA District Office which served your date.

**PRIVACY ACT INFORMATION**

AUTHORITY: Section 307 of the Controlled Substances Act of 1970 (P. L. 91-513)

PURPOSE: To document the surrender of controlled substances which have been forwarded by registrant to DEA for disposal.

ROUTINE USES: This form is required by Federal Regulations for the surrender of Unapproved Controlled Substances. Disclosure of information from this system are made to the following categories of user for the purposes stated:

- A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes
- B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes.

EFFECT: Failure to document the surrender of Unapproved Controlled Substances may result in prosecution for violation of the Controlled Substances Act.

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-32-02. Regulation for Criminal Record Checks.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Effective Date: January 19, 1988

### Summary:

The statutory changes to §§ 19.2-389 and 63.1-198.1 of the Code of Virginia, effective January 1, 1988, require that all hired employees and volunteers, as well as applicants, of child-placing agencies, independent foster homes, family day care homes, family day care systems, and foster or adoptive parents approved by child-placing agencies, subject to licensure by the Virginia Department of Social Services, secure a criminal history clearance and submit a sworn disclosure statement in order to be issued a certificate from the Commissioner of the Department of Social Services. This regulation sets forth procedures for routing of certificates and provisions regarding validity of certificates, issuance of duplicate certificates, and facilities maintenance of and responsibility for certificates.

This legislation is not retroactive and only applies to those individuals hired on or after January 1, 1988.

The initial legislation regarding criminal record checks, effective July 1, 1985, impacted only child care centers and child caring institutions. The Regulation for Criminal Record Checks: Child Care Centers and Child Caring Institutions, VR 615-31-02, was adopted by the board in April, 1986. This legislation was retroactive and required criminal record checks for all persons working on or after July 1, 1985. The initial and current regulation, VR 615-31-02, will continue to be effective only for child care centers. This regulation will supersede VR 615-31-02 for child caring institutions.

The Department of Social Services will maintain all completed Criminal History Record Request forms in a secured and confidential manner.

The Division of Licensing Programs, as the agent of the Commissioner of Social Services, will issue certificates in accordance with § 63.1-198.1 of the Code of Virginia. As set forth in § 63.1-198.1 of the Code of Virginia, any facility's failure to obtain a certificate for each designated individual shall be grounds for denial or revocation of the license. As set forth in § 63.1-199 of the Code of Virginia, a license shall not be granted to any applicant who has been convicted of any offense specified in § 63.1-198.1 of the Code of Virginia.

VR 615-32-02. Regulation for Criminal Record Checks.

## PART I. INTRODUCTION.

### Article 1. Definitions.

§ 1.1. The following words and terms when used in conjunction with this regulation shall have the following meaning:

"Affirmation of sworn disclosure statement" means that portion of the certificate obtained from the Department of Social Services affirming that the individual has met the requirement of completing, signing and submitting such a statement.

"Applicants for licensure" means all agents of a child-caring institution, child-placing agency, independent foster home, family day care system and family day care home, including owners, partners or officers of the governing board of a corporation or association, who have applied for licensure.

"Barrier crimes" means certain crimes which automatically act as barriers to employment at child-placing agencies, independent foster homes, child-caring institutions, family day care systems and family day care homes. It also prevents persons screened as adoptive or foster parents by child-placing agencies, and caretakers approved by family day care systems, from assuming such a role. These crimes, as specified by § 63.1-198.1 of the Code of Virginia, are as follows: murder; abduction for immoral purposes; sexual assault; failing to secure medical attention for an injured child; pandering; crimes against nature involving children; taking indecent liberties with children; neglect of children; and obscenity offenses.

"Central criminal records exchange" means the information system containing conviction data of those crimes committed in Virginia, maintained by the Department of State Police through which the criminal history record request form is processed.

"Certificate" means the clearance document issued by the Commissioner of the Department of Social Services verifying that (i) a criminal history record search has been conducted for a particular individual through the Department of State Police, (ii) no convictions have been found of any offense pursuant to those referenced in § 63.1-198.1 of the Code of Virginia and, if indicated, (iii) a sworn disclosure statement has been completed and submitted as required in § 63.1-198.1 of the Code of Virginia.

"Criminal history record request" means the Department of Social Services form to be submitted to the Department of State Police identifying the individual for whom clearance needs to be established. This form also includes the requirement for a sworn disclosure statement and shall be completed and signed by the same individual for whom

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clearance is being requested.

"Duplicate certificate" means that an additional certificate is required for an individual. This may be necessary when an employee or volunteer is involved concurrently at more than one facility. An example would be when an individual is working intermittently at different facilities as a substitute or part-time employee or, when someone contracts his services at more than one facility, such as a music or dance specialist. Another need for a duplicate certificate occurs when a certificate is lost or misplaced.

"Employee" means all personnel hired at a facility regardless of role, service, age, function or duration of employment at the facility. Employees also include those individuals hired through a contract to provide services for the facility.

"Facility" means a child-caring institution, independent foster home, child-placing agency, family day care system or family day care home as defined in § 63.1-195 of the Code of Virginia and subject to licensure by the Department of Social Services.

"Officer of the board" means anyone holding an office on the board of the facility and responsible for its operation in any manner.

[ "~~Parent volunteer" means someone supervising, without pay, a group of children which includes the parent-volunteer's own child in a program of care which operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section of § 63.1-198.2 of the Code of Virginia.~~ ]

"Sworn disclosure statement" means that portion of the criminal history record request form to be completed, signed, notarized and submitted by the individual for whom clearance is being requested. This portion indicates that the individual has neither a conviction nor pending charges in, or outside, the Commonwealth of Virginia of those crimes which act as barriers to employment at the indicated facilities. This is required as specified in § 63.1-198.1 of the Code of Virginia.

"Volunteer" means anyone who [ ~~either is counted as staff for purposes of maintaining staff/child ratio or who~~ ] at any time would be alone with, in control of, or supervising one or more children outside the physical presence of a paid facility staff member. This pertains to all activities occurring at the facility location or sponsored by the licensed facility. [ ~~This also includes volunteer staff counted for purposes of maintaining required ratios for the appropriate program.~~ ]

## Article 2.

### Individuals Required to Obtain Certificates.

§ 1.2. Sections 63.1-198 and 63.1-198.1 of the Code of

Virginia require all employees, volunteers and applicants for licensure of a licensed child-caring institution, independent foster home, child-placing agency, family day care system and family day care home to obtain a certificate of clearance and affirmation of sworn disclosure statement (one document) from the Department of Social Services. This includes caretakers approved by family day care systems, and those individuals approved by child-placing agencies as foster or adoptive parents.

Exception: (As set forth in § 63.1-198.1 of the Code of Virginia) "The provisions of this section shall not apply to a parent-volunteer of a child attending such licensed facility whether or not such parent-volunteer will be alone with any child in the performance of his duties."

[ A "parent volunteer" is someone supervising, without pay, a group of children which includes the parent-volunteer's own child in a program of care which operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section or § 63.1-198.2 of the Code of Virginia. ]

## Article 3.

### Routing of Certificates.

§ 1.3. In order to obtain a certificate, each applicant for licensure, and employee, volunteer or applicant for employment/volunteer work, shall submit a Department of Social Services [ Criminal History Record Request ] form, obtainable from facility staff or licensing staff, to the Department of State Police with the appropriate fee.

§ 1.4. The State Police will collect the fee, run a clearance check through the Central Criminal Records Exchange and forward the same form to the Department of Social Services, Division of Licensing Programs. It will be marked either "no conviction data" or a conviction record will be attached if one of the barrier crimes is recorded as a result of the State Police check.

§ 1.5. A Certificate of Criminal Record Check and Affirmation of Sworn Disclosure Statement will be sent directly from the Department of Social Services, Division of Licensing Programs, to the individual for whom the check was run.

In the event that a certificate cannot be issued, a notification will be sent directly to the individual, along with a copy of the conviction information received from the State Police. [ ~~This is required pursuant to § 63.1-198.1 of the Code of Virginia, effective July 1, 1987.~~ ]

§ 1.6. This certificate, on Department of Social Services stationery with blue letterhead, shall be taken to, and maintained at, the facility [ where the person is employed or volunteers ].

## PART II.

### VALIDITY OF CERTIFICATES.

§ 2.1. Facility staff shall accept only the original certificate on Department of Social Services stationery with blue letterhead. Photocopies will not be acceptable.

§ 2.2. Obtaining certificates.

A. The certificate shall be obtained on or prior to the 15th day of work for individuals participating in the operation of a facility.

B. A certificate issued by the department shall not be accepted by facility staff if the certificate is dated more than 90 days prior to the date of employment or volunteer service at the facility.

§ 2.3. Each certificate shall be verified by the operator of the facility by matching the name, social security number and date of birth to establish that all information [ pertaining to the individual ] cleared through the Central Criminal Record Exchange is exactly the same as another form of identification such as a driver's license. If any of the information does not match, the certificate shall be returned to the Division of Licensing Programs with a note of explanation.

§ 2.4. A certificate remains valid as long as the employee or volunteer remains in continuous service at the same facility.

§ 2.5. When an individual terminates employment or ceases volunteer work at one facility and begins work at a facility owned and operated by another entity, the certificate secured for the prior facility shall not be valid for the new facility. A new certificate shall be required.

Exceptions:

A. When an employee transfers to a facility owned and operated by the same entity, with a lapse in service of not more than 30 days, a new certificate shall not be required. The file at the previous facility shall contain a statement in the record of the former employee indicating that the certificate has been transferred, or forwarded to the new location.

B. A certificate for an individual who takes a leave of absence shall remain valid as long as the period of separation does not exceed six consecutive months. Once a period of six consecutive months has expired, a new certificate is required.

### PART III. DUPLICATE CERTIFICATES.

§ 3.1. There is a model form available from the Department of Social Services to request duplicate certificates.

All requests for duplicate certificates shall be sent by the individual or licensee directly to the Department of Social Services, Division of Licensing Programs, Richmond,

Virginia.

§ 3.2. Requests for duplicate certificates.

A. A duplicate certificate shall be required when an individual is employed or volunteering concurrently at more than one facility such as a substitute or part-time employee or, when a certificate is lost or misplaced.

B. The request shall include: (i) the name, social security number, and signature of the individual for whom the clearance was completed; and (ii) the name and mailing address of the facility for which the duplicate certificate will be used.

C. If the duplicate certificate is to be used for an individual involved with more than one facility, the name of all facilities at which the individual is involved is required.

D. Duplicate certificates shall be sent directly to the facilities, or facility operator in accordance with § 2.3 of this regulation.

F. Duplicate certificates may be requested with the original Criminal History Record Request Form by attaching either a model form provided by the Department of Social Services, or an attached letter with the information required by this section.

§ 3.3. When agents or officers of the board are involved as licensees in the operation of more than one facility, duplicate certificates shall not be required. It shall be made known to the commissioner's representative that an original certificate is being maintained at a designated facility location.

### PART IV. MAINTENANCE AND RESPONSIBILITY OF CERTIFICATES BY FACILITIES.

§ 4.1. Prior to the issuance of an initial license, the certificate(s) of criminal record check for the applicant(s) for licensure shall be made available to the commissioner's representative.

§ 4.2. Certificates conforming to the requirements for all employed staff or utilized volunteers shall be maintained in the files of the facility during the time the individual is employed or volunteering and for one year after termination of work. Certificates shall be made available by the facility to the commissioner's representative.

Exception: See § 2.5 subsection A.

§ 4.3. When an individual becomes an officer of the board which serves as the licensee of a facility, a certificate shall be obtained by the facility within 15 days after the board member assumes the position.

When a board officer changes position within a board, a



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*new certificate is not required.*

*Officers of advisory boards are not required to obtain certificates.*

## INSTRUCTIONS

Please read the following before completing this form

1. Complete the upper portion of this form which contains identifying information. Please include your maiden name, if applicable, and all names by which you have previously been known.
2. Complete the middle portion of this form under Sworn Disclosure Statement. Please "X" the appropriate two spaces and sign and date this portion of the form.
3. The individual for whom this check is being run must have his/her signature and this form notarized.
4. Include a \$5.00 certified check, organization check or money order (no personal checks will be accepted) and mail the completed form to:

Virginia State Police  
Division of Records and Statistics  
Post Office Box 27472  
Richmond, Virginia 23261-7472

5. This request will be processed by the Department of State Police and forwarded to Carolynne H. Stevens, Director, Division of Licensing Programs. A response will be sent directly to you. This original certificate, on blue letterhead from the Department of Social Services, must be taken to, and maintained at the licensed facility/home in order to indicate that the criminal record check and sworn disclosure statement have been completed. This is required in Subsections 63.1-198 and 63.1-198.1, Code of Virginia.

NOTE: When an individual is working or volunteering concurrently at more than one facility, please request additional certificates and sworn disclosure statements directly from the Department of Social Services, Division of Licensing Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699 or request one from your licensing specialist. There is a model form available for this purpose.

COMMONWEALTH OF VIRGINIA DEPARTMENT OF SOCIAL SERVICES  
**CRIMINAL HISTORY RECORD REQUEST**

*A certified check, organization check or money order made payable to "Virginia State Police" for \$5.00 must accompany this request before a file search will be initiated.*

(STATE POLICE, MAIL REPLY TO:)

MAIL REQUEST TO:  
 VIRGINIA STATE POLICE  
 DIVISION OF RECORDS AND STATISTICS  
 P.O. BOX 27472  
 RICHMOND, VIRGINIA 23261-7472

RESPONSE BASED ON COMPLETION  
 OF REQUESTOR FURNISHED INFORMATION  
 AGAINST A MASTER NAME INDEX  
 CONTAINED IN THE FILES OF THE  
 VIRGINIA STATE POLICE CRIMINAL  
 RECORDS EXCHANGE ONLY.

CAROLYNNE H. STEVENS, DIRECTOR  
 DIVISION OF LICENSING PROGRAMS  
 DEPARTMENT OF SOCIAL SERVICES  
 8007 DISCOVERY DRIVE  
 RICHMOND, VIRGINIA 23229-8699  
 (Signature of Authorized Agent)

LAST NAME	FIRST	MIDDLE/MAIDEN	SEX	RACE	DATE OF BIRTH		
					MO	DAY	YEAR
PLACE OF BIRTH	COUNTY/CITY	PLACE OF BIRTH	STATE/COUNTRY	SOCIAL SECURITY NUMBER			
CURRENT MAILING ADDRESS [ Street, Number and/or P.O. Box ]		CITY	STATE	ZIP CODE			
FACILITY NAME/ADDRESS							

**SWORN DISCLOSURE STATEMENT** (REQUIRED TO BE COMPLETED BY INDIVIDUAL REQUESTING CLEARANCE)  
 INDIVIDUAL (PLEASE "X" ONE OF THE FOLLOWING) HAS \_\_\_\_\_ HAS NOT \_\_\_\_\_ EVER BEEN CONVICTED OF OR IS \_\_\_\_\_ IS NOT \_\_\_\_\_ THE  
 SUBJECT OF PENDING CHARGES FOR THE FOLLOWING OFFENSES: MURDER; ABDUCTION OF CHILDREN FOR IMMORAL PURPOSES;  
 SEXUAL ASSAULT; FAILING TO SECURE MEDICAL ATTENTION FOR AN INJURED CHILD; PANDERING; CRIMES AGAINST NATURE  
 INVOLVING CHILDREN; TAKING INDECENT LIBERTIES WITH CHILDREN; NEGLIGENCE OF CHILDREN; OR OBSCENITY OFFENSES,  
 WITHIN THE COMMONWEALTH OR OF ANY EQUIVALENT OFFENSE OUTSIDE THE COMMONWEALTH. ANY PERSON MAKING A  
 MATERIALLY FALSE STATEMENT REGARDING ANY SUCH OFFENSE SHALL BE GUILTY OF A CLASS I MISDEMEANOR.

DATE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

**AFFIDAVIT FOR RELEASE OF INFORMATION AND SWORN DISCLOSURE STATEMENT**

\_\_\_\_\_, PERSONALLY APPEARED BEFORE ME AND UNDER OATH AUTHORIZED  
 [Type or print name of individual named in record]  
 THE VIRGINIA STATE POLICE TO SEARCH FOR ANY CRIMINAL HISTORY RECORD, PURSUANT TO SUBSECTION 63.1-198.1, CODE  
 OF VIRGINIA, PERTAINING TO CRIMINAL RECORD CHECKS FOR AGENTS/STAFF OR VOLUNTEERS OF CHILD CARING FACILITIES  
 LICENSED BY THE DEPARTMENT OF SOCIAL SERVICES AND REPORT THE RESULTS OF SUCH SEARCH TO THE DEPARTMENT OF  
 SOCIAL SERVICES.

\_\_\_\_\_  
 [Signature of individual named in record]

STATE OF \_\_\_\_\_ COUNTY/CITY OF \_\_\_\_\_  
 SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
 ( NOTARY PUBLIC )

MY COMMISSION EXPIRES \_\_\_\_\_, 19 \_\_\_\_\_

( SEE INSTRUCTIONS ON BACK )

032-05-018/4

# EMERGENCY REGULATION

## CHILD DAY CARE COUNCIL

## PART II. GUIDELINES.

Title of Regulation: VR 175-01-01. Public Participation Guidelines.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Effective Date: November 30, 1987 through November 29, 1988

### Preamble:

During the 1987 General Assembly Session the addition of § 63.1-202.1 to the Code of Virginia effective July 1, 1987, created the Child Day Care Council. The council is responsible for formulating standards and regulations for licensure and operation of child care centers in the Commonwealth by July 1, 1988. The Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia includes statutory requirements for Public Participation Guidelines which must be effective before other regulations can be adopted.

The council recognizes the importance of public participation when adopting public participation guidelines but due to the July 1, 1988 deadline, promulgation of child care center standards needs to start immediately.

VR 175-01-01. Public Participation Guidelines.

### PART I. POLICY.

§ 1.1. The council will seek public participation from interested parties prior to formation and during the drafting, promulgation and final adoption process of regulations applicable to child care centers licensed by the Virginia Department of Social Services.

### § 1.2. Purpose.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to formulate and promulgate public participation guidelines as regulations subject to the Administrative Process Act. The intent of the public participation guidelines is to establish written procedures to solicit input from "interested parties" prior to formation and drafting of the proposed regulations and during the formation, promulgation and final adoption process of the regulations.

This process will be applicable to the development of all regulations as defined by § 9-6.14:4.F of the Administrative Process Act:

"Rule" or "regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws.

### § 2.1. Notice of intent.

When the council deems it necessary to develop a regulation or make substantial change to regulations, a notice of intent will be published in the Virginia Register, General Notices section. This notice will invite those interested in providing input to notify the council of their interest. Various agencies and associations will be notified and requested to advise their constituency through newsletters, etc. In addition to this notice, known interested parties will be advised, through a special mailing, of the agency's desire to develop a regulation and will be invited to assist the council in developing the regulations or in providing information on how the regulations may affect the consumer.

The notice of intent will include:

1. Subject of the proposed regulation.
2. Identification of the entities that will be affected.
3. Timetable for reaching a decision, if available.
4. Name, address and telephone number of staff person to be contacted for further information.

### § 2.2. Agency advisory list.

As directed by the council, the Department of Social Services will create and maintain current mailing lists of persons/organizations/agencies that are interested in advising and assisting the council in developing regulations or in making substantial changes to existing regulations. From time to time the lists will be reviewed and updated. Each of these persons/organizations/agencies will be sent relevant notices of intent.

### § 2.3. Formation of ad hoc advisory committees.

Whenever appropriate, as determined by the nature and scope of the regulation and the change(s) under consideration, an ad hoc advisory committee may be established to include selected individuals who responded to the notice of intent, newsletter or special mailing and representatives of relevant associations or disciplines.

Committee members will be oriented to the council and program issues, constraints, entities to be affected, program options and time limitations. The committee will discuss the issues and make recommendations which will be considered in the drafting and adoption of regulations. Once the regulations have been developed the committee will review them and continue to participate during the promulgation process.

### § 2.4. Orientation/training.

The department will develop orientation/training materials to be used with members of the ad hoc advisory committee(s) which will include:

1. The responsibility/authority of the council and the Department of Social Services.
2. Orientation to licensing principles and issues; and
3. Method of promulgating regulations.

**PART III.  
BASIS FOR POLICY.**

§ 3.1. Chapter 5, Acts of Assembly of 1984, made amendments to the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia, which included statutory requirements for participation guidelines. These guidelines must be effective before other regulations can be adopted.

Submitted by:

/s/ Larry D. Jackson, Commissioner  
October 27, 1987

Approved:

Gerald L. Baliles, Governor  
November 23, 1987

Filed by:

Ann M. Brown, Deputy Registrar  
November 30, 1987 - 8:33 a.m.

# STATE CORPORATION COMMISSION

## STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 17, 1987

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS870345

Ex Parte, In re: Adoption of Reporting Form for Lines and Subclassifications of Insurance Designated Pursuant to Virginia Code §§ 38.2-1905.1.B and 38.1-1905.2.B.

### ORDER SCHEDULING HEARING

WHEREAS, pursuant to Virginia Code § 38.2-1905.1.B, the Commission has sent its first annual report to the General Assembly and therein designated certain lines and subclassifications of insurance for which the Commission has reasonable cause to believe that competition may not be an effective regulator of the rates charged, which lines and subclassifications are set forth in Attachment A hereto which is made a part hereof;

WHEREAS, pursuant to Virginia Code § 38.2-1905.2.C, in the aforesaid report, the Commission has designated March 16, 1988 as the date by which insurers shall file supplemental reports concerning the aforesaid designated lines and subclassifications of insurance;

WHEREAS, Virginia Code § 38.2-1905.2.B provides, *inter alia*, that each supplemental report shall be made pursuant to rules and regulations established by the Commission and be on a form prescribed by the Commission; and

WHEREAS, the Bureau of Insurance has proposed that Attachment B hereto, which is made a part hereof, be adopted by the Commission as the form for supplemental reports for designated lines and subclassifications of insurance,

IT IS ORDERED that a hearing be conducted before the Commission at 10:00 a.m. on December 16, 1987 in the Commission's Courtroom, Jefferson Building, 13th Floor, Bank and Governor Streets, Richmond, Virginia for the purpose of receiving comments from interested parties on the proposed supplemental report form.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Honorable Mary Sue Terry, Attorney General of Virginia, in care of the Office of Consumer Counsel of the Office of the Attorney General, 101 North 8th Street, Richmond, Virginia 23219; and the Bureau of Insurance which shall forthwith cause a copy of this order and attachments to be sent to all insurers licensed to transact the lines and subclassifications of insurance designated in Attachment A hereof and all rate service

organizations licensed pursuant to Chapter 19 of Title 38.2 of the Code of Virginia.

### ATTACHMENT A

#### DESIGNATION OF LINES AND SUBCLASSIFICATIONS OF LIABILITY INSURANCE PURSUANT TO § 38.2-1905.1.B.

1. Products and Completed Operations Liability (including Discontinued Operations)
2. Environmental Impairment Liability
3. Liquor Liability
4. Directors and Officers Liability
5. The following subclassifications of Premises/Operations Liability

#### CONTRACTORS LIABILITY AS FOLLOWS:

##### Commercial Contracting

(e.g., well drilling, excavation work, street or road construction, sewer/water main construction, and steel erection)

##### Hazardous Waste

##### Pest Control/Exterminators

#### GOVERNMENTAL OR MUNICIPAL LIABILITY

##### Government Entities (including Public Officials Liability)

##### Law Enforcement Agencies

##### School Divisions

##### Public Housing

#### RECREATIONAL LIABILITY

##### Special Events

##### All Other Recreational Activities

(e.g., skating rinks, water recreation, clubs, golf courses and exercise facilities, etc.)

#### DAY CARE/CHILD CARE LIABILITY

6. Professional Liability

##### MEDICAL PROFESSIONAL LIABILITY

##### LAWYERS PROFESSIONAL LIABILITY

##### INSURANCE AGENTS ERRORS AND OMISSIONS

# State Corporation Commission

ARCHITECTS ERRORS AND OMISSIONS  
 ENGINEERS ERRORS AND OMISSIONS  
 REAL ESTATE AGENTS ERRORS AND OMISSIONS

**ATTACHMENT B**

**SUPPLEMENTAL REPORT REQUIRED BY §  
 38.2-1905.2 FOR CERTAIN LINES OR  
 SUBCLASSIFICATIONS OF LIABILITY INSURANCE**

BY ORDER OF THE STATE CORPORATION  
 COMMISSION THIS REPORT IS DUE ON OR  
 BEFORE MARCH 16, 1988, AT THE STATE  
 CORPORATION COMMISSION BUREAU OF  
 INSURANCE, P.O. BOX 1157, RICHMOND,  
 VIRGINIA 23209.

All insurers licensed to write the classes of insurance defined in § 38.2-117 (Personal injury liability), and § 38.2-118 (Property damage liability), shall file a report showing their direct experience in the Commonwealth attributable to all lines or subclassifications of liability insurance designated by the Commission in accordance with subsection B of § 38.2-1905.1; provided such reports shall be required only of insurers actually writing any such designated line or subclassification of insurance in the Commonwealth.

For each line or subclassification designated, provide the information requested below:

Designated line or subclassification	Insurer					NAIC No.
	1983	1984	1985	1986	1987	
1. Number of exposures written*						
2. Direct premiums written						
3. Direct premiums earned						
4. Direct losses paid						
5. Number of claims paid						
6a. Total incurred losses (INCL IBNR)						
b. Total outstanding losses (INCL IBNR) at end of yr.						
7. Any loss development factor used and supporting data used in the calculating IBNR losses in 6b.						

- 8. Number of claims unpaid at end of year
- 9. Investment income allocated to this line or subclassification
- 10. Are your rates for this line or subclassification established by a service organization? ..... If so, designate which organization is used.
- .....
- 11. Have you sought to write or obtain new business within the line or subclassification within the past year? .....yes  
 .....no

An insurer may submit other relevant information as part of this report that it would like the Commission to consider in determining whether competition is an effective regulator of rates for this line or subclassification.

\* The term "number of exposures" as used in this report shall mean the unit of measure of risk which is used by the insurer for the designated line or subclassification. Each insurer shall indicate in its report the unit of measure, e.g., number of individuals insured, number of entities insured, payroll, square foot, etc., used by each insurer for each line and subclassification. Such insurer shall use such unit consistently in all reports required by this section.

**STATE CORPORATION COMMISSION**

AT RICHMOND, NOVEMBER 17, 1987

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS870353

Ex Parte: In the matter of  
 adopting revised Rules Governing  
 Group Self-Insurers of Liability  
 Under the Virginia Workers'  
 Compensation Act.

ORDER SETTING HEARING

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction and Virginia Code § 65.1-104.2 provides that the Commission may embody such requirements and standards and such other requirements as may be reasonably necessary for the purposes of this section in rules and regulations;

WHEREAS, the Bureau of Insurance has submitted to

# State Corporation Commission

the Commission a proposed revised regulation entitled "Rules Governing Group Self-Insurers of Liability under the Virginia Workers' Compensation Act" which is designed to set forth rules, forms and procedural requirements that the Commission deems necessary to carry out the provisions of Virginia Code § 65.1-104.2;

WHEREAS, said regulation concerns a subject appropriate for Commission regulation; and

WHEREAS, the Commission is of the opinion that a hearing should be held on the proposed revised regulation, at which hearing all persons in interest may appear and be heard,

## IT IS ORDERED:

(1) That the proposed revised regulation entitled "Rules Governing Group Self-Insurance of Liability Under the Virginia Workers' Compensation Act" be appended hereto and made a part hereof, filed and made a part of the record herein;

(2) That this matter be docketed and assigned Case No. INS870353, and that a hearing be held before the Commission, in the Commission's Courtroom, Jefferson Building, 13th Floor, Bank and Governor Streets, Richmond, Virginia at 10:00 a.m. on December 17, 1987, for the purpose of considering the adoption of the proposed revised regulation, at which time and place all interested persons may appear and be heard with respect to the proposed revised regulation;

(3) That an attested copy hereof together with a copy of the proposed revised regulation be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Stephen J. Kaufman who shall forthwith give further notice of the proposed revised regulation and hearing by mailing a copy of this order together with a copy of the proposed revised regulation to every licensed group self-insurance association in this Commonwealth; and

(4) That the Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (3) above.

\* \* \*

**Title of Regulation:** INS870353. Rules Governing Group Self-Insurers of Liability Under the Virginia Workers' Compensation Act.

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

**Effective Date:** January 1, 1988

## § 1. Authority.

This regulation is promulgated and adopted pursuant to and in accordance with the provisions of § 65.1-104.2. (All

citations to statutory provisions in this regulation refer to the Code of Virginia.)

This regulation shall become effective ~~February 1, 1988~~  
*January 1, 1988*.

## § 2. Purpose.

The purpose of this regulation is to set forth rules, forms and procedural requirements that the Commission deems necessary to carry out the provisions of § 65.1-104.2.

## § 3. Definitions.

(f) "Act" means the Virginia Workers' Compensation Act as provided by Title 65.1.

(g) "Administrator" means the individual, partnership or corporation authorized to serve as a representative of an association and its members in carrying out the policies of the board and managing the association's activities.

(a) "Commission" means State Corporation Commission.

(d) "Common interest" means employers engaged in similar types of activities, including political subdivisions of this Commonwealth. If an association is licensed by the Commission, different businesses which are owned or controlled by a member of the association are eligible for membership in such association.

(k) "Contributions" means the amount of advance payments required of each member in order to fund the association's obligations under the Act.

(e) "Employer" shall have the definition provided by § 65.1-3.

(b) "Group self-insurance association" or "association" means an association organized by two or more employers having a common interest that have entered into agreements to pool their liabilities under the Virginia Workers' Compensation Act.

(h) "Indemnity agreement and power of attorney" means the written agreement executed by each member of the association in which each member (i) agrees to assume and discharge, jointly and severally, any liability under the Act of any and all members party to such agreement and (ii) grants the administrator power of attorney to act for and bind the members in all transactions relating to or arising out of the operations of the association.

(c) "Member" means an employer party to an indemnity agreement for membership in a group self-insurance association who has been approved by the Commission pursuant to § 56.1-104.2.

(i) "Members' supervisory board," or "board," means

the representative body selected by the members to be responsible for holding and managing the assets and directing the affairs of the association and for assuring that the association, through its members, is financially sound and able to meet its obligations under the Act.

(j) "Service agent" means any individual, partnership or corporation that may provide services including, but not limited to, claims adjustment, safety engineering, compilation of statistics and the preparation of contribution payment and loss reports, preparation of other required self-insurance reports and the administration of a claims fund.

§ 4. Application for license as group self-insurance association - requirements; approval; review.

Two or more employers having a common interest may be licensed by the Commission as a group self-insurance association for the purpose of entering into agreements to pool their liabilities under the Act. The application for a license shall be made on the form prescribed by the Commission and shall contain answers to all questions and shall be verified by the oath or affidavit of at least one member of the board of the association and the administrator.

If, after review of the association's application as well as the additional information required by § 5 of this regulation, the Commission is satisfied that it has satisfactory proof of (i) the solvency of each member of the association, (ii) the financial ability of each employer to meet its obligations as a member and (iii) the ability of the association to pay or cause to be paid the compensation in the amount and manner and when due as provided for in the Act, the Commission may issue a license to the association.

The license may be revoked if the association fails to comply with all conditions and requirements set forth in this regulation and the Act.

*The license expires on June 30 and must be renewed annually. Renewal of the license will require that evidence of the surety bond or security deposit for the current fiscal period (as required by § 7 of this regulation) be filed with the Bureau no later than June 15th of each year or such other time as the Commission may require.*

§ 5. Application for license as group self-insurance association - additional requirements.

1. A. An application submitted by a group self-insurance association shall be accompanied by the following items. These items shall be subject to the approval of the Commission:

(a) 1. A copy of the members' indemnity agreement and power of attorney required by § 13 of this regulation binding the association and each member of the association, jointly and severally, to comply with

the provisions of the Act and copies of any other governing instruments of the proposed group self-insurance association;

(b) 2. An executed copy of the application of each employer for membership in the association on the effective date of the license of the association;

(c) 3. Financial statements of all applicants for membership showing that the membership of the proposed association has a combined net worth of at least one million dollars. Political subdivisions of this Commonwealth may combine to form associations without complying with this requirement;

(d) 4. Proof of payment by each member of at least 25% of its estimated first year's contribution into a designated depository;

(e) 5. A confirmation of excess insurance, *if excess insurance is required*, by a licensed insurer in an amount acceptable to the Commission which complies with the requirements set forth in § 10 of this regulation. However, the Commission at its discretion may allow this insurance to be placed with an approved surplus lines insurer;

(f) 6. Designation of the board and of the administrator of the association, together with properly executed biographical affidavits for each member of the board and for the administrator or the principal officers of a corporation serving as an administrator. Affidavits are to be submitted on a form prescribed by the Commission;

(g) 7. Information showing that the association has, within its own organization or by contract with an approved service agent, ~~ample~~ *adequate* facilities and competent personnel to service its program with respect to underwriting matters, claims adjusting, and industrial safety engineering. Copies of all executed servicing agreements shall be filed with the Commission;

(h) 8. A confirmation of a fidelity bond in a form and amount acceptable to the Commission;

(i) 9. Deposit of securities or a surety bond with the ~~State Treasurer of Virginia~~ in an amount acceptable to the Commission in accordance with the requirements of § 7 of this regulation;

(j) 10. A projection of administrative expenses for the first year of operation in an amount and as a percentage of the estimated annual contributions;

(k) 11. A statement regarding the type of business and guidelines to be used to determine common interest;

(l) 12. A copy of the association's contracts with the service agent and the administrator which sets forth



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the terms and obligations of the agreement.

2. B. An application submitted by a group self-insurance association shall be accompanied by all of the following:

(a) 1. A composite listing of the estimated annual gross contribution to be developed by each member of the association individually and in the aggregate for the association, which, in the aggregate, shall be not less than ~~\$250,000~~ \$500,000, provided that this requirement shall not apply to groups licensed prior to the effective date of this regulation;

(b) 2. The application shall be accompanied by any other information the Commission requires.

3. C. Any subsequent revisions to items submitted under the provisions of §§ 4 and 5 of this regulation will be filed with and subject to approval by the Commission. Any subsequent revisions of the items in subsection 2 B of this section will be filed with the Commission.

§ 6. Approval of new members of association.

After the effective date of the license issued an association, new applications for membership shall not become effective until approved by the board of the administrator and subsequently ratified by the board Commission pursuant to § 65.1-104.2. The Commission may, at any time, ~~revoke~~ withdraw its approval of a membership after giving proper notice if the Commission determines that the member is not in compliance with this regulation. Prior to ~~revocation~~ withdrawal of approval by the Commission or any other revocation by the association, the member will be considered to be a member in good standing with the association.

A copy of the The application for membership submitted to the association in a form satisfactory to the Commission shall be retained by the association. The application shall include evidence of the execution of the indemnity agreement and power of attorney required by § 13 of this regulation together with approval of the applicant by the association and shall be accompanied by the applicant's financial statement. The association shall at all times have in its possession a current financial statement for each member in a form acceptable to the Commission and any other financial information deemed necessary by the association to verify the member's ability to honor the joint and several liability to the association as a condition to continued coverage. Any member who by its financial statement cannot demonstrate its financial ability to honor the joint and several liability shall be removed from membership in the association by the board.

§ 7. Security deposit and surety bond requirement.

A. Except as provided in subsection B of this section, each group self-insurance association licensed by the Commission shall maintain with the State Treasurer a security deposit of acceptable securities or surety bond in

an amount no less than the minimum amount of annual contributions required for the association by subsection 2(a) of Section 5 of this regulation \$250,000 for each plan year, or such other amount as the Commission deems reasonable for each plan year. The Commission may, from time to time, release or reduce the security deposit or surety bond requirement for a given plan year. The security deposit or surety bond shall be held by the State Treasurer pursuant to § 65.1-104.1(c), and so far as not inconsistent with the provisions of the Act or these regulations shall be subject to the provisions of Article 7, Chapter 10, Title 38.2 of the Code of Virginia.

For the purposes of this regulation, acceptable securities shall be (i) investments allowed by § 2.1-327 (legal investments for public sinking funds) and § 2.1-328 (legal investments for other public funds), (ii) securities issued by states, other than Virginia, and their municipalities or political subdivisions rated A or better by Moody's Investors Services, Inc., or Standard and Poor's, Inc., (iii) revenue bonds rated Aa (AA) or better by Moody's Investors Services, Inc., or Standard and Poor's, Inc. that are bonds issued by municipalities or political subdivisions of this Commonwealth or any other state, (iv) securities issued by the Federal Home Loan Banks, and (v) securities issued by the Federal Intermediate Credit Banks.

Surety bonds deposited pursuant to this section shall be issued by an insurer duly licensed in this Commonwealth to transact a surety business and shall not either directly or indirectly be under the same ownership or management as the principal on this bond. The surety bond shall be designated as applying to a specific plan year and each plan year shall have its own surety bond in the amount required by the Commission.

In addition to the minimum security deposit or surety bond required by this section, the Commission may require additional securities or bond that surety it considers appropriate after giving consideration to such factors as excess insurance, unassigned surplus of the association and the financial ability of the group to meet its obligations under the Act.

B. As an alternative to the security deposit or surety bond required by subsection A of this section, a group self-insurance association may have an appropriate endorsement attached to its contracts for excess insurance as required in § 10 of this regulation. The endorsement must provide that in the event the group self-insurance association fails to pay to any employee or dependent of any employee any compensation provided by the Act, the excess coverage insurer will become liable immediately for 100% of the compensation and will make payment as directed by the Industrial Commission of Virginia.

C. Any deposit made with the State Treasurer prior to the effective date of this regulation must be maintained with the State Treasurer until specifically released in writing by the Commission.

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## § 8. Investment.

The board of an association may, in its discretion, invest funds in any type of investments authorized by §§ 38.1-217.18, 38.1-217.21, 38.1-217.22, 38.1-217.24, and 38.1-217.35 and by § 7 of this regulation. Other investments may be made subject to the approval of the Commission. All such investments shall be authorized or approved by the board in the manner contemplated by the provisions of § 38.1-217.9.

## § 9. Filing of reports.

Each association shall file annually with the Commission on or before March 1, of each year a statement showing its financial operations and condition for the most recently completed calendar year. The Commission, for good cause, may extend the time for filing the annual ~~statements~~ *statement* by not more than ~~thirty~~ 60 days. *In addition, each association shall furnish a copy of an audited statement of its financial operations and conditions prepared by an independent certified public accountant within six months of the end of the association's fiscal period.*

This annual statement shall contain a report in detail of the association's assets, liabilities, revenues and disbursements during this year, and all other information which the Commission may deem necessary to secure a full and accurate knowledge of the financial affairs and condition of the association.

The Commission may prescribe the form of the annual statement and of any necessary schedules and exhibits. In addition to the annual statement, the Commission may require any association to timely file additional financial information, including interim financial reports.

## § 10. Contracts for excess insurance.

Specific and aggregate excess insurance may be required as a condition for licensing a group self-insurance association and shall be subject to the following requirements:

(a) 1. No contract or policy of excess liability insurance shall be recognized by the Commission in considering the ability of an applicant to fulfill its financial obligations under the Act unless this contract or policy:

(1) (a) Is issued by an insurer licensed or approved by the Commission. However, the Commission at its discretion may allow this insurance to be placed with an approved surplus lines insurer;

(2) (b) Is not cancellable or terminable for any reason except upon 60 days written notice sent by registered or certified mail to:

(i) (1) The association; and

(ii) (2) The Commission.

(3) (c) Is automatically renewable at the expiration of the policy period except upon 60 days written notice sent, by registered or certified mail to:

(i) (1) The association; and

(ii) (2) The Commission.

(b) 2. If the contract or policy contains any type of commutation clause, it shall provide in substance:

(1) (a) That any commutation effected under the policy shall not relieve the underwriter or underwriters of further liability in respect to claims and expenses unknown at the time of such commutation or in regard to claims apparently closed but which may be subsequently revived by or through a competent authority; and

(2) (b) That in the event the underwriter proposes to settle liability to the association for any future payments payable as compensation for injuries occurring during the term of the policy by the payment of a lump sum to be fixed as provided in the commutation clause of the policy, not less than 30 days' prior notice of this commutation shall be given to the Commission by registered or certified mail by the underwriter or its agent.

(c) 3. In the event any commutation is effected, the Commission shall have the right to direct that this sum either:

(1) a. Be placed in trust for the benefit of the injured employee or dependent entitled to the future payment of benefits, or

(2) b. Be invested by the association in the manner permitted by § 8 of this regulation and held along with any income or gains from the investments in a special reserve subject to further order of the Commission to assure the future payment of compensation to the employee or dependent entitled to the compensation.

(d) 4. No more than one association, which shall be defined as the named insured, shall be covered by any contract or policy of excess liability insurance. Any reinsurance contract issued on any contract or policy of excess liability shall contain a clause providing that, (i) the reinsurance is written expressly for, and for the protection of, the named insured, and (ii) in the event of the aggregate and/or specific excess underwriter's going into liquidation or being otherwise unable to pay to the named insured, the reinsurer of the aggregate and/or specific excess underwriter will pay benefits as may be due under the terms of the reinsurance contract ~~direct~~ *directly* to the named insured;

# State Corporation Commission

(e) 5. Copies of the complete contracts or policies of excess liability insurance, complete with all endorsements thereto, shall be filed with the Commission.

*The Commission may release the association from this excess insurance requirement if the contingency reserve established by the association is in an amount determined by the Commission to be adequate.*

## § 11. Responsibilities of members' supervisory board.

The members' supervisory board shall be responsible for holding and managing the assets and directing the affairs of an association and shall be elected in the manner prescribed by the association's governing instruments. At least three-fourths of the board must be members of the association, but a supervisory board member shall not be an owner, officer or employee of any service organization, its parent or any of its affiliated companies, under contract with the association. The board shall supervise the finances of the association and the association's operations to the extent necessary to assure conformity with law, this regulation, the members' indemnity agreement and power of attorney, and the association's governing instruments. The members' supervisory board shall take all necessary precautions to safeguard the assets of the association, including, but not limited to, the following:

(a) 1. Monitoring the financial condition of each member of the association (unless proof of financial condition is not required under § 5 A.3 of this regulation), and doing all other acts necessary to assure that each member continues to be able to fulfill the obligations of membership; and also reporting promptly to the Commission any grounds for believing that a change in any member's financial condition, withdrawal of a member, or any other circumstances affecting the association's ability to meet its obligations. A licensed association, other than those exempted under Section 5-1(e), may satisfy the monitoring of a member's financial condition by having the members attest in writing to their solvency in subsequent years. If the association has the endorsement to its excess insurance as specified in subsection B of Section 7, financial statements may be required if considered necessary by the board ;

(b) 2. Designating an administrator to administer the affairs of the association, who shall furnish a fidelity bond with the association as obligee, in an amount sufficient to protect the association against the misappropriation or misuse of any monies or securities. The amount of the bond shall be determined by the Commission and evidence of the bond shall be filed with the Commission, said bond being one of the conditions required for licensing of the association. The administrator shall not be an owner, officer or employee of any service agent, its parent or any of its affiliated companies, any of which

are under contract with the association;

(c) 3. Retaining control of all monies collected for the association and the disbursement of such monies by the association. All assets of the association shall remain in the custody of the board or the authorized administrator. However, a claims fund for payment of benefits due and other related expenses may be established for the use of any authorized service agent;

(d) 4. Active efforts to collect delinquent accounts resulting from any past due contributions by members. Any member of an association who fails to make the required contributions after due notice may be declared ineligible for the self-insurance privilege shall no longer be deemed a member in good standing of such association until this past due account, including cost of collection, has been paid or adequately provided for;

(e) 5. The members' supervisory board or the administrator shall not use any of the monies collected for any purpose unrelated to securing the members' liability under the Act. Further, they shall be prohibited from borrowing any monies from the association or in the name of the association without advising the Commission of the nature and purpose of the loan and obtaining Commission approval;

(f) 6. The members' supervisory board shall assure that the office of the administrator of the association and all pertinent records necessary to verify the accuracy and completeness of all reports submitted to the Commission are maintained within this Commonwealth;

(g) 7. The members' supervisory board shall assure that payroll verifications of all members of the associations are conducted ; and within 120 days after the close of a plan year and any additional amounts due are collected within 30 days of the completion of the audit.

(h) 8. The members' supervisory board may adopt its own rules and procedures as considered necessary for the operation of the association provided these rules and procedures are not inconsistent with § 65.1-104.2 and this regulation.

## § 12. Advance contribution requirements and distribution of surplus funds.

A-1. A. For the purpose of funding the liability of an association the members shall make contributions to the association based on annual payrolls for all employees of each member, except for executive officers where the payroll is to be limited to a maximum of \$300 per week, using rates and stock or nonstock discounts as adopted by the board and approved by the Commission. The rates to be used are those in effect as of the inception of each

association's fiscal year. A plan which allows for consideration of past experience in developing a factor to be applied to a member's contribution may be used provided this plan has been approved by the Commission.

Nothing contained herein shall be construed to prevent an association from filing with the Commission its own rates or a deviation from these rates or an alternative method of determining contributions which may be used upon approval by the Commission.

2. B. At the effective date of the license of an association *and for each subsequent year of operation*, at least 25% of the *first year's estimated annual contribution* payable by each member of the association shall have been paid into a designated depository. The balance of the *first year's contributions annual contribution* shall be paid no later than the end of the ninth month of the association year ; *either in quarterly or monthly installments at the discretion of the board . At no time shall the member's combined payments be less than the total earned estimated annual contribution due at that time.*

For each subsequent year of operation of the association, the payment schedule shall provide for annual or periodic payments in advance in intervals no more frequent than once a month, at the discretion of the board.

B. C. Any surplus assets (i.e. those assets in excess of the amount necessary to fulfill all obligations under the Act *and this regulation* ) accumulated within an association year may be declared refundable by the board. The board shall establish the plan and the dates for payment of these excess assets. Payment of this surplus shall not be made until approved by the Commission. Surplus assets accumulated within an association year will be used exclusively for the benefit of those members belonging to the association during that association year. The accounting of the surplus for each association year will provide for a separate itemization of the surplus for each association year. The surplus assets of one association year shall not be used to offset the deficiencies of other association years.

However, the Commission *may shall require ; and shall permit upon application of the association,* that five percent *3.0%* or less *more* of an association year's surplus *association's earned contributions for each fiscal accounting period* be allocated to a *restricted surplus account at the end of that year contingency reserve* . The *restricted surplus contingency reserve* is to be used at the direction of the association's board subject to the approval of the Commission. *When the Commission is satisfied that the contingency reserve is adequate for the needs of the association, adjustments may be made by the Commission as necessary to the contingency reserve or to contributions to the contingency reserve to maintain it at an established amount.*

## § 13. Indemnity agreement and power of attorney.

Every member of a group self-insurance association shall execute an indemnity agreement and power of attorney which shall set forth the rights, privileges and obligations of the member and the association and the powers and duties of the administrator. This indemnity agreement and power of attorney shall be subject to the approval of the Commission and shall contain in substance the following provisions:

(1) 1. An agreement under which each member agrees to assume and discharge, jointly and severally, any liability under the Act of any and all employers party to such agreement;

(2) 2. Provisions requiring that the members' supervisory board designate and appoint an administrator empowered to accept service of process on behalf of the association and authorized to act for and bind the association and members in all transactions relating to or arising out of the operation of the association; and

(3) 3. Provisions for the right of substitution of the administrator and revocation of the power of attorney and rights thereunder.

Such indemnity agreement may also contain such other provisions not inconsistent with law or this regulation.

## § 14. Servicing of association.

A service agent for a licensed workers' compensation group self-insurance association shall apply and shall be subject to the approval of the Commission before entering into a contract with an association and shall satisfy the Commission that it has adequate facilities and competent personnel to fulfill its obligations to the association and this regulation.

A service agent shall maintain a resident agent in this Commonwealth and that agent shall be authorized to act for the service agent on any and all matters covered by the Act, and rules and regulations of the Commission.

A service agent shall file with the Commission copies of all contracts entered into with the association as they relate to the services to be performed. These contracts shall provide for services necessary to fulfill the employer's obligations under the Act, and the rules and regulations of the Commission. In addition, any service contract or letter of intent must state that the servicing organization agrees to handle all claims incurred during the contract period to their conclusion *without further remuneration* unless approval to transfer them is obtained from the Commission prior to such transfer.

The service organization shall furnish a fidelity bond covering its employees, with the association as obligee, in an amount sufficient to protect all monies placed in the

# State Corporation Commission

claims fund. However, if the bond required of the administrator also covers the monies in the claims fund, a separate bond shall not be required of the servicing organization with respect to the claims fund.

Upon satisfactory compliance with the above provisions, a certificate of approval as a recognized and authorized service agent shall be issued to the applicant. Failure to comply with any of the foregoing rules or any order of the Commission within the time prescribed shall be considered justification for withdrawing the certificate of approval. The Commission shall give 10 days' prior notice of such withdrawal. The notice shall be served personally, or by certified or registered mail, upon all interested parties setting forth the reasons for withdrawal and providing the service agent an opportunity to introduce evidence and be heard. If, after a hearing, which may be formal or informal, the service agent's certificate of approval is revoked this revocation shall become effective 30 days after issuance of the Commission's order or within such shorter or longer period as the Commission may consider necessary to protect the interest of the association, its members and their employees.

Each individual, partnership, or corporation approved to act as a service agent for an association shall file with the Commission an annual statement, in a form acceptable to the Commission, of its financial condition with the Commission within four months of the completion of its fiscal year.

## § 15. Termination of members of association.

No member of an association may be terminated unless at least 30 days written notice has been given to the member, the Commission, and the Industrial Commission of Virginia, except as provided in § 65.1-105.

The association shall remain liable for all claims applicable to the period during which an employer was a member of an association, including the 30 day-period required for termination of membership or for a lesser period as provided by § 65.1-105.

## § 16. Revocation of self-insurance license.

The Commission may revoke an association's license if:

- (a) 1. The association no longer meets the standards required for the issuance of its license; or
- (b) 2. The association fails to comply with this regulation, the provisions of the Act or an order of the Commission.

The Commission shall give 10 days' prior notice of the proposed revocation to the association. The notice shall be served personally, or by certified or registered mail, upon all interested parties stating the reasons for the proposed revocation and providing the association an opportunity to introduce evidence and be heard. If, after a hearing,

which may be formal or informal, the association's license is revoked, this revocation shall become effective 30 days after the Commission's order is issued.

## § 17. Penalties.

Penalty for failure to comply with this regulation may be as provided in Section 16 of this regulation or as provided under the applicable provisions of Title 65.1 shall be as provided by § 12.1-13 of the Code of Virginia .

## § 18. Examination of association.

If the Commission considers it expedient for the protection of the interests of the people of this Commonwealth, it may make or direct to be made a financial condition examination into the affairs of any association, or service agent licensed or approved in this Commonwealth.

The manner and frequency in which the examination of financial condition shall be conducted and the release of any reports of financial condition shall be as provided in Article 3 (§ 38.1-174 et seq.) of Chapter 4 of Title 38.1.

## § 19. Severability.

If any provisions of this regulation, or the application of it to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.

## STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 25, 1987

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE870037

Ex Parte: In the matter of  
adopting rules implementing  
the Small Water or Sewer Public  
Utility Act.

## AMENDING ORDER

On November 10, 1987, the Commission entered its Final Order which adopted rules to implement the Small Water or Sewer Public Utility Act, Virginia Code § 56-265.13:1 et seq.

On November 18, 1987, the Association of Virginia Water Companies ("Association") submitted a petition which suggests that inclusion of language in the notice for determining the validity of requests for hearing would be more appropriately contained in § 5 of the procedural rule rather than in the text of the notice itself. The Association

has therefore asked that the final paragraph of the notice prescribed in § 5 be deleted from the notice and made a part of § 5 of the rule itself.

NOW THE COMMISSION, upon consideration of the Association's request, is of the opinion and finds that the final paragraph of the notice should be deleted and that the instructional procedural text of § 5 should be revised. We find this change to be appropriate because we stated in our Final Order that public notices for small water or sewer utilities should be structured like those for other small utilities. Commission prescribed notices for other small utilities do not contain language comparable to that currently found in the notice prescribed in § 5 of the rules.

Accordingly, IT IS ORDERED:

(1) That the Association's petition is granted to the extent it requests deletion of the last paragraph of the notice prescribed in § 5;

(2) That § 5 of the Rules Implementing the Small Water or Sewer Public Utility Act shall be revised as follows:

§ 5. Each company shall complete its written notification to all customers 45 days prior to the effective date of any change in tariffs. In cases of hearings resulting from customer requests, only a hearing request made by the individual in whose name the account is maintained shall be deemed a request by a customer. Customer petitions are acceptable.

If a company wishes to contest the number of customers requesting a hearing or whether one submitting a request is a customer, the company may request and those requesting a hearing shall provide to the company a copy of all requests for hearing or a copy of any customer petition filed with this Commission. If it is determined that requests for hearing have been received from persons other than customers and that the requisite number of customer requests have not been presented, the company may seek dismissal of the case.

The Company's notice to its customers shall follow the following format to the extent applicable:

NOTICE OF (INCREASES IN, CHANGES IN) RATES, CHARGES, RULES AND REGULATIONS OF SERVICE OF (INSERT NAME OF COMPANY)

(Insert name of Company) will change its (tariffs) on file with the State Corporation Commission, effective for service rendered on and after (effective date). (Summarize existing rates, fees, and charges and all new rates, fees, and charges).

[If applicable] (Insert name of Company) also will change the following portions of its rules and

regulations of service, effective on the same date: (Summarize changes).

Any interested party may review (insert name of Company)'s proposed changes during regular business hours at the utility's office where customer bills may be paid.

Any interested person may file written comments in support of or objecting to the proposed changes with the Division of Energy Regulation, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23209.

..... (NAME OF COMPANY)

(3) That there being nothing further to be done herein, this matter is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all water, sewer, or water and sewer public utilities subject to the Small Water and Sewer Public Utility Act; Donald G. Owens, Esquire, May & Valentine, P.O. Box 1122, Richmond, Virginia 23208-9970; Richard M. Anthony, President, Sanville Utilities Copropration, P.O. Box 532, Bassett, Virginia 24055; Warren J. Lodge, General Manager, Lake of the Woods Association, Inc., Box 1, Lake of the Woods, Locust Grove, Virginia 22508; the Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, Richmond, Virginia 23219; and the Commission's Divisions of Accounting and Finance, Energy Regulation, and Economic Research and Development.

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# GOVERNOR

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## EXECUTIVE ORDER NUMBER 54 (87)

### DECLARATION OF STATE OF EMERGENCY ARISING FROM FOREST FIRES IN SOUTHWEST VIRGINIA

During the past three weeks, a number of serious forest fires have burned and threatened large areas located in the southwestern part of the Commonwealth. Containing these fires overcame the capabilities of Virginia forestry personnel and local volunteers, necessitating the deployment of helicopter water buckets, other support equipment, and personnel of the Virginia National Guard to the scene of the fires in order to help contain and, eventually, extinguish them.

The health and general welfare of the citizens of the affected areas required that state action be taken to help alleviate the conditions brought about by this situation, which constituted an emergency as contemplated under the provisions of Section 44-146.16 of the Code of Virginia.

By virtue of the authority vested in me by Sections 44-75 and 44-146.17 of the Code of Virginia as Governor, as Commander in Chief of the armed forces of the Commonwealth, and as Director of Emergency Services, and subject to my continuing and ultimate authority and responsibility to act in such matters, I do hereby proclaim that on November 7, 1987, I determined that a state of emergency existed in the affected areas of the Commonwealth and directed that appropriate assistance be rendered by agencies of state and local governments to alleviate these conditions. I further directed that the Adjutant General of Virginia make available, on state active duty service, such members of the Virginia National Guard and such equipment as might be necessary to combat the forest fires in the southwestern part of the Commonwealth.

Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following benefits will be provided to the member and his dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act; and, in addition,

(b) The same benefit for injury, disability and/or death, or their equivalent, as would be provided by the federal government if the member were serving on federal active duty at the time of injury or death. Any such federal-type benefits due to a member and his dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the

member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the Code of Virginia and subject to the concurrence of the Board of Military Affairs, I now approve of future expenditures out of the appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

This Executive Order shall become effective upon its signing and will remain in full force and effect until June 30, 1988, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 23rd day of November, 1987.

/s/ Gerald L. Baliles  
Governor

### GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

#### DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: **VR 615-01-9. Definition of a Home in the Aid to Dependent Children (ADC) and General Relief (GR) Programs.**

Governor's Comment:

The regulations appear carefully drawn to bring the Department's regulations into compliance with federal requirements regarding the definition of a "home" for purposes of determining ADC eligibility. Because of the positive impact and policy considerations addressed by these regulations, I have no objections to these proposals as presented.

/s/ Gerald L. Baliles  
November 30, 1987

#### STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-21-00. Water Quality Standards.**

Governor's Comment:

The final submission of the amendments to the water quality standards responds to the comments made by the public without jeopardizing the original intent to strengthen and clarify the water quality standard. I have no objection

to the final version of the amendments.

/s/ Gerald L. Baliles  
November 23, 1987



# DELEGATIONS OF DUTIES AND RESPONSIBILITIES

The 1987 General Assembly passed Legislation allowing an agency's chief executive officer to delegate to any officer or employee of his agency the duties and responsibilities conferred upon him by law and, in the case of an agency with a supervisory board, such board may delegate its duties and responsibilities. Section 1-17.2 of the Code of Virginia requires that when duties and responsibilities conferred or imposed upon a chief executive officer or supervisory board are delegated, such reports are to be published in the Virginia Register of Regulations as soon after filing as practicable.

## DEPARTMENT OF MOTOR VEHICLES

**Address:**

Department of Motor Vehicles  
2300 West Broad Street  
Richmond, Virginia 23220

**Telephone:** (804) 257-6600

**Title of Chief Executive Officer:**  
Commissioner

**Duty or Responsibility Delegated:**  
Collection of Motor Vehicle Sales and Use Tax and related responsibilities as outlined under Motor Vehicle Sales and Use Tax [ §§ 58.1-2400 through 58.1-2425 of the Code of Virginia].

**Position Receiving Delegation:**  
General Services Administrator

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Commissioner

**Duty or Responsibility Delegated:**  
Assess and collect motor fuel taxes and related penalties; grant refunds; and other responsibilities specified under Motor Fuel and Special Fuel Tax [ §§ 58.1-1719 through 58.1-2311 of the Code of Virginia].

**Position Receiving Delegation:**  
General Services Administrator

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Commissioner

**Duty or Responsibility Delegated:**  
Acceptance of certificates of title or other appropriate documentation issued by other states for a salvaged vehicle [ § 46.1-550.11 of the Code of Virginia].

**Position Receiving Delegation:**  
Vehicle Services Administrator

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Commissioner

**Duty or Responsibility Delegated:**

Carry out the responsibilities as outlined in Chapter 7 of Title 46.1 of the Code of Virginia—Motor Vehicle Licensing Act. This includes issuing and suspending licenses and conducting hearings.

**Position Receiving Delegation:**  
Vehicle Services Administrator

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Commissioner

**Duty or Responsibility Delegated:**  
Administer the registration of uninsured motor vehicles [ § 46.1-167.1 of the Code of Virginia].

**Position Receiving Delegation:**  
Driver Services Administrator

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Commissioner

**Duty or Responsibility Delegated:**  
Carry out the responsibilities as outlined in Chapter 6.1 of Title 46.1 of the Code of Virginia—Virginia Driver Improvement Act. This includes notifying individuals about driver improvement steps they must follow and the probation, suspension or revocation of a driver's license. Responsibilities also include conducting driver improvement clinics.

**Position Receiving Delegation:**  
Driver Services Administrator

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Commissioner

**Duty or Responsibility Delegated:**  
Carry out the responsibilities as outlined in Chapter 6 of Title 46.1 of the Code of Virginia—Motor Vehicle Safety Responsibility Act. Section 46.1-396 states that the Commissioner shall administer and enforce provisions of Title 46.1, Chapter 6. Outlined through this chapter are specific references to what the Commissioner shall and can do.

**Position Receiving Delegation:**  
Driver Services Administrator

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Commissioner

**Duty or Responsibility Delegated:**  
Certify transcript or abstract of conviction documents of habitual offender to Commonwealth Attorneys [§ 46.1-387.3 of the Code of Virginia].

**Position Receiving Delegation:**  
Driver Services Administrator

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Commissioner

**Duty or Responsibility Delegated:**  
Carry out the responsibilities as outlined in Chapter 3 of Title 46.1 of the Code of Virginia—Registering and Titling Motor Vehicles. This includes issuance of license plates, validation decals, and titles.

**Position Receiving Delegation:**  
Vehicle Services Administrator

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Commissioner

**Duty or Responsibility Delegated:**  
Issue special parking permits to persons with physical handicaps, either permanent or temporary [§ 46.1-254.2 of the Code of Virginia].

**Position Receiving Delegation:**  
Driver Services Administrator

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Commissioner

**Duty or Responsibility Delegated:**  
Cancellation or revocation of license when it is found that the application contains false information [§ 46.1-364 of the Code of Virginia].

**Position Receiving Delegation:**  
Driver Services Administrator

**DEPARTMENT OF PLANNING AND BUDGET**

**Address:**  
Department of Planning and Budget  
P. O. Box 1422  
Richmond, Virginia 23211

**Telephone:** (804) 786-7455

**Title of Chief Executive Officer:**  
Director

**Duty or Responsibility Delegated:**  
Section 4-1.08 of the Chapter 723 of the 1987 Acts of Assembly requires the Director of the Department of Planning and Budget to prepare and act on the following allotment items: changes to subprograms and subobjects and changes to amounts allotted within legislative appropriations.

**Position Receiving Delegation:**  
Analyst

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Director

**Duty or Responsibility Delegated:**  
Section 4-1.08 of Chapter 723 of the 1987 Acts of Assembly requires the Director the Department of Planning and Budget to approve and change allotments for nonstate agencies.

**Position Receiving Delegation:**  
Deputy Director

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Director

**Duty or Responsibility Delegated:**  
Section 4-1.08 of Chapter 723 of the 1987 Acts of Assembly requires the Director of the Department of Planning and Budget to prepare and act on unallotments of appropriations requested by the agency.

**Position Receiving Delegation:**  
Section Manager

\* \* \* \* \*

**Title of Chief Executive Officer:**  
Director

**Duty or Responsibility Delegated:**  
Section 4-1.06 of Chapter 723 of the 1987 Acts of Assembly authorizes the Director of the Department of Planning and Budget to approve reappropriation of unexpended nongeneral fund balances in 02, 03, 04, 05, 06, 07, 08, and 09.

**Position Receiving Delegation:**  
Section Manager

\* \* \* \* \*

**Title of Chief Executive Officer:**

# Delegations

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Director

**Duty or Responsibility Delegated:**

Section 4-1.05 b of Chapter 723 of the 1987 Acts of Assembly authorizes the Director of the Department of Planning and Budget to take actions relating to the following: adjustments to general fund sum sufficient appropriations; additional general fund revenues; and additional nongeneral fund revenues above 5% of a given fund within an agency's appropriation, including surplus property and insurance recoveries. (This limit shall be calculated on a cumulative basis for any given fiscal year.)

**Position Receiving Delegation:**

Deputy Director

\* \* \* \* \*

**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

Section 4-1.05 b of Chapter 723 of the 1987 Acts of Assembly authorizes the Director of the Department of Planning and Budget to take actions relating to the following: adjustments to nongeneral fund sum sufficient appropriations and additional nongeneral fund revenues below 5% of a given fund within an agency's appropriation, including surplus property and insurance recoveries. (This limit shall be calculated on a cumulative basis for any given fiscal year.)

**Position Receiving Delegation:**

Section Manager

\* \* \* \* \*

**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

Section 4-1.03 of Chapter 723 of the 1987 Acts of Assembly authorizes the Director of the Department of Planning and Budget to transfer appropriation: between programs within an agency; between agencies within a secretarial area; between agencies within the following systems - Division of Legislative Services, Judicial System, Department of Education, Virginia Community College System, Department of Corrections, and Department of Mental Health, Mental Retardation and Substance Abuse Services; between funds within the same program.

**Position Receiving Delegation:**

Section Manager

\* \* \* \* \*

**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

Section 4-1.03 of Chapter 723 of the 1987 Acts of Assembly authorizes the Director of the Department of Planning and Budget to transfer appropriation: between agencies across secretarial areas; between operating program and capital project; and between capital projects.

**Position Receiving Delegation:**

Deputy Director

\* \* \* \* \*

**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

Item C-6.1 of Chapter 723 of the 1987 Acts of Assembly authorizes the Director of the Department of Planning and Budget to transfer funds from central appropriations for correction of asbestos hazards.

**Position Receiving Delegation:**

General Government Section Manager

\* \* \* \* \*

**Title of Chief Executive Officer:**

Director

**Duty or Responsibility Delegated:**

Item 655 of Chapter 723 of the 1987 Acts of Assembly requires the Department of Planning and Budget to take necessary actions concerning compensation supplements; Item 657 requires the Department of Planning and Budget to take necessary actions concerning fees for court assigned counsel.

**Position Receiving Delegation:**

Section Manager

# GENERAL NOTICES/ERRATA

## Symbol Key †

† Indicates entries since last publication of the Virginia Register

### BOARD OF BARBER EXAMINERS

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Barber Examiners intends to consider amending regulations entitled: **Virginia Board of Barber Examiners**. The purpose of the proposed regulation is to solicit public comment on all existing regulations as to its effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with its Public Participation Guidelines and Chapter 4.1 of Title 54 of the Code of Virginia.

Statutory Authority: § 54-1.28(5) of the Code of Virginia.

Written comments may be submitted until February 1, 1988.

**Contact:** Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8509 (toll-free 1-800-552-3016)

### DEPARTMENT OF COMMERCE

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **Agency Rules of Practice for Hearing Officers**. The purpose of the proposed regulation is to establish time limits for the receipt of exceptions which are filed in cases where a hearing officer makes recommendations or decisions.

Statutory Authority: § 9-6.14:12(D) of the Code of Virginia.

Written comments may be submitted until January 21, 1988.

**Contact:** Catherine Walker Green, Policy Analyst, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8564, toll-free 1-800-552-3016, or SCATS 367-8564

### DEPARTMENT OF CORRECTIONS

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Corrections intends to consider amending regulations entitled: **Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs**. The purpose of the proposed regulation is to provide standards for operating locally administered programs developed and implemented under Virginia Delinquency Prevention and Youth Development Act grants with respect to program administration, services, personnel fiscal management, staff training and development, and monitoring and evaluation.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of Virginia.

Written comments may be submitted until January 15, 1988.

**Contact:** Thomas J. Northen, III, Delinquency Prevention Specialist, Department of Corrections, P. O. Box 26963, Richmond, Va. 23261, telephone (804) 257-1633 or SCATS 327-1633

### DEPARTMENTS OF CORRECTIONS; EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; AND SOCIAL SERVICES

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intends to consider amending regulations entitled: **Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children**. The purpose of the proposed regulation is to establish standards to provide children in residential facilities with at least a minimal level of care. The current effort is intended to amend and clarify those sections of the standards which address discipline and punishment. Only those sections of the regulations which address discipline or punishment, or both, will be considered for amendment.

Statutory Authority: §§ 16.1-286, 53.1-237 through 53.1-239, 16.1-310 through 16.1-314, 53.1-249, 22.1-319 through 22.1-335, 22.1-218, 37.1-179 through 37.1-189, 37.1-199, 63.1-195 through 63.1-219 and 63.1-56.1 of the Code of Virginia.

Written comments may be submitted until January 15, 1988.

# General Notices/Errata

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**Contact:** John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025 or SCATS 441-9025

## STATE BOARD OF EDUCATION

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider promulgating regulations entitled: **Regulations Governing the Use of Toxic Art Materials in Elementary Schools in Virginia.** Pursuant to § 22.1-274.1 of the Code of Virginia, the Department of Education, in cooperation with the State Department of Health, intends to promulgate regulations requiring elementary schools to identify art materials which are toxic, to so label such materials, and to prohibit the use of such materials in the elementary grades.

Statutory Authority: §§ 22.1-16 and 22.1-274.1 of the Code of Virginia.

Written comments may be submitted until December 31, 1987.

**Contact:** Cheryle Gardner, Supervisor of Art Education, State Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2053 or SCATS 335-2053

## 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 Department of Labor and Industry intends to consider amending regulations entitled: **Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia, XI. Program Sponsor Evaluation Procedure.** The purpose of the proposed regulation is to provide the criteria necessary to implement the Program Sponsor Evaluation Procedure.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Written comments may be submitted until January 11, 1988.

**Contact:** Robert S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2381 or SCATS 786-2381

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Nursing Home Appeals and Depreciation Recapture When Terminating From Medicaid Program.** The purpose of the proposed regulation is to revise current regulations concerning nursing home provider appeals and the recapture of prior depreciation expense based on the entire gain upon a nursing home sale.

Statutory Authority: § 32.1-325 A of the Code of Virginia.

Written comments may be submitted until January 8, 1988.

**Contact:** N. Stanley Fields, Director, Provider Reimbursement, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7931 or SCATS 786-7931

## DEPARTMENT OF MINES, MINERALS AND ENERGY Division of Mined Land Reclamation

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy, Division of Mined Land Reclamation intends to consider amending regulations entitled: **Virginia Coal Surface Mining Reclamation Regulations.** The purpose of the proposed action is to combine all sections of regulations pertaining to the re-mining of previously mined lands into a single subchapter pertaining solely to that subject.

Statutory Authority: § 45.1-230 of the Code of Virginia.

Written comments may be submitted until January 22, 1988.

**Contact:** Bob Herron, Operator Assistance Manager, Division of Mined Land Reclamation, P. O. Drawer U, Big Stone Gap, Va. 24219, telephone (703) 523-2925 or SCATS 676-2000

## VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Professional Counselors intends to consider promulgating regulations entitled: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.** These regulations

provide the education and experience standards for examination, the examination requirements for licensure, and standards of practice to ensure competency and integrity in the delivery of professional counseling services for the safety and welfare of the citizens of the Commonwealth.

Statutory Authority: § 54-929 of the Code of Virginia.

Written comments may be submitted until January 5, 1988.

**Contact:** Stephanie A. Sivert, Executive Director, Department of Health Regulatory Boards, Board of Professional Counselors, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912 or SCATS 662-9912

## BOARD FOR PROFESSIONAL SOIL SCIENTISTS

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Professional Soil Scientists intends to consider promulgating regulations entitled: **Certified Professional Soil Scientists and Public Participation Guidelines**. The purpose of the proposed regulation is to implement a certification program for professional soil scientists as authorized by Chapter 31 (§ 54-969 et seq.) of Title 54 of the Code of Virginia.

Statutory Authority: § 54-969 of the Code of Virginia.

Written comments may be submitted until January 30, 1988.

**Contact:** E. G. Andres, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8557, toll-free 1-800-552-3016, or SCATS 367-8557

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

### 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 repeal regulations entitled: **Specific Hearing Procedures in Aid to Dependent Children (ADC) Program**. The purpose of the proposed action is to repeal existing regulations.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until December 23, 1987, to I. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

**Contact:** John L. Moody, Chief Hearings Officer, Division

of Benefit Programs, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9044

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Transportation intends to consider promulgating regulations entitled: **Minimum Standards of Entrances to State Highways**. The purpose of the proposed regulation is to establish guidelines for controlling the use of highway right-of-way where it is necessary to provide access to commercial, private and industrial properties abutting state roads.

Statutory Authority: §§ 33.1-12, 33.1-197 and 33.1-198 of the Code of Virginia.

Written comments may be submitted until February 23, 1988.

**Contact:** John L. Butner, Assistant State Traffic Engineer, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2965

## STATE WATER CONTROL BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards**. The purpose of the proposed regulation is to establish an instream water quality standard for tributyltin.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until 5 p.m., January 29, 1988.

**Contact:** Stu Wilson, Water Resources Ecologist, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-0387 or SCATS 327-0387

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **National Pollutant Discharge Elimination System Permit Program**. The purpose of the proposed regulation is to delineate the authority and general procedures to be followed in connection with National Pollutant Discharge Elimination System (NPDES) permits authorizing

# General Notices/Errata

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discharges of pollutants into state waters and with No-Discharge Certificates presently administered under the board's Procedural Rule No. 2.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until January 7, 1988, to Martin G. Ferguson at the address below.

**Contact:** David N. Smith, Water Control Engineer, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6303

## GENERAL NOTICES

### BOARD OF GAME AND INLAND FISHERIES

#### † Notice to the Public

The Board of Game and Inland Fisheries, at a meeting held in Richmond, Virginia, on October 30, 1987, adopted the following amended regulation, applicable to Floyd County, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, to become effective January 1, 1988.

VR 325-03-2.  
Trout Fishing.

§ 11. Special provision applicable to certain portions of Little River, Smith Creek and Snake Creek.

Deleted from this regulation the provisions applicable to portions of Little River in Floyd County.

/s/ Henry A. Thomas, Chairman

### NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

#### FORMS:

NOTICE OF INTENDED REGULATORY ACTION - RR01  
NOTICE OF COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04

EMERGENCY (Transmittal Sheet) - RR05  
NOTICE OF MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08

Copies of the 1987 Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

## ERRATA

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Title of Regulation: VR 115-02-15. Rules and Regulations for the Registration of Poultry Dealers.

Publication: 4:4 VA.R 316-318 November 23, 1987

#### Correction:

Page 316, § 3; the word "*possission*" should read "*possession*."

### DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Title of Regulation: VR 240-01-14. Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of State Department of Corrections, Division of Adult Institutions.

Publication: 4:4 VA.R 325-328 November 23, 1987

#### Correction:

Page 329, § 7 C.6; the subdivision should read as follows:

6. *Prequalification shooting (60 rounds, minimum);*

# CALENDAR OF EVENTS

## Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

## VIRGINIA CODE COMMISSION

## EXECUTIVE

### VIRGINIA STATE BOARD OF ACCOUNTANCY

- † January 18, 1988 - 10 a.m. - Open Meeting
  - † January 19, 1988 - 8 a.m. - Open Meeting
- Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) review applications for certification and licensure; (ii) review correspondence; and (iii) review enforcement cases.

**Contact:** Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8505 (toll-free 1-800-552-3016)

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

January 23, 1988 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-05-10. Rules and Regulations Defining Standards for Grades/Sizes of Shell Eggs.** This regulation sets forth grade and quality standards for the enforcement of the Virginia Egg Law. The proposed amendments delete three outdated sections and update the remaining sections to make them consistent with USDA specifications.

Statutory Authority: §§ 3.1-763.16 and 3.1-769.4 of the Code of Virginia.

Written comments may be submitted until January 23, 1988, to Raymond D. Vaughan, Secretary of the Board of Agriculture and Consumer Services.

**Contact:** J. A. Morano, Jr., Retail Food Inspection, Supervisor, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3520

## AUCTIONEERS BOARD

February 9, 1988 - 9 a.m. - Public Hearing  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Auctioneers intends to amend regulations entitled: **VR 150-01-3. Rules and Regulations of the Virginia Auctioneers Board.** The proposed amendments will bring this provision more in line with the Code of Virginia and clarify the role of auctioneers who are unregistered.

Statutory Authority: §§ 54-1.28, 54-824.9:1 and 54-823.9:3 of the Code of Virginia.

Written comments may be submitted until January 8, 1988.

**Contact:** Gerald W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 367-8508, toll-free 1-800-552-3016, or SCATS 367-8508

## DEPARTMENT OF COMMERCE (BOARD OF)

December 29, 1987 - 10 a.m. - Public Hearing  
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to amend regulations entitled: **VR 190-03-01. Polygraph Examiners Regulations.** The purpose of this action is to regulate polygraph examiners and interns by establishing standards of education, experience and training to assure only qualified individuals become licensed and to assure valid polygraph examinations are performed.

Statutory Authority: § 54-917 of the Code of Virginia.



# Calendar of Events

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Written comments may be submitted until December 28, 1987.

**Contact:** David E. Dick, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8516/8563 (toll-free 1-800-552-3016)

\* \* \* \* \*

**February 10, 1988 - 10 a.m. – Public Hearing**  
Travelers Building, 3600 West Broad Street, 3rd Floor Auditorium, Room 395, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to adopt regulations entitled: **VR 190-05-1. Asbestos Licensing Regulations.** These regulations set forth requirements for licensure and training of asbestos workers, contractors/supervisors and inspectors intending to become involved in asbestos abatement activities in Virginia.

Statutory Authority: § 54-145.5 of the Code of Virginia.

Written comments may be submitted until February 5, 1988.

**Contact:** Peggy J. Wood, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8595 (toll-free 1-800-552-3016)

## STATE BOARD FOR CONTRACTORS

† **January 12, 1988 - 10 a.m. – Open Meeting**  
Roanoke City Circuit Court, 315 West Church Avenue, Courtroom #1, Roanoke, Virginia

The board will meet to conduct a formal administrative hearing: State Board for Contractors v. Dane Construction, Inc.

**Contact:** Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8524

## STATE BOARD OF CORRECTIONS

† **January 13, 1988 - 10 a.m. – Open Meeting**  
† **February 17, 1988 - 10 a.m. – Open Meeting**  
† **March 16, 1988 - 10 a.m. – Open Meeting**  
Department of Corrections, 4615 West Broad Street, Richmond, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented.

**Contact:** Vivian Toler, Secretary to the Board, 4615 W. Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone (804) 367-6274

## VIRGINIA BOARD OF COSMETOLOGY

**January 6, 1988 - 9 a.m. – Open Meeting**  
Walter E. Hoffman U.S. Courthouse, 600 Granby Street, Norfolk, Virginia

The board will meet to conduct a formal administrative hearing: Virginia Board of Cosmetology v. Cleveland N. Waterfield.

**January 6, 1988 - 1 p.m. – Open Meeting**  
Walter E. Hoffman U.S. Courthouse, 600 Granby Street, Norfolk, Virginia

The board will meet to conduct a formal administrative hearing: Virginia Board of Cosmetology v. Ellen Gorris.

**January 6, 1988 - 2:30 p.m. – Open Meeting**  
Walter E. Hoffman U.S. Courthouse, 600 Granby Street, Norfolk, Virginia

The board will meet to conduct a formal administrative hearing: Virginia Board of Cosmetology v. Arleen M. Neal.

**January 6, 1988 - 4 p.m. – Open Meeting**  
Walter E. Hoffman U.S. Courthouse, 600 Granby Street, Norfolk, Virginia

The board will meet to conduct a formal administrative hearing: Virginia Board of Cosmetology v. Teresa L. Loizides.

**Contact:** Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8524

† **January 11, 1988 - 9 a.m. – Open Meeting**  
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) review enforcement cases; and (iv) discuss regulations.

**Contact:** Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8505 (toll-free 1-800-552-3016)

## CRIMINAL JUSTICE SERVICES BOARD

† **January 6, 1988 - 11 a.m. – Open Meeting**  
Radisson Hotel, Lynchburg, Virginia

The board will discuss issues affecting the criminal justice system at the meeting.

Committee on Training

\* \* \* \* \*

† January 5, 1988 - 2:30 p.m. - Open Meeting  
Radisson Hotel, Lynchburg, Virginia

A regular meeting to discuss matters related to the training of criminal justice personnel.

Contact: Charles F. Turner, Staff Executive, Criminal Justice Services Board, 805 E. Broad St., 10th Fl., Richmond, Va. 23219, telephone (804) 786-8730 or SCATS 786-8730

February 25, 1988 - 7 p.m. - Public Hearing  
Northside High School, 6758 Northside High School Road, Roanoke, Virginia

February 25, 1988 - 7 p.m. - Public Hearing  
Hermitage High School, 8301 Hungary Spring Road, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: VR 270-01-0014. Management of the Student's Scholastic Record. These regulations provide for the protection, confidentiality and management of student records.

STATE BOARD OF EDUCATION

January 14, 1988 - 9 a.m. - Open Meeting  
January 15, 1988 - 9 a.m. - Open Meeting  
February 25, 1988 - 9 a.m. - Open Meeting  
February 26, 1988 - 9 a.m. - Open Meeting  
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia. ☐

A regularly scheduled meeting to conduct business according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if requested.

Contact: Margaret N. Roberts, James Monroe Bldg., 101 N. 14th St., 25th Fl., Richmond, Va. 23219, telephone (804) 225-2540

Statutory Authority: § 22.1-16 of the Code of Virginia.

Written comments may be submitted until February 18, 1988.

Contact: Kathe Klare, Supervisor of Due Process Proceedings, Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2044

\* \* \* \* \*

DEPARTMENT OF EDUCATION (STATE BOARD OF)

February 25, 1988 - 1:30 p.m. - Public Hearing  
James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Education intends to amend regulations entitled: VR 270-01-0006. Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia. The purpose of these amendments is to prescribe the scope of operational procedures and requirements, distribution of funds, driver requirements, body and chassis standards including life-gate buses, and requirements for activity buses.

Statutory Authority §§ 22.1-16 and 22.1-176 of the Code of Virginia.

Written comments may be submitted until January 22, 1988.

Contact: R. A. Bynum, Associate Director, Pupil Transportation Service, Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2037

February 25, 1988 - 8 p.m. - Public Hearing  
Northside High School, 6758 Northside High School Road, Roanoke, Virginia

February 25, 1988 - 8 p.m. - Public Hearing  
Hermitage High School, 8301 Hungary Spring Road, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: VR 270-02-0007. Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia. The purpose of this action is to ensure the provision of a free and appropriate public education in the least restrictive environment to all handicapped youth ages two to 21, inclusive, residing in the Commonwealth.

Statutory Authority: § 22.1-16 of the Code of Virginia.

Written comments may be submitted until February 18, 1988.

Contact: Kathe Klare, Supervisor of Due Process Proceedings, Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2044

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February 25, 1988 - 3 p.m. - Public Hearing  
James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☐

# Calendar of Events

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Education intends to adopt regulations entitled: **VR 270-04-0015. Secondary School Transcripts.** The secondary school transcript will be standardized in order that all school divisions will report student information to colleges, universities, and prospective employers in the same format.

Statutory Authority: § 22.1-16 of the Code of Virginia.

Written comments may be submitted until February 25, 1988.

**Contact:** Cheryle C. Gardner, Supervisor of Art, Fine Arts Service, P. O. Box 6Q, Department of Education, Richmond, Va. 23216, telephone (804) 225-2053

## STATE BOARD OF ELECTIONS

† **January 5, 1988 - 10 a.m. – Open Meeting**  
Ninth Street Office Building, Ninth and Grace Streets, Room 101, Richmond, Virginia. ☐

A meeting to determine the candidates whose names will appear on the ballots for the March 8, 1988, Presidential Preference Primaries, provided each candidate returns the required declaration of candidacy by the January 20, 1988, deadline.

**Contact:** Ginny Zimmerman, Ninth Street Office Bldg., Room 101, Richmond, Va. 23219, telephone (804) 786-6551

## LOCAL EMERGENCY PLANNING COMMITTEE

**January 6, 1988 - 10 a.m. – Open Meeting**  
Mount Rogers Planning District Commission's Conference Room, 1021 Terrace Drive, Marion, Virginia. ☐

A meeting to review the plan to date.

**Contact:** Mt. Rogers Planning District Commission, 1021 Terrace Dr., Marion, Va. 24354, telephone (703) 783-5103

## GOVERNOR'S MIGRANT AND SEASONAL FARMWORKERS BOARD

NOTE: CHANGE OF MEETING DATE

† **January 5, 1988 - 9:30 a.m. – Open Meeting**  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

This regular meeting of the board was announced for Wednesday, January 6, 1988, but the meeting has been rescheduled for Tuesday, January 5, 1988.

**Contact:** Marilyn Mandel, Director, Planning, Research and Policy Analysis, Department of Labor and Industry, P. O.

Box 12064, Richmond, Va. 23241, telephone (804) 786-2385

## VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **December 23, 1987 - 10 a.m. – Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☐

An informal fact-finding conference.

**Contact:** Mark L. Forberg, Executive Secretary, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9907, toll-free 1-800-533-1560, or SCATS 662-0076

## DEPARTMENT OF GENERAL SERVICES

### Art and Architectural Review Board

† **January 8, 1988 - 10 a.m. – Open Meeting**  
Virginia Museum of Fine Arts, Main Conference Room, Richmond, Virginia. ☐

The board 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:** M. Stanley Krause, AIA, AICP, Rancorn, Wildman & Krause, Architects and City Planning Consultants, P. O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

### Division of Consolidated Laboratory Services

**January 6, 1988 - 10 a.m. – Public Hearing**  
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of General Services intends to adopt new regulations and repeal existing regulations entitled: **VR 330-02-02. Regulations for the Approval of Independent Laboratories to Analyze Blood for Drugs in Driving Under the Influence Cases.** The regulations establish procedural and technical criteria for the approval of independent laboratories to analyze blood for drugs in driving under the influence cases.

Statutory Authority: §§ 2.1-424, 2.1-426 and 18.2-268 of the Code of Virginia.

Written comments may be submitted until January 6, 1988.

**Contact:** Dr. Paul B. Ferrara, Director, Bureau of Forensic Science, 1 N. 14th St., Richmond, Va. 23219, telephone (804) 786-2281

\* \* \* \* \*

**January 6, 1988 - 10 a.m. - Public Hearing**  
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of General Services intends to adopt new regulations and repeal existing regulations entitled: **VR 330-02-03. Regulations for the Approval of Independent Laboratories to Conduct Blood Alcohol Analysis in Driving Under Influence Cases.** The regulations describe the technical and administrative performance required to achieve and maintain approval for independent laboratories to conduct blood alcohol analysis.

Statutory Authority: §§ 2.1-424, 2.1-426 and 18.2-268 of the Code of Virginia.

Written comments may be submitted until January 6, 1988.

**Contact:** Dr. Paul B. Ferrara, Director, Bureau of Forensic Science, 1 N. 14th St., Richmond, Va. 23219, telephone (804) 786-2281

## **VIRGINIA HAZARDOUS MATERIALS EMERGENCY RESPONSE ADVISORY COUNCIL**

† **January 14, 1988 - 10 a.m. - Open Meeting**  
Sheraton Park South, 9901 Midlothian Turnpike, Richmond, Virginia

The business of the meeting will consist of a program status report; a report on Title III of SARA, and discussions on criteria related to technical response team cost sharing; recommendations for Level II criteria, and discussion on the Training Program.

Immediately following the Advisory Council meeting, there will be a meeting of the Virginia Emergency Response Council to discuss Title III.

**Contact:** Addison E. Slayton, Jr., State Coordinator, Department of Emergency Services, 310 Turner Road, Richmond, Va. 23225, telephone (804) 674-2497

## **DEPARTMENT OF HEALTH (STATE BOARD OF)**

**December 30, 1987 - 10 a.m. - Public Hearing**  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 that the Virginia Department of Health intends to amend regulations entitled: **VR 355-20-1. Ionizing Radiation Rules and Regulations.** These regulations cover radioactive materials and radiation producing machines; provide radiation protection standards.

Statutory Authority: § 32.1-229.4 of the Code of Virginia.

Written comments may be submitted until 5 p.m. December 26, 1987.

**Contact:** Leslie P. Foldesi, Radiation Safety Specialist, Bureau of Radiological Health, 109 Governor St., Room 916, Richmond, Va. 23219, telephone (804) 786-5932 (toll-free 1-800-468-0138)

## **VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL**

† **January 20, 1988 - 9 a.m. - Open Meeting**  
Jefferson Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia. ☐

A regular business meeting.

**Contact:** Raymond O. Perry, M.P.H., Virginia Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6970

## **COUNCIL ON HEALTH REGULATORY BOARDS**

### **Administration and Budget Committee**

† **January 8, 1988 - 9 a.m. - Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center, Surry Building, Richmond, Virginia. ☐

The committee will receive reports from members on their studies of the FY 88-90 budget requests prepared by cost center managers of the Department of Health Regulatory Boards.

### **Committee to Study Recommendation on Allied Health Regulation**

† **January 7, 1988 - 7:30 p.m. - Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center, Surry Building, Richmond, Virginia. ☐

The committee will review the report of the committee on the Regulation of Allied Health Professions and devise a plan for the recommendation of appropriate actions to the Council on Health Regulatory Boards.

### **Compliance and Discipline Subcommittee**

† **January 4, 1988 - 2 p.m. - Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center, Surry Building, Richmond, Virginia. ☐

The subcommittee will evaluate proposals reviewed pursuant to a request for proposals for management

# Calendar of Events

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services to assist in the program evaluation of the Department of Health Regulatory Boards enforcement system.

## Compliance and Discipline Committee

† **January 8, 1988 - 1 p.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center, Surry Building, Richmond, Virginia. ☒

The committee will receive a progress report on the evaluation of the Department of Health Regulatory Boards enforcement system. Presentations by invited potential vendors of consulting services related to the evaluation will be heard.

## Legislation Committee

† **January 7, 1988 - 4 p.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center, Surry Building, Richmond, Virginia. ☒

The committee will conduct a final review of legislation proposed by the Department of Health Regulatory Boards for consideration during the 1988 Legislative Session of the Virginia General Assembly with special attention to legislation proposed to permit physical therapists to provide services without prior referral from physicians, dentists or other licensed health care practitioners.

## Regulatory Research and Evaluation Committee

† **January 7, 1988 - 1 p.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The committee will receive progress reports on review of regulations proposed by the Boards of Medicine, Funeral Directors and Embalmers, and Social Work. A proposal to alter the level of regulation of respiratory therapists will be reviewed, and other matters will be considered as necessary.

## Committee on Scope and Standards of Practice

† **January 7, 1988 - 10 a.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center, Surry Building, Richmond, Virginia. ☒

The committee will review developments related to the October 20, 1987 release of the review of the need to regulate hypnosis/hypotherapy and review a proposed workplan for a review of the scope of practice of professional counselors.

**Contact:** Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804)

662-9918 or SCATS 662-9918

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**January 27, 1988 - 9:30 a.m.** – Open Meeting  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly business meeting of the council for the purpose of addressing financial, policy or technical matters which may have arisen since the last meeting.

**Contact:** Ann Y. McGee, Director, 805 E. Broad St., 9th Fl., Richmond, Va. 23219, telephone (804) 786-6371

## VIRGINIA STATE BOARD OF HEARING AID DEALERS AND FITTERS

† **January 4, 1988 - 8:30 a.m.** – Open Meeting  
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) review correspondence; (ii) review enforcement cases; (iii) discuss regulations; and (iv) administer exam.

**Contact:** Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8505 (toll-free 1-800-552-3016)

## LIBRARY BOARD

**January 5, 1988 - 9:30 a.m.** – Open Meeting  
Virginia State Library and Archives, 11th Street and Capitol Square, Old Supreme Courtroom, 3rd Floor, Richmond, Virginia. ☒

A regular meeting to discuss administrative matters.

**Contact:** Jean K. Reynolds, Virginia State Library and Archives, 11th St. and Capitol Sq., Richmond, Va. 23219, telephone (804) 786-2332

## MARINE RESOURCES COMMISSION

**January 5, 1988 - 9:30 a.m.** – Open Meeting  
† **February 2, 1988 - 9:30 a.m.** – Open Meeting  
Newport News City Council Chambers, 2400 Washington Avenue, Newport News, Virginia. ☒

The Virginia Marine Resources Commission will meet on the first Tuesday of each month, at 9:30 a.m. in Newport News City Council Chambers, located at 2400 Washington Avenue, Newport News, Virginia. The commission will hear and decide cases on fishing licensing; oyster ground leasing; environmental permits

in wetlands, bottomlands, coastal sand dunes and beaches. It will also hear and decide appeals made on local wetlands board decisions.

Fishery management and conservation measures will be 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 measure within five days.

**Contact:** Sandra S. Schmidt, Secretary to the Commission, 2401 West Ave., P. O. Box 756, Newport News, Va. 23607-0756, telephone (804) 247-2206

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

**December 21, 1987 - 9:30 a.m. - Open Meeting**  
1300 East Broad Street, Suite 1300, Richmond, Virginia. ☒

An open meeting to discuss (i) proposed Nursing Home/Hospital Reimbursement Plan changes, (ii) legislation; and (iii) other business pertinent to the board.

**Contact:** Jacqueline M. Fritz, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933

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**January 8, 1988 - Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14.7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-02-4.191. Extended Repayment of Overpayments.** The purpose of these amendments is to provide the director with the regulatory authority to approve an extended repayment schedule, with an interest charge, when a provider can document that immediate repayment would cause severe financial hardship.

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

Written comments may be submitted until January 8, 1988.

**Contact:** N. Stanley Fields, Director, Division of Provider Reimbursement, Department of Medical Assistant Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7931

† **January 14, 1988 - 10 a.m. - Open Meeting**  
600 East Broad Street, Suite 1300, Richmond, Virginia. ☒

An open meeting to discuss and adopt amendments to the Medicaid State Plan; and discuss other business

pertinent to the board.

**Contact:** Jacqueline M. Fritz, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933

## GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

† **January 5, 1988 - 2 p.m. - Open Meeting**  
Blue Cross/Blue Shield Building, 2015 Staples Mill Road, Virginia Room, 2nd Floor, Richmond, Virginia. ☒

An open meeting to discuss amendments to the Medicaid State Plan; and other business pertinent to the board.

**Contact:** Jacqueline M. Fritz, 600 E. Broad St., Richmond, Va. 23219, telephone (804) 786-7933

## VIRGINIA STATE BOARD OF MEDICINE

### Credentials Committee

† **January 22, 1988 - 8:15 a.m. - Open Meeting**  
† **January 23, 1988 - 8:15 a.m. - Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☒

A meeting to conduct general business, interview, and review medical credentials of applicants applying for licensure in Virginia in open and executive session and discuss any other items which may come before this committee.

### Informal Conference Committee

**January 15, 1988 - 1 p.m. - Open Meeting**  
Williamsburg/James City County Circuit Court, 321-45 Court Street West, Counsel Chambers, Williamsburg, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia.

**Contact:** Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, Va. 23229-5005, telephone (804) 662-9925

## MENTAL HEALTH ADVISORY COUNCIL

† **January 6, 1988 - 10 a.m. - Open Meeting**  
James Madison Building, 109 Governor Street, 13th Floor Conference Room, Richmond, Virginia. ☒

# Calendar of Events

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The third meeting of the council for FY 1988 to discuss mental health issues.

**Contact:** Leslie S. Tremaine, Ed.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-2991

## DEPARTMENT OF MINES, MINERALS AND ENERGY

**January 6, 1988 - 10 a.m.** - Public Hearing  
Department of Mines, Minerals and Energy, 2201 West Broad Street, Conference Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to adopt new regulations and repeal existing regulations entitled: **VR 480-01-1. Public Participation Guidelines.** The proposed regulations are procedures for the solicitation and participation of interested parties in the initiation, development and adoption of regulations required by the law of the Commonwealth.

Statutory Authority: §§ 9-6.14:7.1 and 45.1-3.1(4) of the Code of Virginia.

Written comments may be submitted until January 6, 1988.

**Contact:** Bill Edwards, Policy Analyst, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-0330

### Division of Mined Land Reclamation

† **January 22, 1988 - 10 a.m.** - Open Meeting  
622 Powell Avenue, Upstairs Conference Room, Big Stone Gap, Virginia

The purpose of this meeting is to consider the division's plans to combine all sections of regulations pertaining to the remaining of previously mined lands into a new subchapter on that sole subject.

**Contact:** Bob Herron, Division of Mined Land Reclamation, P. O. Drawer U, Big Stone Gap, Va. 24219, telephone (703) 523-2925

## VIRGINIA STATE BOARD OF NURSING

† **January 25, 1988 - 9 a.m.** - Open Meeting  
† **January 26, 1988 - 9 a.m.** - Open Meeting  
† **January 27, 1988 - 9 a.m.** - Open Meeting

Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Regular meetings of the Virginia Board of Nursing 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, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909, toll-free 1-800-533-1560

## VIRGINIA BOARD OF SOCIAL WORK

### Ad Hoc Committee

† **January 6, 1988 - 9 a.m.** - Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review the proposed regulations of the Board of Social Work prior to the public hearings.

**Contact:** Beverly Putnam, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9914, toll-free 1-800-533-1560 or SCATS 662-9914

## BOARD FOR PROFESSIONAL SOIL SCIENTISTS

† **January 4, 1988 - 9:30 a.m.** - Open Meeting  
Travelers Building, 3600 West Broad Street, Room 512, Richmond, Virginia. ☒

A meeting to develop and refine a work plan to implement certification program including development of appropriate examinations.

**Contact:** E. G. Andres, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8557, toll-free 1-800-552-3016 or SCATS 367-8557

## VIRGINIA BOARD OF VETERINARY MEDICINE

† **February 17, 1988 - 9 a.m.** - Open Meeting  
† **February 18, 1988 - 9 a.m.** - Open Meeting  
Sheraton Premier at Tyson's Corner, 8061 Leesburg Pike, Vienna, Virginia

A meeting to (i) consider general business; (ii) review examination; (iii) discuss regulations; and (iv) conduct disciplinary hearings.

At 1 p.m. on February 18, State Board Licensure Examination.

**Contact:** Moria Lux, Executive Director, Virginia Board of Veterinary Medicine, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9942

BOARD FOR THE VISUALLY HANDICAPPED

January 21, 1988 - 10 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue,
Richmond, Virginia. (Interpreter for deaf provided if
requested)

A bi-monthly meeting to review policy and procedures
of the Virginia Department for the Visually
Handicapped. The board reviews and approves
department's budget, executive agreement, and
operating plan.

Contact: Diane Allen, Executive Secretary Senior, 397
Azalea Ave., Richmond, Va. 23227, telephone (804)
371-3145, toll-free 1-800-622-2155 or (804) 371-3140/TDD

DEPARTMENT FOR THE VISUALLY HANDICAPPED
(BOARD FOR)

January 8, 1988 - 1 p.m. - Public Hearing
Virginia Rehabilitation Center for the Blind, 401 Azalea
Avenue, Richmond, Virginia

January 15, 1988 - 1 p.m. - Public Hearing
Arlington Public Library, 1015 North Quincy Street,
Arlington, Virginia

January 22, 1988 - 1 p.m. - Public Hearing
Norfolk Health Department, 401 Colley Avenue, Norfolk,
Virginia

January 29, 1988 - 1 p.m. - Public Hearing
Medical Foundation of Roanoke, 3000 Keagy Road, SW,
Roanoke, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of
the Code of Virginia that the Department for the
Visually Handicapped intends to adopt regulations
entitled: VR 670-03-1. Regulation Governing Provision
of Services in Vocational Rehabilitation. The purpose
of the regulation is to provide a basis for development
of policies regarding the requirements of federal
regulations and to ensure compliance with the
Rehabilitation Act of 1973 as amended.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Written comments may be submitted until February 5,
1988.

Contact: Nell Carney, Executive Assistant, Department for
the Visually Handicapped, 397 Azalea Ave., Richmond, Va.
23227, telephone (804) 371-3140, toll-free 1-800-622-2155,
SCATS 371-3140 or (804) 371-3140/TDD

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January 8, 1988 - 1 p.m. - Public Hearing
Virginia Rehabilitation Center for the Blind, 401 Azalea

Avenue, Richmond, Virginia

January 15, 1988 - 1 p.m. - Public Hearing
Arlington Public Library, 1015 North Quincy Street,
Arlington, Virginia

January 22, 1988 - 1 p.m. - Public Hearing
Norfolk Health Department, 401 Colley Avenue, Norfolk,
Virginia

January 29, 1988 - 1 p.m. - Public Hearing
Medical Foundation of Roanoke, 3000 Keagy Road, SW,
Roanoke, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of
the Code of Virginia that the Department for the
Visually Handicapped intends to adopt regulations
entitled: VR 670-03-2. Regulations Governing
Provision of Service for Infants, Children and Youth.
The purpose of the regulation is to provide guidelines
through definition, population served, and policies for
the provision of agency services in this area.

Statutory Authority: § 22.1-217 of the Code of Virginia.

Written comments may be submitted until February 5,
1988.

Contact: Nell Carney, Executive Assistant, Department for
the Visually Handicapped, 397 Azalea Ave., Richmond, Va.
23227, telephone (804) 371-3140, toll-free 1-800-622-2155,
SCATS 371-3140 or (804) 371-3140/TDD

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January 8, 1988 - 1 p.m. - Public Hearing
Virginia Rehabilitation Center for the Blind, 401 Azalea
Avenue, Richmond, Virginia

January 15, 1988 - 1 p.m. - Public Hearing
Arlington Public Library, 1015 North Quincy Street,
Arlington, Virginia

January 22, 1988 - 1 p.m. - Public Hearing
Norfolk Health Department, 401 Colley Avenue, Norfolk,
Virginia

January 29, 1988 - 1 p.m. - Public Hearing
Medical Foundation of Roanoke, 3000 Keagy Road, SW,
Roanoke, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of
the Code of Virginia that the Department for the
Visually Handicapped intends to adopt regulations
entitled: VR 670-03-3. Regulations Governing
Provision of Services in Rehabilitation Teaching. The
purpose of the proposed regulation is to provide a
basis for developing a policy in rehabilitation teaching
through establishing eligibility, scope and duration of
services to clients.



# Calendar of Events

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Statutory Authority: § 63.1-78 of the Code of Virginia.

Written comments may be submitted until February 5, 1988.

**Contact:** Nell Carney, Executive Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, SCATS 371-3140 or (804) 371-3140/TDD ☎

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**January 8, 1988 - 1 p.m. – Public Hearing**  
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia

**January 15, 1988 - 1 p.m. – Public Hearing**  
Arlington Public Library, 1015 North Quincy Street, Arlington, Virginia

**January 22, 1988 - 1 p.m. – Public Hearing**  
Norfolk Health Department, 401 Colley Avenue, Norfolk, Virginia

**January 29, 1988 - 1 p.m. – Public Hearing**  
Medical Foundation of Roanoke, 3000 Keagy Road, SW, Roanoke, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to adopt regulations entitled: **VR 670-03-4. Provision of Independent Living Rehabilitation Services.** The purpose of the proposed regulation is to state the basis for service through the definition of eligibility, scope of services, financial participation and appeal process for clients of independent living rehabilitation.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Written comments may be submitted until February 5, 1988.

**Contact:** Nell Carney, Executive Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, SCATS 371-3140 or (804) 371-3140/TDD ☎

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**January 8, 1988 - 1 p.m. – Public Hearing**  
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia

**January 15, 1988 - 1 p.m. – Public Hearing**  
Arlington Public Library, 1015 North Quincy Street, Arlington, Virginia

**January 22, 1988 - 1 p.m. – Public Hearing**  
Norfolk Health Department, 401 Colley Avenue, Norfolk, Virginia

**January 29, 1988 - 1 p.m. – Public Hearing**  
Medical Foundation of Roanoke, 3000 Keagy Road, SW, Roanoke, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to adopt regulations entitled: **VR 670-03-5. Supervision of Administrative Regulations Governing Intake and Social Services.** The purpose of the proposed regulation is to describe the basis by which the agency is empowered to administer matters relating to social services for the blind and visually impaired.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Written comments may be submitted until February 5, 1988.

**Contact:** Nell Carney, Executive Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, SCATS 371-3140 or (804) 371-3140/TDD ☎

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**January 8, 1988 - 1 p.m. – Public Hearing**  
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia

**January 15, 1988 - 1 p.m. – Public Hearing**  
Arlington Public Library, 1015 North Quincy Street, Arlington, Virginia

**January 22, 1988 - 1 p.m. – Public Hearing**  
Norfolk Health Department, 401 Colley Avenue, Norfolk, Virginia

**January 29, 1988 - 1 p.m. – Public Hearing**  
Medical Foundation of Roanoke, 3000 Keagy Road, SW, Roanoke, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to adopt regulations entitled: **VR 670-03-6. Regulation Governing Deaf-Blind Services.** The purpose of the proposed regulation is to set forth the basis for developing policy or scope of services and tracking of deaf-blind persons within the Commonwealth.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Written comments may be submitted until February 5, 1988.

**Contact:** Nell Carney, Executive Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, SCATS 371-3140 or (804) 371-3140/TDD ☎

# Calendar of Events

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**January 8, 1988 - 1 p.m. - Public Hearing**  
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia

**January 15, 1988 - 1 p.m. - Public Hearing**  
Arlington Public Library, 1015 North Quincy Street, Arlington, Virginia

**January 22, 1988 - 1 p.m. - Public Hearing**  
Norfolk Health Department, 401 Colley Avenue, Norfolk, Virginia

**January 29, 1988 - 1 p.m. - Public Hearing**  
Medical Foundation of Roanoke, 3000 Keagy Road, SW, Roanoke, Virginia

Notice is hereby given in accordance § 9-6.14.7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to adopt regulations entitled: **VR 670-03-7. Regulation Governing Low Vision.** The purpose of the proposed regulation is to provide the basis for provision of low vision services through description of eligibility, scope of service and financial participation of low vision service participants.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Written comments may be submitted until February 5, 1988.

**Contact:** Nell Carney, Executive Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, SCATS 371-3140 or (804) 371-3140/TDD ☎

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**January 8, 1988 - 1 p.m. - Public Hearing**  
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia

**January 15, 1988 - 1 p.m. - Public Hearing**  
Arlington Public Library, 1015 North Quincy Street, Arlington, Virginia

**January 22, 1988 - 1 p.m. - Public Hearing**  
Norfolk Health Department, 401 Colley Avenue, Norfolk, Virginia

**January 29, 1988 - 1 p.m. - Public Hearing**  
Medical Foundation of Roanoke, 3000 Keagy Road, SW, Roanoke, Virginia

Notice is hereby given in accordance § 9-6.14.7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to adopt regulations entitled: **VR 670-03-9. Regulations Governing Eligibility of Person Desiring Statewide Library**

**Service for the Blind and Physically Handicapped.** The purpose of the proposed regulation is to set forth the basis for provision of library services in cooperation with the Virginia State Library and Archives by describing eligibility and scope of services to participants.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Written comments may be submitted until February 5, 1988.

**Contact:** Nell Carney, Executive Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, SCATS 371-3140 or (804) 371-3140/TDD ☎

## Advisory Committee on Services

**January 9, 1988 - 10:30 a.m. - Open Meeting**  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☎ (Interpreter for deaf provided if requested)

A quarterly meeting to advise the Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

**Contact:** Diane E. Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 371-3145 toll-free 1-800-622-2155 or (804) 371-3140/TDD ☎

## STATE WATER CONTROL BOARD

**January 11, 1988 - 2 p.m. - Public Hearing**  
Newport News City Hall, Council Chambers, 2400 Washington Avenue, Newport News, Virginia

**January 13, 1988 - 7 p.m. - Public Hearing**  
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

**January 14, 1988 - 2:30 p.m. - Public Hearing**  
County Administration Building, Spotsylvania County Board of Supervisors Room, Route 208 at Spotsylvania Courthouse, Spotsylvania, Virginia

Notice is hereby given in accordance with § 9-6.14.7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 630-14-02. Policy for Nutrient Enriched Waters - Water Quality Standards.** The proposed regulation will provide for the control of discharges of phosphorus from point sources affecting designated "nutrient enriched waters."

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

# Calendar of Events

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Written comments may be submitted until 5 p.m., January 23, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6985

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**January 11, 1988 - 7 p.m. - Public Hearing**  
Newport News City Hall, 2400 Washington Avenue, Council Chambers, Newport News, Virginia

**January 13, 1988 - 2:30 p.m. - Public Hearing**  
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

**January 14, 1988 - 7 p.m. - Public Hearing**  
County Administration Building, Spotsylvania County Board of Supervisors Room, Route 208 at Spotsylvania Courthouse, Spotsylvania, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-03. Toxics Management Regulation.** The proposed regulation would control and manage toxic pollutants discharged to surface waters of the Commonwealth.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 5 p.m., January 29, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Alan Anthony or Richard Ayers, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-0791

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**January 11, 1988 - 2 p.m. - Public Hearing**  
Newport News City Hall, 2400 Washington Avenue, Council Chambers, Newport News, Virginia

**January 13, 1988 - 7 p.m. - Public Hearing**  
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

**January 14, 1988 - 2:30 p.m. - Public Hearing**  
County Administration Building, Spotsylvania County Board of Supervisors Room, Route 208 at Spotsylvania Courthouse, Spotsylvania, Virginia

Notice is hereby given with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-07. Special**

**Standards and Designations - Water Quality Standards.** The proposed amendment of the Water Quality Standards establishes a designation of "nutrient enriched waters."

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until 5 p.m., January 23, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6985

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**January 11, 1988 - 11:30 a.m. - Public Hearing**  
Newport News City Hall, 2400 Washington Avenue, Council Chambers, Newport News, Virginia

**January 13, 1988 - 2 p.m. - Public Hearing**  
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

**January 14, 1988 - 2 p.m. - Public Hearing**  
County Administration Building, Spotsylvania County Board of Supervisors Room, Route 208 at Spotsylvania Courthouse, Spotsylvania, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-08. River Basin Section Tables - Water Quality Standards.** The purpose of the proposed amendments is to designate public water supplies for the Quantico Marine Base, the Wintergreen Mountain Village, Fort Monroe, Tazewell and Austinville.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until 5 p.m., January 29, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Stu Wilson, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-0387

† **January 19, 1988 - 11 a.m. - Public Hearing**  
Clinch Valley College, Chapel of Old Faith, College Avenue, Wise, Virginia

An additional public hearing on the board's proposed Toxics Management Regulation. The proposed Toxics Management Regulation was initially published in the Virginia Register of Regulations on November 9, 1987.

**Contact:** Alan Anthony or Richard Ayers, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230,

telephone (804) 367-0791

**January 25, 1988 - 2 p.m. - Open Meeting**  
Williamsburg/James City County Courthouse Council  
Chambers, 321-45 Court Street - West, Williamsburg,  
Virginia

Public meeting on amendment to Water Quality  
Standards to establish an instream water quality  
standard for tributyltin.

**Contact:** Stu Wilson, Office of Environmental Research and  
Standards, State Water Control Board, P. O. Box 11143,  
Richmond, Va. 23230, telephone (804) 367-0387

## COUNCIL ON THE STATUS OF WOMEN

† **January 19, 1988 - 8 p.m. - Open Meeting**  
† **February 16, 1988 - 8 p.m. - Open Meeting**  
Jefferson Sheraton Hotel, Franklin and Adams Streets,  
Richmond, Virginia

† **March 15, 1988 - 8 p.m. - Open Meeting**  
Embassy Suites Hotel, 2925 Emerywood Parkway,  
Richmond, Virginia

Meetings of the Standing Committees of the Virginia  
Council on the Status of Women.

† **January 20, 1988 - 9:30 a.m. - Open Meeting**  
† **February 17, 1988 - 9:30 a.m. - Open Meeting**  
State Capitol, Capitol Square, House Room 1, Richmond,  
Virginia. ☒

† **March 16, 1988 - 9 a.m. - Open Meeting**  
Embassy Suites Hotel, 2925 Emerywood Parkway,  
Richmond, Virginia

A regular meeting of the council to conduct general  
business and to receive reports from the council  
standing committees.

**Contact:** Bonnie H. Robinson, Executive Director, 8007  
Discovery Dr., Richmond, Va. 23229-8699, telephone (804)  
662-9200 or SCATS 662-9200

## LEGISLATIVE

### COAL AND ENERGY COMMISSION

† **January 7, 1987 - 9:30 a.m. - Public Hearing**  
Southwest Community College, Auditorium, Richlands,  
Virginia

Discussion of impacts of the Utility Virginia Coal  
Incentive Act and Solar Tax Credits, economic  
development in Virginia's coal counties and strategies  
for the future, and an opportunity for the public to

make comments or bring concerns to the attention of  
the commission.

**Contact:** John T. Heard, Staff Attorney, Division of  
Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208,  
telephone (804) 786-3591

### JOINT SUBCOMMITTEE STUDYING TIDAL SHORELINE EROSION

**December 21, 1987 - 10 a.m. - Open Meeting**  
General Assembly Building, Capitol Square, House Room C,  
Richmond, Virginia. ☒

A meeting to discuss establishment of state shoreline  
erosion policy for the ocean and bay. HJR 226

**Contact:** Martin G. Farber, Research Associate, Division of  
Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208,  
telephone (804) 786-3591

### STUDY ON WASTE REDUCTION AND RECYCLING EFFORTS IN VIRGINIA

† **December 21, 1987 - 10:30 a.m. - Open Meeting**  
General Assembly Building, Capitol Square, 6th Floor  
Conference Room, Richmond, Virginia. ☒

This is the final meeting and working session for this  
subcommittee prior to reporting to the 1988 General  
Assembly session. HJR 292/SJR 132

**Contact:** John T. Heard, Staff Attorney, or Martin G.  
Farber, Research Associate, Division of Legislative  
Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone  
(804) 786-3591

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### December 21

Medical Assistance Services, Board of  
Tidal Shoreline Erosion, Joint Subcommittee Studying  
† Waste Reduction and Recycling Efforts in Virginia,  
Study on

#### December 23

† Funeral Director and Embalmers, Virginia Board of

#### January 4, 1988

† Health Regulatory Boards, Council on  
- Compliance and Discipline Subcommittee  
† Hearing Aid Dealers and Fitters, Virginia State  
Board of  
† Soil Scientists, Board for Professional

#### January 5

# Calendar of Events

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† Criminal Justice Services Board  
- Committee on Training  
† Elections, State Board of  
† Farmworkers Board, Governor's Migrant and  
Seasonal  
Library Board  
Marine Resources Commission  
† Medicare and Medicaid, Governor's Advisory Board  
on

## January 6

Cosmetology, Virginia Board of  
† Criminal Justice Services Board  
Emergency Planning Committee, Local  
† Mental Health Advisory Council  
† Social Work, Virginia Board of  
- Ad Hoc Committee

## January 7

† Health Regulatory Boards, Council on  
- Committee to Study Recommendation on Allied  
Health Regulation  
- Legislation Committee  
- Regulatory Research and Evaluation Committee  
- Committee on Scope and Standards of Practice

## January 8

† General Services, Department of  
- Art and Architectural Review Board  
† Health Regulatory Boards, Council on  
- Administration and Budget Committee  
- Compliance and Discipline Committee

## January 9

Visually Handicapped, Department for the  
- Advisory Committee on Services

## January 11

† Cosmetology, Virginia Board of

## January 12

† Contractors, State Board for

## January 13

† Corrections, State Board of

## January 14

Education, State Board of  
† Hazardous Materials Emergency Response Advisory  
Council, Virginia  
† Medical Assistance Services, Department of

## January 15

Education, State Board of  
Medicine, Virginia State Board of  
- Informal Conference Committee

## January 18

† Accountancy, Virginia State Board of

## January 19

† Accountancy, Virginia State Board of  
† Women, Council on the Status of

## January 20

† Health Coordinating Council, Virginia Statewide  
† Women, Council on the Status of

## January 21

Visually Handicapped, Board for the

## January 22

† Medicine, Virginia State Board of  
- Credentials Committee  
† Mines, Minerals and Energy, Department of  
- Division of Mined Land Reclamation

## January 23

† Medicine, Virginia State Board of  
- Credentials Committee

## January 25

† Nursing, Virginia State Board of  
Water Control Board, State

## January 26

† Nursing, Virginia State Board of

## January 27

Health Services Cost Review Council, Virginia  
† Nursing, Virginia State Board of

## February 2

† Marine Resources Commission

## February 16

† Women, Council on the Status of

## February 17

† Corrections, State Board of  
† Veterinary Medicine, Virginia Board of  
† Women, Council on the Status of

## February 18

† Veterinary Medicine, Virginia Board of

## February 25

Education, State Board of

## February 26

Education, State Board of

## March 15

† Women, Council on the Status of

## March 16

† Corrections, State Board of  
† Women, Council on the Status of

**PUBLIC HEARINGS**

- December 29**  
Commerce, Department of
- December 30**  
Health, Department of
- January 6, 1988**  
General Services, Department of  
- Division of Consolidated Laboratory Services  
Mines, Minerals and Energy, Department of
- January 7**  
† Coal and Energy Commission
- January 8**  
Visually Handicapped, Department for the
- January 11**  
Water Control Board, State
- January 13**  
Water Control Board, State
- January 14**  
Water Control Board, State
- January 15**  
Visually Handicapped, Department for the
- January 19**  
† Water Control Board, State
- January 22**  
Visually Handicapped, Department for the
- January 29**  
Visually Handicapped, Department for the
- February 9**  
Auctioneers Board
- February 10**  
Commerce, Department of
- February 25**  
Education, Department of

# Calendar of Events

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