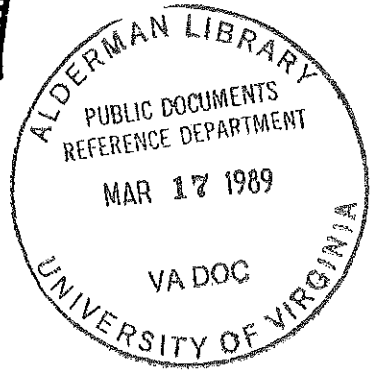
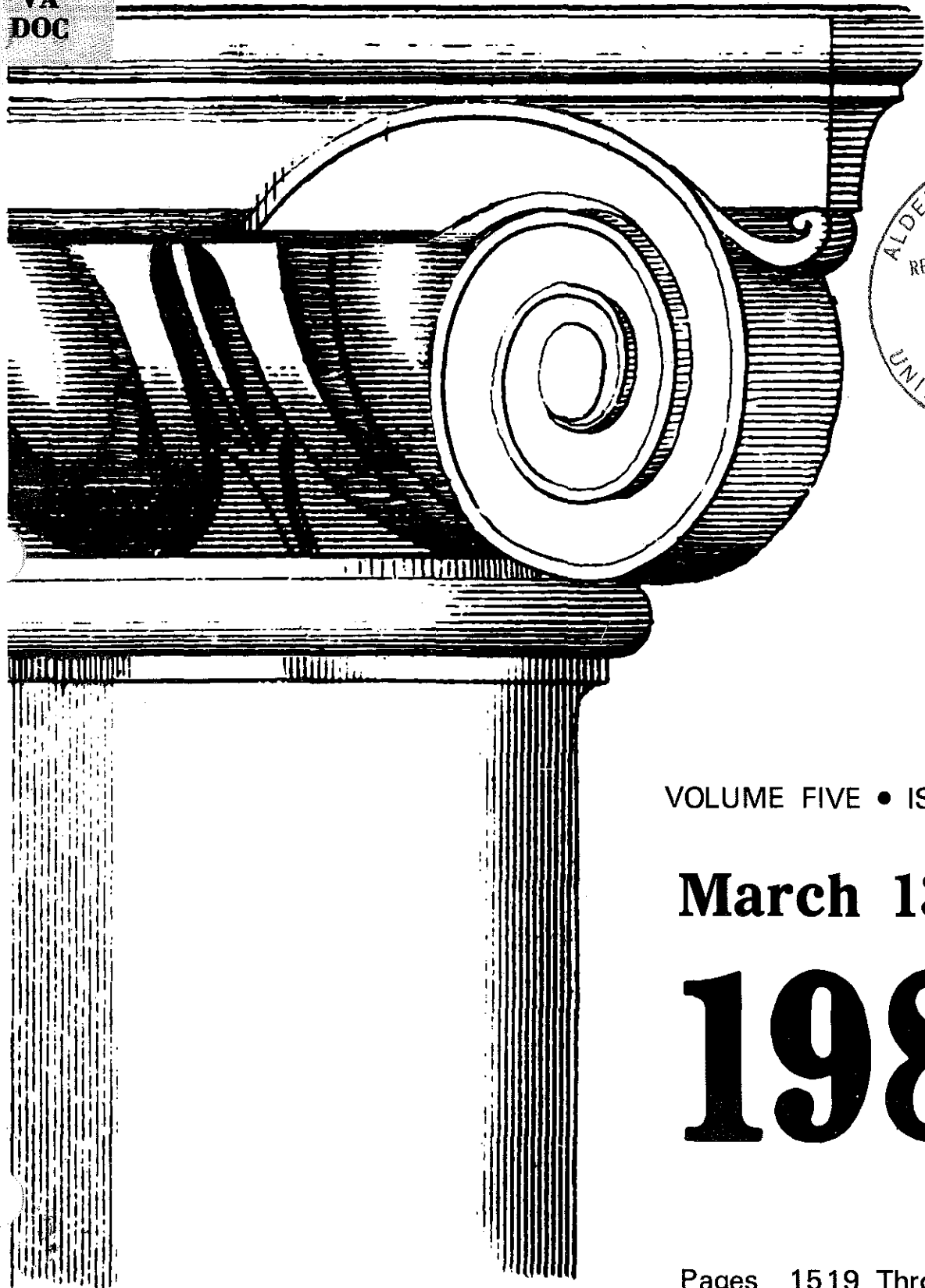


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**THE VIRGINIA REGISTER**

OF REGULATIONS

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VOLUME FIVE • ISSUE TWELVE

**March 13, 1989**

**1989**

Pages 1519 Through 1608

# 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 periodically 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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# PROPOSED REGULATIONS

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## Symbol Key

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

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

**REGISTRAR'S NOTICE:** Due to its length, the proposed Teacher Certification Regulations filed by the State Board of Education are not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Education.

**Title of Regulation:** VR 270-02-0000. Teacher Certification Regulations.

**Statutory Authority:** §§ 22.1-298 and 22.1-299 of the Code of Virginia.

**Public Hearing Date:** March 31, 1989 - 1:30 p.m.  
(See Calendar of Events section for additional information)

### Summary:

The purpose of the proposed amendment is to implement a recommendation of the Governor's Commission on Excellence in Education contained in the report, *Excellence in Education - A Plan for Virginia's Future*. The report recommended that an individualized recertification plan based on a point system be required for the recertification of educational personnel. Currently the requirements for certificate renewal may be met by completing college course work. Many of Virginia's educators have completed postgraduate training and this single option is not sufficient to accommodate their continued professional growth. Alternative routes should be available for the recertification of experienced educators. A variety of activity options will give a broad range of professional development options to address the changing needs of the career educator.

The current requirements for Speech-Language are being amended in response to federal legislation (PL 99-457) which requires that personnel serving special education students meet the highest standards for the profession in the Commonwealth. Editorial modifications to the requirements for certification in preschool handicapped area are proposed to accommodate the federal requirements regarding the provision of services to handicapped infants (PL 99-457).

## BOARD OF PROFESSIONAL COUNSELORS

**Title of Regulation:** VR 560-01-02. Regulations Governing the Practice of Professional Counseling.

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

**Public Hearing Date:** N/A

(Written comments may be submitted until May 11, 1989. See Calendar of Events section for additional information)

### Summary:

The Board of Professional Counselors is proposing that its emergency regulations governing the supervisors of counselor trainees and documentation of supervision become permanent regulations. The emergency regulations became effective July 12, 1988. Under these regulations, nonlicensed supervisors who were previously approved to provide supervision to trainees under the board's former set of regulations may continue their supervision of specific trainees to its completion. The board's existing regulations, effective July 6, 1988, stipulate that only licensed mental health practitioners may provide supervision to counselor trainees. No new supervisory arrangements with nonlicensed supervisors will be approved under the existing regulations.

In addition, under § 2.2 B 4, the board proposes to permanently allow nonregistered supervision obtained prior to July 31, 1988, to be considered acceptable towards licensure if such supervision met the board's requirements at the time it was rendered. Under the board's existing regulations, all supervised experience in a nonexempt setting must be registered at the onset of the experience. No allowance is made for the retroactive approval of supervision. Through this regulation, the board is permitted to consider a trainee's supervised experience that was not registered with the board prior to July 31, 1988. Supervision obtained after that time must meet the board's current requirements which requires preregistration and approval of the supervisory agreement with the board.

## PART I. GENERAL PROVISIONS.

### § 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meanings, unless the

# Proposed Regulations

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context clearly indicates otherwise:

“*Applicant*” means any individual who has submitted an official application and paid the application fee for licensure as a professional counselor.

“*Appraisal activities*” has the same meaning as defined in § 54-032.2 § 54.1-3500 of the Code of Virginia, “selecting, administering, scoring and interpreting instruments designed to assess an individual’s aptitudes, attitudes, abilities, achievements and interests, and shall not include the use of projective techniques in the assessment of personality.”

“*Board*” means the Virginia Board of Professional Counselors.

“*Candidate for licensure*” means a person who has satisfactorily completed all educational and experience requirements for licensure and has been deemed eligible by the board to sit for its examinations.

“*Competency area*” means an area in which a person possesses knowledge and skill and the ability to apply them in the clinical setting.

“*Counseling*” means assisting an individual, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan action reflecting his interests, abilities, aptitudes and needs as they relate to educational progress, occupations and careers, and personal or social concerns.

“*Group supervision*” means the process of clinical supervision of no more than six persons in a group setting provided by a qualified supervisor.

“*Internship*” means supervised, planned, practical, advanced experience obtained in the clinical setting observing and applying the principles, methods and techniques learned in training or educational settings. The internship involves a longer period of time than the practicum.

“*Practicum*” means supervised, planned, practical experience occurring in a clinical setting, for an early introduction to subject matter. It is generally time-bound and for a shorter period of time than an internship, but it allows for demonstration and testing of information, knowledge, and skills acquired.

“*Professional counselor*” means a person trained in counseling and guidance services with an emphasis on individual and group guidance and counseling designed to assist individuals in achieving more effective personal, social, educational and career development and adjustment.

“*Regional accrediting agency*” means one of the regional accreditation agencies recognized by the United States Secretary of Education responsible for accrediting senior

postsecondary institutions.

“*Supervision*” means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented face-to-face consultation, guidance and instruction with respect to the clinical skills and competencies of the person supervised.

## § 1.2. Fees required by the board.

A. The board has established the following fees applicable to licensure as a professional counselor:

Registration of supervision .....	\$ 75.
Application processing .....	100.
Examination .....	150.
Reexamination	
Written .....	75.
Oral .....	75.
Provisional license .....	30.
Renewal of provisional license .....	30.
License renewal .....	75.
Duplicate license .....	15.
Endorsement to another jurisdiction .....	10.
Late renewal .....	10.
Replacement of or additional wall certificate .....	15.
Name change .....	10.
Returned check .....	15.

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board.

## § 1.3. Substance abuse counseling.

VR 560-02-01 Regulations Governing the Certification of Substance Abuse Counselors are incorporated by reference in these regulations.

## PART II. REQUIREMENTS FOR LICENSURE.

### § 2.1. Requirements, general.

No person shall practice as a professional counselor in

the Commonwealth of Virginia except as provided in these regulations and when licensed by this board.

A. Licensure by the board shall be by examination.

B. Every applicant for licensure examination by the board shall:

1. Meet the education and experience requirements prescribed in § 2.2 of these regulations;
2. Have the institution(s) where the applicant completed the required graduate work sent directly to the executive director of the board, at least 60 days prior to the date of the written examination, official transcripts documenting the applicant's completion of the education requirements prescribed in § 2.2 A; and
3. Submit to the executive director of the board, not less than 60 days prior to the date of the written examination:

- a. A completed application, on forms provided by the board;
- b. Documented evidence of having fulfilled the experience requirements of § 2.2 B;
- c. Endorsement letters from three responsible persons attesting to the applicant's character and professional integrity; and
- d. The licensure application fee prescribed in § 1.2 of these regulations.

§ 2.2. Education and experience requirements for licensure examinations.

Every applicant for examination for licensure shall meet the requirements of subsections A and B of this section.

A. Education.

The applicant shall have completed 60 semester hours or 90 quarter hours of graduate study that are primarily counseling in nature, including a graduate degree in counseling or a related discipline, from a college or university accredited by a regional accrediting agency.

1. The graduate course work shall have included study in the nine core areas of:
  - a. Professional identity, function and ethics;
  - b. Theories of counseling and psychotherapy;
  - c. Counseling and psychotherapy techniques;
  - d. Group dynamics, theories, and techniques;
  - e. Theories of human behavior, learning, and

personality;

f. Career development;

g. Evaluation and appraisal procedures;

h. Abnormal behavior; and

i. Supervised practicum or internship.

2. One course may satisfy study in more than one of the nine study areas required in ~~paragraph~~ subdivision 1 of this subsection.

B. Supervised experience.

1. The applicant.

The applicant for licensure shall have completed 4,000 hours of post-graduate degree experience in counseling practice under supervision satisfactory to the board.

a. The experience shall include 200 hours of individual supervision during the 4,000 hours, with a minimum of one hour per week of face-to-face consultation between supervisor and applicant.

b. Group supervision will be acceptable for not more than 100 hours of the required 200 hours of individual supervision on the basis of two hours of group supervision being equivalent to one hour of individual supervision.

c. A post-graduate degree practicum or internship may count for up to 2,000 hours of the required 4,000 hours of experience.

d. For applicants enrolled in an integrated course of study in an accredited institution leading to a graduate degree beyond the Master's level, supervised experience may begin after the completion of 30 graduate semester hours or 45 graduate quarter hours, including a practicum.

2. The supervisor.

a. A person who provides supervision for a prospective applicant for licensure as a professional counselor shall be licensed as a professional counselor, psychologist, school psychologist, clinical psychologist, clinical social worker, or psychiatrist.

a. (1) Supervision by relatives of a prospective applicant will not be approved.

b. (2) The supervisor of a prospective applicant shall assume full responsibility for the clinical activities of that prospective applicant specified within the supervisory contract for the duration of the supervised experience.



# Proposed Regulations

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b. Persons who do not meet the requirements of § 2.2 B 2 a but were approved by the board prior to July 31, 1988, to provide supervision to prospective applicants for licensure may continue to provide supervision to that individual, provided that the supervisory arrangement was registered with the board prior to July 31, 1988.

### 3. Registration of supervision.

a. Applicants who render counseling services in a nonexempt agency shall:

(1) With their supervisor, register with the board their supervisory contract on the appropriate forms for board approval before starting to practice under supervision;

(2) Have submitted directly to the board an official transcript of their relevant coursework in counseling; and

(3) Pay the registration fee prescribed by the board in § 1.2 of these regulations.

b. Applicants who render counseling services in an exempt agency, as defined in § 54-944 § 54.1-3500 of the Code of Virginia, may register their supervision with the board, as outlined above. Board approval and successful completion of a planned supervision arrangement in an exempt setting will assure its acceptability at the time of application.

### 4. Documentation of supervision.

Applicants shall document successful completion of their supervised experience on appropriate forms at the time of application. *Supervised experience obtained prior to July 31, 1988, that was not registered with the board may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.*

### § 2.3. Requirements for provisional license.

Every applicant for a provisional license shall:

1. Hold a doctorate in counseling or in a counseling-related field from a college or university accredited by a regional accrediting agency;

2. Have the institution that awarded the doctorate send directly to the executive director of the board official documentation of the award of the degree required in § 2.3 1; and

3. Have completed either:

a. The graduate course work in nine specified core areas prescribed in § 2.2 A; or

b. The supervised experience prescribed in § 2.2 B; and

4. Provide documentation of the fulfillment of § 2.3 3 a or § 2.3.3.b immediately preceding, whichever is applicable, as follows:

a. If alternative § 2.3 3 a (core area studies) is applicable, have the institution(s) where the applicant completed the graduate work in the required core areas send directly to the executive director of the board the official transcripts documenting the applicant's completion of the required core area studies; or

b. If alternative § 2.3 3 b (supervised experience) is applicable, include documentation of the completion of the required supervised experience as part of the applicant's own application package as prescribed in § 2.3.5; and

5. Submit to the executive director of the board:

a. A completed application, on forms provided by the board;

b. Documentation of having fulfilled the supervised experience requirements of § 2.2 B, if applicable;

c. Endorsement letters from three responsible persons attesting to the applicant's character and professional integrity; and

d. The provisional license fee prescribed in § 1.2 of these regulations; and

6. Submit for board approval the board's form for registering a supervisory contract with a licensed professional counselor, psychologist, school psychologist, clinical psychologist, clinical social worker, or psychiatrist, under whose supervision the provisional licensee will practice for the duration of the provisional license.

## PART III. EXAMINATIONS.

### § 3.1. General examination requirements.

A. Every applicant for initial licensure by the board as a professional counselor shall take a written examination and an oral examination as prescribed by the board.

B. The board may waive examination requirements if the applicant for licensure has been certified or licensed in another jurisdiction by standards and procedures equivalent to the board's.

C. Examination schedules.

A written and an oral examination will be given at least

# Proposed Regulations

twice each year. The board may schedule such additional examinations as it deems necessary.

1. The executive director of the board shall notify all candidates in writing of the time and place of the examinations for which they have been approved to sit.
2. The candidate shall submit the applicable fees and a case study as prescribed in § 3.3 C.
3. If the candidate fails to appear for the examination without providing written notice at least one week before the examinations, the examination fee shall be forfeited.
4. The executive director will notify all candidates in writing of their success or failure on any examinations.

#### D. Deferrals by candidate; time limit.

A candidate approved by the board to sit for an examination shall take that examination within two years from the date of such initial board approval. If the candidate has not taken the examination by the end of the two-year period here prescribed:

1. The initial board approval to sit for such examination shall then become invalid; and
2. In order to be considered for such examination later, the applicant shall file a complete new application with the board.

#### § 3.2. Written examination.

A. The written examination will be a competency-based validated examination and will cover the core areas of counseling.

B. The board will establish passing scores on the written examination.

#### § 3.3. Oral examination.

A. Successful completion of the written examination requirement shall be a prerequisite to taking the oral examination.

B. Candidates who pass the written examination will be notified by the board of the time and place of the oral examination and will be instructed to submit a case study.

C. The case study shall be a report of a case performed in the candidate's counseling practice during the last six months and shall be prepared as follows:

1. The report shall be not less than six or more than eight double-spaced typewritten pages in length. The names of persons in the study shall be disguised to

protect clients' identities. The name and address of the candidate shall appear on a cover page.

2. The report shall be a brief summary of biographical data, personal social history, and any relevant medical history of a client, presenting the problem, diagnosis, treatment plan and prognosis. The report should focus on the candidate's role in facilitating the change process, including theoretical position, dialogue and tools and techniques used in the treatment plan.

D. The oral examination shall consist of an interview between the board or its designees and the candidate for the purpose of:

1. Reviewing the candidate's education, training and experience;
2. Evaluating the candidate's professional, emotional, and social maturity; the extent and nature of professional identity; and application of Standards of Practice as defined in § 6.1 of these regulations;
3. Assessing the candidate's case study; and
4. Evaluating the candidate's knowledge of and competency to engage in the practice of counseling.

E. Following the oral examination, the examination committee will make a recommendation to the board. A majority decision of the board will determine whether the candidate has passed the oral examination.

#### § 3.4. Reexamination.

A. Reexamination will be required only on the examination failed.

B. After paying the reexamination fee, a candidate may be reexamined within an 18-month period without filing a new application and without presenting evidence of additional education and experience.

C. To be reexamined, a candidate shall notify the board and pay the appropriate fee no less than 60 days before a scheduled examination.

D. A candidate who fails any examination two times shall reapply and submit documentation of additional education and experience as required by the board.

#### PART IV. LICENSURE RENEWAL; REINSTATEMENT; NAME CHANGE.

#### § 4.1. Annual renewal of licensure.

All licensees shall renew licenses on or before June 30 of each year.

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A. Every license holder who intends to continue to practice shall submit to the executive director on or before June 30 of each year:

1. A completed application for renewal of the license; and
2. The renewal fee prescribed in § 1.2.

B. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.

## § 4.2. Late renewal; reinstatement.

A. A person whose license has expired may renew it within four years after its expiration date by paying the penalty fee prescribed in § 1.2 as well as the license fee prescribed for each year the license was not renewed.

B. A person who fails to renew a license for four years or more and wishes to resume practice shall:

1. Pay the oral examination fee prescribed in § 1.2;
2. Take an oral examination; and
3. Upon approval for reinstatement, pay the penalty fee prescribed in § 1.2 and the license fee prescribed for each year the license was not renewed.

## § 4.3. ~~Duration of provisional license and renewal.~~

~~A. A provisional license shall expire six months from the date it is issued.~~

~~B. A provisional licensee may request in writing a maximum of two renewals of a provisional license. The renewal fee prescribed in § 1.2 shall be paid if the request for renewal is granted.~~

## § 4.4. § 4.3. Legal name change.

A. An individual practicing under a license issued by the board shall ensure that the current license bears the current legal name of that individual.

B. A licensee whose name is changed by marriage or court order shall promptly:

1. Notify the board of such change and provide a copy of the legal paper documenting the change.
2. Pay the "name change" fee prescribed in § 1.2.
3. Request and obtain from the board a new license bearing the individual's new legal name.

## PART V. ADVISORY COMMITTEES.

## § 5.1. Advisory committees.

A. The board may establish examining and advisory committees to assist it in evaluating candidates for licensure.

B. The board may establish an advisory committee to evaluate the mental and emotional competence of any licensee or candidate for licensure when such competence is in issue before the board.

## PART VI. STANDARDS OF PRACTICE. UNPROFESSIONAL CONDUCT; DISCIPLINARY ACTIONS; REINSTATEMENT.

## § 6.1. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.

B. Persons licensed by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.
2. Be able to justify all service rendered to clients as necessary for diagnostic or therapeutic purposes.
3. Practice only within the competency areas for which they are qualified by training or experience.
4. Report to the board known or suspected violations of the laws and regulations governing the practice of professional counselors.
5. Use only those educational credentials in association with their licensure and practice as a professional counselor that have been earned at a college or university accredited by a regional accrediting agency and that are counseling in nature. Those credentials include the title "Doctor" as well as academic designations following one's name such as M.Ed. and Ph.D.
6. Use only indicators of current counseling-related credentials awarded by independent credentialing agencies (such as American Association of Marriage and Family Therapists, Certified Rehabilitation Counselors, Certified Clinical Mental Health Counselors) in association with their licensure and practice as professional counselors.
7. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.

8. Ensure that clients are aware of fees and billing arrangements before rendering services.

9. Keep confidential their counseling relationships with clients, with the following exceptions: (i) when the client is in danger to self or others; and (ii) when the professional counselor is under court order to disclose information.

10. Disclose counseling records to others only with the expressed consent of the client.

11. Ensure that the welfare of clients is in no way compromised in any experimentation or research involving those clients.

12. Not engage in dual relationships with clients that might compromise the client's well-being or impair the counselor's objectivity and professional judgment (to include such activities as counseling close friends or relatives, engaging in sexual intimacies with a client).

13. When advertising their services to the public, ensure that such advertising is neither fraudulent nor misleading.

§ 6.2. Grounds for revocation, suspension, or denial of renewal of license.

A. In accordance with § ~~54-929(g)~~ subdivision 7 of § 54.1-2400 of the Code of Virginia, the board may, after a hearing, revoke, suspend or decline to renew a board license for just cause.

B. Action by the board to revoke, suspend or decline to renew a license shall be taken in accord with the following:

1. Conviction of a felony or misdemeanor involving moral turpitude.
2. Procuring of license by fraud or misrepresentation.

3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or to the public, or if one is unable to practice counseling with reasonable skill and safety to clients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition.

4. Negligence in professional conduct or nonconformance with the Standards of Practice (§ 6.1 B of these regulations).

5. Performance of functions outside the demonstrable areas of competency.

7. Violation of or aid to another in violating any provision of Chapter 28 35 of Title 54 54.1 of the Code of Virginia, any other statute applicable to the practice of professional counseling, or any provision of

these regulations.

C. Petition for rehearing.

A petition may be made to the board for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached in subsection B of this section.

§ 6.3. Reinstatement following disciplinary action.

A. Any person whose license has been revoked or denied renewal by the board under the provisions of § 6.2 may, two years subsequent to such board action, submit a new application to the board for licensure.

B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.

C. The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fees applicable at the time of reinstatement.

## COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

Title of Regulation: VR 647-01-01. Public Participation Guidelines.

Statutory Authority: § 18.2-271.2 of the Code of Virginia

Public Hearing Date: June 13, 1989 - Time to be announced

(Written comments will be received until March 20, 1989. See Calendar of Events section for additional information)

Summary:

*The public participation guidelines outline the manner in which the Commission on VASAP will encourage participation of citizens in the formation and development of regulatory proposals under the Virginia Administrative Process Act. The guidelines are to be used by the commission to identify and notify interested parties of its intent to enact regulations and to provide an opportunity for public participation.*

VR 647-01-01. Public Participation Guidelines.

§ 1. Purpose.

*When developing any proposed or amended regulation, or when considering the repeal of an existing regulation, the Commission on VASAP will solicit input and comments from interested citizens, organizations, associations and industry. These guidelines outline the manner in which the Commission on VASAP will encourage participation of citizens in the formation and development of regulatory*

# Proposed Regulations

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proposals under the Virginia Administrative Process Act.

The guidelines are based on the principle that citizens have both a right and a responsibility to take part in governmental processes, that government functions best when it provides for participation by the public, and that state agency regulations should impose only those requirements which are necessary and do not unreasonably burden private businesses or individual citizens.

These guidelines shall apply to all regulations administered by the commission which are subject to the Administrative Process Act. The guidelines are to be used by the commission to identify and notify interested parties of its intent to enact regulations and to provide an opportunity for public participation.

## § 2. Initiation of regulation.

Rulemaking may be initiated at any time by the commission. A petition for a new regulation or for amendment, addition, or repeal of any existing regulation may be filed with the commission at any time by any agency, group, or individual. The commission will consider any regulatory change at its discretion.

## § 3. Identification of interested parties.

Prior to the development of any regulation, the commission shall identify persons or groups whom it believes would be interested in or affected by the proposal.

The above will be accomplished largely by identification of those who have expressed interest in specific regulatory matters. In addition, the commission will use the following:

1. A directory of the 26 local ASAP programs;
2. A listing of persons who request to be placed on the mailing list; and
3. A listing of persons who previously participated in public proceedings concerning related subjects or issues.

All mailing lists will be revised every year to ensure that they are up-to-date.

## § 4. Notification of interested parties.

### A. Notice of intended regulatory action.

At least 30 days prior to the development of any regulation, the commission shall prepare a Notice of Intended Regulatory Action Form RR01. The notice will contain a brief and concise statement in plain terms as to the purpose of the regulation and shall invite all persons to provide written comments and will specify a deadline for receipt of responses. Such notices shall be transmitted

to the Registrar of Regulations for inclusion in The Virginia Register. The commission may also use other mailing lists as it deems appropriate to notify persons of its intent.

### B. Regulation proposal.

After consideration of public comments, the commission shall prepare the proposed draft regulations. All drafts of the regulation will be labeled with the word "draft" and dated.

## § 5. Public participation.

A. The commission will hold public hearings on all proposed regulations except those listed under § 6, "Exclusions." A copy of the draft will be furnished to all persons who responded to the notice of intended regulatory action. Also, when appropriate, the commission will send a copy of the "draft" proposal to other interested parties.

B. The Registrar will publish the hearing notice in The Virginia Register and in appropriate newspapers identified by the commission prior to the public hearing.

C. In matters considered to be of interest to the general public, the commission will also prepare a news release and distribute it to all daily and weekly newspapers serving Virginia. The news release will include information about the subject matter and purpose of regulation under consideration and about provisions for public comment, including the time, date, and place of scheduled public hearing. Copies of all drafts of all proposed regulations will be available for public inspection at the commission's office.

D. During the 60-day public participation period, the regulation will also be reviewed by the public, the Governor, the Secretary of Transportation and Public Safety, and the Attorney General.

E. Public hearings will be held at different locations statewide and the hearings will be in conjunction with one of the four quarterly commission meetings.

F. The public will be offered the opportunity to make oral or written comments. Persons addressing the proposed regulation at the public hearing will be encouraged to provide a written copy of their statement to each commission member and staff present (20 copies).

## § 6. Exclusions.

### A. Nonsubstantive.

If a nonsubstantive regulation is being promulgated, the commission may deviate from the public participation guidelines. However, it will strive to obtain written comments.

### *B. Emergency.*

*It may be necessary to enact emergency regulations within a time frame which does not allow the normal 60-day period for public comments. The Administrative Process Act recognized this possibility and permits enactment of such emergency regulations with the approval of the Governor. In those instances, an emergency regulation will become effective when filed with the Registrar of Regulations (unless a later effective date is given). The emergency regulation will be published in the next edition of The Virginia Register.*

### *§ 7. Final action on proposed regulations.*

*After proposed action on a regulation has been approved, the action will be included in the commission's quarterly newsletter and printed in The Virginia Register.*

*The commission will print copies of adopted regulations. Copies of adopted regulations may be obtained by writing the Executive Assistant, Commission on VASAP, 1001 East Broad Street, Suite 245, Box 28, Old City Hall Building, Richmond, Virginia 23219.*

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# FINAL REGULATIONS

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For information concerning Final Regulations, see information page.

## Symbol Key

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

## DEPARTMENT OF FIRE PROGRAMS (VIRGINIA FIRE SERVICES BOARD)

## PART II INSTRUCTOR REQUIREMENTS.

Title of Regulation: VR 310-01-04. Regulations Governing the Certification of Instructors Providing Training at Local Fire Training Facilities.

Statutory Authority: §§ 9-155 and 38.2-401 of the Code of Virginia.

Effective Date: June 1, 1989

### Summary:

Regulations Governing the Certification of Instructors Providing Training at Local Fire Training Facilities have been adopted to comply with § 38.2-401 of the Code of Virginia. The purpose of the regulations is to assure that where funds from the local portion of Fire Programs Funds are used by localities to construct, improve or expand local fire training centers the training at these centers is conducted by certified instructors who are qualified to conduct training in a manner which will assure that quality instruction is provided safely, efficiently and effectively.

VR 310-01-04. Regulations Governing the Certification of Instructors Providing Training at Local Fire Training Facilities.

### PART I. GENERAL.

#### § 1.1. Definitions.

"Fire chief" means any individual appointed the head of a fire department established according to § 27-6.1 of the Code of Virginia, or the principal officer of a fire company organized according to § 27-9 of the Code of Virginia.

"Fire company" means a volunteer firefighting organization organized pursuant to § 27-8 of the Code of Virginia.

"Fire department" means that department of government established by the local governing body of any city, county or town pursuant § 27-6.1 of the Code of Virginia.

"Live fire training" means any training in which there is used any open flame or device, located inside of a building, outside of a building or elsewhere, that can propagate fire to a building or other combustible materials.

§ 2.1. Fire related training at a local fire training center where fire programs funds are used to construct, improve or expand the center shall be supervised by the chief of a fire department or fire company or a person who, at a minimum, holds a certificate as a Fire Instructor II issued by the Department of Fire Programs.

§ 2.2. An individual who holds an appointment as a faculty member at an institution of higher learning accredited by the State Council of Higher Education or the Virginia Community College System shall be accepted by the Department of Fire Programs as qualified to provide training to fire personnel in Virginia provided the subject the individual teaches is within the curriculum for which he holds his faculty appointment.

§ 2.3. An individual who holds an appointment as a faculty member at an institution of higher learning in other states must be approved by the Department of Fire Programs prior to providing training to fire service personnel in Virginia.

§ 2.4. Adjunct faculty of the National Fire Academy are approved as instructors at local fire training centers provided the course they are presenting are National Fire Academy courses. If any such individual plans to present an independently developed course prior approval must be obtained from the Department of Fire Programs before it can be presented in the Commonwealth.

§ 2.5. An individual or organization having special knowledge, skills and abilities but not meeting the criteria of §§ 2.1, 2.2, 2.3, or 2.4 of these regulations shall obtain approval from the Department of Fire Programs before conducting such training or instruction.

§ 2.6. The Department of Fire Programs will work with local fire chiefs to develop and maintain a list of approved individuals and organizations who may present training programs at local fire training centers without additional approval being required.

§ 2.7. Once an individual or organization is approved by the Department of Fire Programs to offer a course of training that approval shall remain in full force and effect for that course of training until the approval is rescinded by the department.

§ 2.8. The Department of Fire Programs may upon a finding of good cause prohibit any individual or

organizations from providing instruction at a local fire service training facility where the locality has used funds from its share of Fire Programs Funds to construct, improve or expand the facility. Good cause may include but is not limited to such things as incompetency or failing to adhere to fire training safety standards. Any such action by the Department of Fire Programs shall be subject to an appeal by the affected individual or organization to the Fire Services Board.

§ 2.9. An individual meeting the criteria of § 2.1 shall be present at the fire training center at all times when any training is conducted which is dangerous or which could result in injury to students or instructors.

§ 2.10. Live fire training conducted at a local fire training center shall be conducted under the direct supervision and control of an individual meeting the criteria of § 2.1.

DEPARTMENT OF HEALTH (STATE BOARD OF)

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 6 of the Code of Virginia, which excludes from Article 2 Department of Health orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Chapter 7 (§ 28.1-175 et seq.) of Title 28.1. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

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Due to its length, the regulation entitled "Notices of Establishment and Description of Seasonally Condemned Areas at Marina Facilities" filed by the Department of Health is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of full text. Also being published is a listing of the marina facilities requiring seasonal condemnations. The full text of the regulation, which contains a notice and map for each marina facility, is available for public inspection at the office of the Registrar of Regulations and the Department of Health.

**Title of Regulation:** VR 355-19-04. Notices of Establishment and Description of Seasonally Condemned Areas at Marina Facilities.

**Statutory Authority:** §§ 28.1-177 and 32.1-20 of the Code of Virginia.

**Effective Date:** April 13, 1989

**Summary:**

These regulations define the areas around marina facilities, including other places where boats are moored, that are closed for the direct marketing of

shellfish due to biological and chemical contamination associated with such facilities. National Shellfish Sanitation Program guidelines recognize the public health threat associated with shellfish taken from such areas and require that harvesting from waters in the immediate vicinity and adjacent to such facilities be restricted. A list of marina facilities requiring seasonal closures follows.

The facilities listed are inspected annually. The size of the seasonal condemnations will be reviewed and revised, if required, on the basis of such inspections.

VR 355-19-04. Notices of Establishment and Description of Seasonally Condemned Areas at Marina Facilities.

Accomack County

- M-1 Russell's Marina, Parkers Creek
- M-2 Public Deck at Harborton, Pungoteague Creek
- M-3 Quinby Public Harbor, Upshur Bay
- M-5 Hundley & Custis, Parkers Creek
- M-10 Wishart Point Boat Harbor, Bogues Bay
- M-11 Wachapreague Waterfront, Wachapreague Channel/Finney Creek
- M-12 Tom's Cove Park Marina, Toms Cove Basin/Assateague channel
- M-15 Nandua Seafood Co., Back Creek
- M-16 R. P. Melson, Occohannock Creek
- M-19 Chincoteague Harbor of Refuge, The Canal
- M-20 Town of Chesconessex, Chesconessex Creek
- M-21 Virginia Landing Corp., Machipongo River
- M-22 Poplar Cove Village, Onancock Creek
- M-23 Harbor Retreat Cottages, Assateague channel

Essex County

- M-271 Garrett's Marina, Rappahannock River
- M-272 South Hill Banks Marina, Rappahannock River

Gloucester County

- M-32 Shelter Harbor Marine, Severn River
- M-33 Hilday Marina, Secern River
- M-34 York River Yacht Haven, Sarah Creek

Lancaster County

- M-62 Winegar's Marine Railway, Dyer Creek
- M-63 Hoffman Harbor, Mosquito Creek
- M-70 Heritage Point Marina, Senior Creek
- M-71 Yankee Point Marina, Myer Creek
- M-72 Carter Creek Waterfront, Carter Creek
- M-73 Greenvale Creek Marina, Greenvale Creek
- M-74 Harpers Creek Activity, Antipoison Creek

Mathews County

- M-82 Ginney Point Marina, Cobbs Creek
- M-83 Narrows Marina, Hills Bay
- M-85 Edwards Creek Waterfront



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M-87 Wharf Creek Waterfront, Milford Haven  
M-88 Queens Creek Marina, Queens Creek  
M-89 Mathews Yacht Club, Stutts Creek  
M-90 Horn Harbor Marina, Horn Harbor  
M-91 W. Coles Hudgins, East River  
M-92 Robert L. James, East River  
M-95 Hudgins Marine Engine, Stutts Creek  
M-96 Clyde Hudgins Marina, East River  
M-97 New Point Campground, Chesapeake Bay  
M-98 Mobjack Bay Marina, North River  
M-101 Winter Harbor Haven Marina, Winter Harbor  
M-102 East River Boat Yard, East River  
M-103 Fleetwood Properties, Stutts Creek

## Middlesex County

M-111 Burrell's Marina, Robinson Creek  
M-112 Bethpage Family Campground, Robinson Creek  
M-113 Locklies Creek Waterfront, Locklies Creek  
M-116 Walden Brothers Marina, Broad Creek  
M-118 Porpoise Cove Marina, Piankatank River  
M-119 Fishing Bay Waterfront, Piankatank River  
M-120 Horse Point Marina, Healy Creek  
M-121 Remlik Marine Service, Lagrange Creek

## Northhampton County

M-141 Kings Creek Marina, Kings Creek  
M-142 Bayford Oyster Co., Nassawadox Creek  
M-143 Wise Point Ramp, Intracoastal Waterway

## Northumberland County

M-161 Lodge Creek Activity, South Yeocomico River  
M-162 Bon Harbour Marina, Cornish Creek  
M-164 Lewisetta Marina, Kingscote Creek  
M-165 Lake Francis Marina, Kingscote Creek  
M-166 J.D. Krentz Marina, Little Wicomico River  
M-167 Cockrell's Marina and Railway, Little Wicomico River  
M-168 Slough Creek Activity, Little Wicomico River  
M-169 Great Wicomico Marina, Great Wicomico River  
M-170 Cedar Point Marina, Great Wicomico River  
M-171 Ingram Bay Marina, Towles Creek  
M-172 Tiffany Yacht Co. Inc., Great Wicomico River  
M-174 Indian Creek Yacht & County Club, Indian River  
M-175 Coan River Marina, Coan River  
M-176 Cranes Creek Activity, Great Wicomico River  
M-177 A.C. Fisher, Cranes Creek

## Richmond County

M-191 Whelan Marina & Campground, Rappahannock River  
M-192 Sharps Community Assoc., Rappahannock River

## Westmoreland County

M-201 Branson Cove Activity, Lower Machodoc Creek  
M-203 Yeocomico Marina & Campground, Yeocomico

River  
M-204 Kinsale Marina, Yeocomico River  
M-205 Northwest Yeocomico River Activity  
M-206 Stratford Harbour Property Owners Assoc., Currioman Bay  
M-207 Currioman Landing, Currioman Bay  
M-208 Ragged Point Harbor, Potomac River  
M-209 Drum Bay Marina, Lower Machodoc Creek

## York County

M-212 Wildey Marina, Chisman Creek  
M-215 Belvin Boat Builders, the Thorofare  
M-218 Thomas Marina, Chisman Creek

## Hampton City

M-231 Marina Cove Boat Basin, Back River  
M-232 Wallace Creek Activity, Back River  
M-235 Langley AFB Marina, Back River

## Newport News City

M-261 Leeward Marina, James River

## Poquoson City

M-213 Bennett Creek Activity, Poquoson River  
M-217 Messick Point Waterfront, Back River

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**Title of Regulation:** VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

**Statutory Authority:** § 9-164 of the Code of Virginia.

**Effective Date:** April 12, 1989

### Summary:

*This amendment is consistent with the council's authority to undertake financial analysis and studies relating to health care institutions.*

*The major change in regulations includes conducting an annual survey of all hospitals that report to the council or any corporation that controls a hospital to determine the extent of commercial diversification in the industry and reporting this information annually to the General Assembly.*

VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

### PART I. DEFINITIONS.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning:

*"Adjusted patient days"* means inpatient days divided by the percentage of inpatient revenues to total patient revenues.

*"Aggregate cost"* means the total financial requirements of an institution which shall be equal to the sum of:

1. The institution's reasonable current operating costs, including reasonable expenses for operating and maintenance of approved services and facilities, reasonable direct and indirect expenses for patient care services, working capital needs and taxes, if any;
2. Financial requirements for allowable capital purposes, including price level depreciation for depreciable assets and reasonable accumulation of funds for approved capital projects;
3. For investor-owned institutions, after tax return on equity at the percentage equal to two times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for the months in a provider's reporting period, but not less, after taxes, than the rate or weighted average of rates of interest borne by the individual institution's outstanding capital indebtedness. The base to which the rate of return determined shall be applied is the total net assets, adjusted by paragraph 2. of this section, without deduction of outstanding capital indebtedness of the individual institution for assets required in providing institutional health care services.

*"Council"* means the Virginia Health Services Cost Review Council.

*"Consumer"* means any person (i) whose occupation is other than the administration of health activities or the provision of health services (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

*"Health care institution"* means a general hospital, ordinary hospital, or out-patient surgical hospital licensed pursuant to § 32-297 et seq. § 32.1-123 et seq. of the Code of Virginia and mental or psychiatric hospital licensed pursuant to § 37.1-179 et seq. § 37.1-179 et seq. of the Code of Virginia but in no event shall such term be construed to include any physician's office, nursing home, intermediate care facility, extended nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory or out-patient clinic.

*"Hospital"* means any facility licensed pursuant to §§ 32.1-123, et seq. or 37.1-179 et seq. of the Code of Virginia.

*"Late charge"* means a fee that is assessed a health care institution that files its budget, annual report, or

charge schedule with the council past the due date.

*"Voluntary cost review organization"* means a nonprofit association or other nonprofit entity with a federally exempt tax status which has as its function the review of health care institutions' costs and charges but which does not provide reimbursement to any health care institution or participate in the administration of any review process under Chapter 4 of Title 32.1 of the Code of Virginia, P.L. 93-641, or P.L. 92-603 including the Statewide Health Coordinating Council, Department of Health and any health systems agency.

*"Patient day"* means a unit of measure denoting lodging facilities provided and services rendered to one inpatient, between census-taking-hour on two successive days. The day of admission but not the day of discharge or death is counted a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day. For purposes of filing fees to the council, newborn patient days would be added. For a medical facility, such as an ambulatory surgery center, which does not provide inpatient services, each patient undergoing surgery during any one 24-hour period will be the equivalent to one patient day.

## PART II. GENERAL INFORMATION.

### § 2.1. Authority for regulations.

The Virginia Health Services Cost Review Council, created by §§ 9-156 through 9-166 of the Code of Virginia, is required to collect, analyze and make public certain financial data and findings relating to hospitals which operate within the Commonwealth of Virginia. Section 9-164 of the Code of Virginia directs the council from time to time to make such rules and regulations as may be necessary to carry out its responsibilities as prescribed in the Code of Virginia.

### § 2.2. Purpose of rules and regulations.

The council has promulgated these rules and regulations to set forth an orderly administrative process by which the council may govern its own affairs and require compliance with the provisions of §§ 9-156 through 9-166 of the Code of Virginia.

### § 2.3. Administration of rules and regulations.

These rules and regulations are administered by the Virginia Health Services Cost Review Council.

### § 2.4. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act, codified as § 9-6.14:1, et seq. of the Code of Virginia applied to their promulgation.

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## § 2.5. Effective date of rules and regulations.

These rules and regulations or any subsequent amendment, modification, or deletion in connection with these rules and regulations shall become effective 30 days after the council has filed them in accordance with the Virginia Register Act final regulation is published in the Virginia Register .

## § 2.6. Powers and procedures of regulations not exclusive.

The council reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provision set forth herein and the provisions of § 9-156 et seq. of the Code of Virginia.

### PART III. COUNCIL PURPOSE AND ORGANIZATION.

#### § 3.1. Statement of mission.

The council is charged with the responsibility to promote the economic delivery of high quality and effective institutional health care services to the people of the Commonwealth and to create an assurance that the charges are reasonably related to costs.

The council recognizes that health care institutional costs are of vital concern to the people of the Commonwealth and that it is essential for an effective cost monitoring program to be established which will assist health care institutions in controlling their costs while assuring their financial viability. In pursuance of this policy, it is the council's purpose to provide for uniform measures on a statewide basis to assist in monitoring the costs of health care institution's without sacrifice of quality of health care services and to analyze the same to determine if charges and costs are reasonable.

#### § 3.2. Council chairman.

The council shall annually elect one of its consumer members to serve as chairman. The chairman shall preside at all meetings of the council and shall be responsible for convening the council.

#### § 3.3. Vice-chairman.

The council shall annually elect from its membership a vice-chairman who shall assume the duties of the chairman in his absence or temporary inability to serve.

#### § 3.4. Expense reimbursement.

Members of the council shall be entitled to be reimbursed in accordance with state regulations for necessary and proper expenses incurred in the performance of their duties on behalf of the council.

#### § 3.5. Additional powers and duties.

The council shall exercise such additional powers and duties as may be specified in the Code of Virginia.

### PART IV. VOLUNTARY COST REVIEW ORGANIZATIONS.

#### § 4.1. Application.

Any organization desiring approval as a voluntary rate review organization may apply for approval by using the following procedure:

1. Open application period. A voluntary cost review organization may apply for designation as an approved voluntary cost review organization to be granted such duties as are prescribed in § 9-162 of the Code of Virginia.

2. Contents of application. An application for approval shall include:

a. Documentation sufficient to show that the applicant complies with the requirements to be a voluntary cost review organization: including copies of its Commonwealth of Virginia Charter, bylaws, and evidence of its nonprofit status. Full financial reports for the one year preceding its application must also be forwarded. If no financial reports are available, a statement of the projected cost of the applicant's operation with supporting data must be forwarded;

b. If any of the organization's directors or officers have or would have a potential conflict of interests affecting the development of an effective cost monitoring program for the council, statements must be submitted with the application to fully detail the extent of the other conflicting interest;

c. A detailed statement of the type of reports and administrative procedures proposed for use by the applicant;

d. A statement of the number of employees of the applicant including details of their classification; and

e. Any additional statements or information which is necessary to ensure that the proposed reporting and review procedures of the applicant are satisfactory to the council.

#### § 4.2. Review of application.

##### A. Designation.

Within 45 calendar days of the receipt of an application for designation as a voluntary cost review organization, the council shall issue its decision of approval or disapproval. Approval by the council shall take effect immediately.

## B. Disapproval.

The council may disapprove any application for the reason that the applicant has failed to comply with application requirements, or that the applicant fails to meet the definition of a cost review organization, or fails to meet the specifications cited in paragraph A above concerning application contents or that the cost and quality of the institutional reporting system proposed by the applicant are unsatisfactory.

## C. Reapplication.

An organization whose application has been disapproved by the council may submit a new or amended application to the council within 15 calendar days after disapproval of the initial application. An organization may only reapply for approval on one occasion during any consecutive 12-month period.

### § 4.3. Annual review of applicant.

A. By March 31 of each year, any approved voluntary cost review organization for the calendar year then in progress which desires to continue its designation shall submit an annual review statement of its reporting and review procedures.

#### B. The annual review statement shall include:

1. Attestation by the applicant that no amendments or modifications of practice contrary to the initially approved application have occurred; or
2. Details of any amendments or modifications to the initially approved application, which shall include justifications for these amendments or modifications.

C. The council may require additional information from the applicant supporting that the applicant's reports and procedures are satisfactory to the council.

### § 4.4. Revocation of approval.

The council may revoke its approval of any cost review organization's approval when the review procedures of that organization are no longer satisfactory to the council or for the reason that the voluntary cost review organization could be disapproved under §4.2.B of these regulations.

### § 4.5. Confidentiality.

A voluntary cost review organization approved as such by the council shall maintain the total confidentiality of all filings made with it required by these regulations or law. The contents of filings or reports summaries and recommendations generated in consequence of the council's regulations may be disseminated only to members of the council, the council's staff and the individual health care institution which has made the filings or which is the subject of a particular report.

## PART V. CONTRACT WITH VOLUNTARY COST REVIEW ORGANIZATION.

### § 5.1. Purpose.

It is the intention of the council to exercise the authority and directive of § 9-163 of the Code of Virginia whereby the council is required to contract with any voluntary cost review organization for services necessary to carry out the council's activities where this will promote economy and efficiency, avoid duplication of effort, and make best use of available expertise.

### § 5.2. Eligibility.

In order for a voluntary cost review organization to be eligible to contract with the council, it shall have met all other requirements of §§ 4.1 and 4.5 of these regulations relating to voluntary cost review organization and have been approved as such an organization.

### § 5.3. Contents of contract.

The written agreement between the council and any voluntary cost review organization shall contain such provisions which are not inconsistent with these regulations or law as may be agreed to by the parties. Any such contract shall be for a period not to exceed five years.

## PART VI. FILING REQUIREMENTS AND FEE STRUCTURE.

§ 6.1. Each health care institution shall file an annual report of revenues, expenses, other income, other outlays, assets and liabilities, units of service, and related statistics as prescribed in § 9-158 of the Code of Virginia on forms provided by the council together with the certified audited financial statements (or equivalents) as prescribed in § 9-159 of the Code of Virginia, which shall be received by the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. Extensions of filing times may be granted for extenuating circumstances upon a health care institution's written application for a 30- to 60-day extension. Such request for extension shall be filed no later than 90 days after the end of a health care institution's fiscal year.

§ 6.2. Each health care institution shall file annually a projection (budget) of annual revenues and expenditures as prescribed in § 9-161 B of the Code of Virginia on forms provided by the council. The institution's projection (budget) shall be received by the council no later than 60 days before the beginning of its respective applicable fiscal year.

§ 6.3. Each health care institution shall file annually a schedule of charges to be in effect on the first day of such fiscal year, as prescribed in § 9-161 D of the Code of Virginia. The institution's schedule of charges shall be received by the council no later than 10 days after the

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beginning of its respective applicable fiscal year.

Any subsequent amendment or modification to the annually filed schedule of charges shall be filed at least 60 days in advance of its effective date, together with supporting data justifying the need for the amendment. Changes in charges which will have a minimal impact on revenues are exempt from this requirement.

*§ 6.3:1. Each hospital or any corporation that controls a hospital shall respond to a survey conducted by the Council to determine the extent of commercial diversification by such hospitals in the Commonwealth. The survey shall be in a form and manner prescribed by the Council and shall request the information specified in subdivision a, f, g, h and i below on each hospital or such corporation and, with respect to any tax-exempt hospital or controlling corporation thereof, the information specified in subdivision a through i below for each affiliate of such hospital or corporation, if any:*

- a. The name and principal activity;*
- b. The date of the affiliation;*
- c. The nature of the affiliation;*
- d. The method by which each affiliate was acquired or created;*
- e. The tax status of each affiliate and, if tax-exempt, its Internal Revenue tax exemption code number;*
- f. The total assets;*
- g. The total revenues;*
- h. The net profit after taxes, or if not-for-profit, its excess revenues; and*
- i. The net quality, or if not-for-profit, its fund balance.*

*§ 6.3:2. The information specified in § 6.3:1 shall relate to any legal controls that exist as of the 1st of July of each calendar year in which the survey is required to be submitted.*

*§ 6.3:3. Each hospital or any corporation that controls a hospital and that is required to respond to the survey specified in § 6.3:1 shall complete and return the survey to the Council by the 31st day of August of each calendar year in which the survey is required to be submitted.*

§ 6.4. All filings prescribed in § 6.1 and , § 6.2 and § 6.3:1 of these regulations will be made to the council for its transmittal to any approved voluntary cost review organization described in Part IV of these regulations.

§ 6.5. A filing fee based on an adjusted patient days rate shall be set by the council, based on the needs to meet

annual council expenses. The fee shall be established and reviewed at least annually and reviewed for its sufficiency at least annually by the council. All fees shall be paid directly to the council.

§ 6.6. Fifty percent of the filing fee shall be paid to the council at the same time that the health care institution files its budget under the provisions of § 6.2 of these regulations. The balance of the filing fee shall be paid to the council at the same time the health care institution files its annual report under the provisions of § 6.1 of these regulations. When the council grants the health care institution an extension, the balance of the filing fee shall be paid to the council no later than 120 days after the end of the respective applicable health care institution's fiscal year.

§ 6.7. A late charge of \$10 per working day shall be paid to the council by a health care institution that files its budget or annual report past the due date.

§ 6.8. A late charge of \$50 shall be paid to the council by the health care institution that files the charge schedule past the due date.

§ 6.9. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:1.

## PART VII. WORK FLOW AND ANALYSIS.

§ 7.1. The annual report date filed by health care institutions as prescribed in § 6.1 of these regulations shall be analyzed as directed by the council. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations, may be published and disseminated as determined by the council. The health care institution which is the subject of any summary, report, recommendation or comment shall receive a copy of same at least 10 days prior to the meeting at which the same is to be considered by the council.

§ 7.2. The annual schedule of charges and projections (budget) of revenues and expenditures filed by health care institutions as prescribed in § 6.2 of these regulations shall be analyzed as directed by the council. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations will be published and disseminated by the council. Amendments or modifications to the annually filed schedule of charges shall be processed in a like manner and reviewed by the council no later than 50 days after receipt of properly filed amendments or modifications. Any health care institution which is the subject of summaries and findings of the council shall be

given upon request an opportunity to be heard before the council.

PART VIII.  
PUBLICATION AND DISSEMINATION OF  
INFORMATION RELATED TO HEALTH CARE  
INSTITUTIONS.

§ 8.1. The staff findings and recommendations and related council decisions on individual health care institutions' annual historical data findings will be kept on file at the council office for public inspection. However, the detailed annual historical data filed by the individual health care institutions will be excluded from public inspection in accordance with § 9-159 B, of the Code of Virginia.

§ 8.2. Periodically, but at least annually, the council will publish the rates charged by each hospital in Virginia for at least each of the 25 most frequently used hospital services in Virginia, including each hospital's average semi-private and private room rates. The data will be summarized by geographic area in Virginia, and will be kept on file at the council office for public inspection and made available to the news media. In addition, annual charge schedules and subsequent amendments to these schedules filed under the provisions of § 6.3 of these rules and regulations will be kept on file at the council office for public inspection. Staff findings and recommendations and related council decisions on changes to health care institutions' rates and charges will also be kept on file at the council office for public inspection and available to the news media.

§ 8.3. Periodically, but at least annually, the council will publish an annual report which will include, but not be limited to the following: cost per admission comparison, cost per patient day comparison, Virginia's hospital costs compared with other states, percentage increase in cost per patient day, budget and historical reports reviewed, interim rate changes, excess operating expenses, revenue reduction recommendations, operating profits and losses, deductions from revenue (contractuals, bad debts, and charity care) and hospital utilization.

§ 8.4. The staff findings and recommendations and related council decisions on individual health care institutions' annual budget and related rate filings will be kept on file at the council office for public inspection. However, the detailed annual budget data filed by the individual health care institutions will be excluded from public inspection.

§ 8.5. The council may release historical financial and statistical data reported by health care institutions to state or federal commissions or agencies based on individual, specific requests, and the merit of such requests. Requests must list the purpose for which the requested data is to be used to permit the council to reach a valid decision on whether or not the data requested will fit the need and should, therefore, be made available. Under no circumstances will data be released which contains "personal information" as defined in § 2.1-379(2) of the

Code of Virginia.

§ 8.6. The council shall not release prospective (budgeted) financial and statistical data reported by health care institutions to anyone, except for the staff findings and recommendations as provided for in § 8.4 of these regulations.

§ 8.7. The provisions of § 8.5 of these regulations will also apply to recognized and designated health systems agencies (HSAs) and professional standards review organizations (PSROs) in the Commonwealth of Virginia, provided that the data requested have a definite bearing on the functions of these organizations.

§ 8.8. No data, beyond that specified in §§ 8.1 through 8.4 of these regulations will be released to other nongovernmental organizations and entities, except that data deemed pertinent by the council in negotiations with third-party payors such as Blue Cross/Blue Shield, commercial insurers, etc. Such pertinent data may be released and used on an exception, as needed, basis.

§ 8.9. Except for data specified in §§ 8.1 through 8.4 of these regulations available to anyone, the council shall have a right to furnish data, or refuse to furnish data, based on merit of the request and ability to furnish data based on data and staff time availability. The council may levy a reasonable charge to cover costs incurred in furnishing any of the data described in this section of the rules and regulations.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**NOTICE:** The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

**Title of Regulation:** VR 400-02-0003. **Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.**

**Statutory Authority:** § 36-55.30:3 of the Code of Virginia.

**Effective Date:** March 1, 1989

**NOTICE:** Documents and forms referred to as exhibits have not been adopted by the authority as a part of the Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the amendments to Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income. Copies of such documents and forms are available upon request at the office of the authority.

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## Summary:

*The primary effects of the amendments will be to better target the newly limited loan funds available for the authority's single family mortgage loan program and to bring into balance the supply of and the demand for such funds. In addition, other effects of the amendments are expected to include (i) because of the new adjustments for family size, increasing the share of loans made to single persons, (ii) fostering consistent and equal treatment of applicants in all areas of the state and (iii) increasing the share of loans made to finance homes in nonmetropolitan areas.*

VR 400-02-0003. Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

## PART I. GENERAL.

### § 1.1. General.

The following procedures, instructions and guidelines will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and families of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the authority's rules and regulations) must have an "adjusted family income" or "gross family income" (as determined in accordance with the authority's rules and regulations) as applicable, which does not exceed the applicable income limitation established by the authority. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit established by the authority. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds. Such income and sales price limitations and other restrictions shall be set forth in the Processing and Disbursing Guide set forth in Part II hereof.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any mortgage loan hereunder to waive or modify any provisions of these procedures, instructions and guidelines where deemed appropriate by him for good cause, to the extent not inconsistent with the authority's act, rules and regulations, and covenants and agreements with the holders of its bonds.

"Executive director" as used herein means the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the

authority pursuant to a resolution of the board.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these procedures, instructions and guidelines shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

The procedures, instructions and guidelines set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of mortgage loans under the authority's single family housing program. These procedures, instructions and guidelines are subject to change at any time by the authority and may be supplemented by policies, procedures, instructions and guidelines adopted by the authority from time to time.

### § 1.2. PDS agents.

A. The processing of applications for the making or financing of mortgage loans hereunder, the disbursement of proceeds of mortgage loans and the servicing of mortgage loans shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as Processing/Disbursing/Servicing Agents ("PDS agents") of the authority. To be initially approved as PDS agents, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a satisfactory rating from any state and federal agencies responsible for the regulation of the applicant;
3. Have a net worth equal to or in excess of \$100,000 or, in the case of a savings and loan association, have its deposits insured by the Federal Savings and Loan Insurance Corporation;
4. Have a staff with demonstrated ability and experience in mortgage loan origination and servicing;
5. Each branch office of the applicant that is to originate mortgage loans must have demonstrated experience in the origination of mortgage loans;
6. Have reasonable business hours - i.e. be open to the public at least five hours every banking day; and
7. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

If the applicant is to originate (but not service) mortgage loans, the applicant must satisfy the qualifications set forth in (3) and (4) above only with respect to the origination of mortgage loans.

All PDS agents approved by the authority shall enter into Processing/Disbursing/Servicing Agreements ("PDS agreements") with the authority containing such terms and conditions as the executive director shall require with respect to the processing, disbursing and servicing of mortgage loans hereunder. The PDS agents shall maintain adequate books and records with respect to such mortgage loans, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the PDS agent for originating and servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the PDS agreements.

## B. Allocation of funds.

The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to PDS agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;
2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds;
4. The capability, history and experience of any PDS agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and
5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described

above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;
2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and
3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

## C. Processing and Disbursing Guide and Servicing Guide.

The Processing and Disbursing Guide attached hereto as Part II is incorporated into and made a part of these procedures, instructions and guidelines. The executive director is authorized to prepare and from time to time revise a Servicing Guide which shall set forth the accounting and other procedures to be followed by the PDS agents in the servicing of the mortgage loans under the PDS agreements. Copies of the Servicing Guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the Processing and Disbursing Guide and the Servicing Guide.

## D. Making and purchase of new mortgage loans.

The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its PDS agents and (ii) agree to purchase individual mortgage loans from its PDS agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating



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to such mortgage loans shall be governed by and shall comply with the provisions of the PDS agreement, the Processing and Disbursing Guide, the Servicing Guide and the authority's act and rules and regulations.

## E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's PDS agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to PDS agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the PDS agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the PDS agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the authority's act and rules and regulations.

## F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more PDS agents the responsibility for issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which PDS agents may qualify for such delegation. If such delegation has been made, the PDS agents shall submit all required documentation to the authority after closing of each mortgage loan. If the executive director determines that a mortgage loan does not comply with the Processing and Disbursing Guide, the PDS agreement or the authority's act or rules and regulations, he may require

the PDS Agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

## PART II. VIRGINIA HOUSING DEVELOPMENT AUTHORITY PROCESSING AND DISBURSING GUIDE.

### Article I. Eligibility Requirements.

#### § 2.1. Eligible persons and families.

##### A. Person.

A one-person household is eligible.

##### B. Family.

A single family loan can be made to more than one person only if all such persons to whom the loan is made are related by blood, marriage or adoption and are living together in the dwelling as a single nonprofit housekeeping unit.

#### § 2.2. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended (hereinafter "the tax code").

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the PDS agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The PDS agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing and signing the "PDS Agent's Checklist for Certain Requirements of the Tax Code" (Exhibit A (1)) prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority set forth in other parts of this guide.

#### § 2.2.1. Eligible borrowers.

##### A. General.

In order to be considered an eligible borrower for an authority mortgage loan, an applicant must, among other things, meet all of the following federal criteria:

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See § 2.2.1.B Three-year requirement);

2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See § 2.2.1.C Principal residence requirement);

3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See § 2.2.1.D New mortgage requirement);

4. Must have contracted to purchase an eligible dwelling. (See § 2.2.2 Eligible dwellings);

5. Must execute an affidavit of borrower (Exhibit E) at the time of loan application;

6. Must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code (See § 2.5 Income requirements); and

7. Must agree not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met. (See § 2.10 Loan assumptions).

## B. Three-year requirement.

An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3 "Targeted areas"); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. Definition of present ownership interest. "Present ownership interest" includes:

- a. A fee simple interest,
- b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,
- c. The interest of a tenant shareholder in a cooperative,
- d. A life estate,
- e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some

later time, and

f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a "Present ownership interest" include:

- a. A remainder interest,
- b. An ordinary lease with or without an option to purchase,
- c. A mere expectancy to inherit an interest in a principal residence,
- d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and
- e. An interest in other than a principal residence during the previous three years.

2. Persons covered. This requirement applies to any person who will execute the mortgage document or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. Prior tax returns. To verify that the eligible borrower meets the three-year requirement, the PDS agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three tax years immediately preceding execution of the mortgage documents (or certified copies of the returns) or a copy of a letter from the Internal Revenue Service stating that its Form 1040A or 1040EZ was filed by the eligible borrower for any of the three most recent tax years for which copies of such returns are not obtained. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return or letter from the Internal Revenue Service for such year or years is waived.

The PDS agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. Review by PDS agent. The PDS agent must, with due diligence, verify the representations in the borrower affidavit regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and certify to the authority that on the basis of its review, it is of the

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opinion that each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

## C. Principal residence requirement.

1. General. An eligible borrower must intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a purchase and rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from the authority. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan on the affidavit of borrower and as part of the attachment to the deed of trust.

2. Definition of principal residence. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where any portion of the total living area is to be used primarily in a trade or business.

3. Land not to be used to produce income. The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the affidavit of borrower that, among other things:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

4. Lot size. Only such land as is reasonably necessary to maintain the basic livability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres even in rural areas. However, exceptions may be made: (i) if the land is owned free and clear and is not being financed by the

loan, the lot may be as large as five acres, (ii) if difficulty is encountered locating a well or septic field, the lot may exceed two acres to include the additional acreage required, and (iii) local city and county zoning ordinances which require more acreage will be taken into consideration.

5. Review by PDS agent. The affidavit of borrower must be reviewed by the PDS agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the PDS agent shall review the appraiser report of an authority approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the PDS agent shall certify to its opinions in the checklist at the time the loan application is submitted to the authority for approval.

6. Post-closing procedures. The PDS agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify the authority if such addresses are not the same. Subject to the authority's approval, the PDS agent may establish different procedures to verify compliance with this requirement.

## D. New mortgage requirement.

Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. Definition of mortgage. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. Temporary financing. In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Review by PDS agent. Prior to closing the mortgage loan, the PDS agent must examine the affidavit of borrower, the affidavit of seller, and related submissions, including (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Upon such review, the PDS agent shall certify to the authority that the agent is of the opinion that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

#### E. Multiple loans.

Any eligible borrower may not have more than one outstanding authority mortgage loan.

#### § 2.2.2. Eligible dwellings.

##### A. In general.

In order to qualify as an eligible dwelling for which an authority loan may be made, the residence must:

1. Be located in the Commonwealth;
2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and
3. Satisfy the acquisition cost requirements set forth below.

##### B. Acquisition cost requirements.

1. General rule. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in § 2.3. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the PDS agent must contact the authority to determine if the residence is an eligible dwelling.

2. Acquisition cost requirements for assumptions. To determine if the acquisition cost is at or below the federal limits for assumptions, the PDS agent must in

all cases contact the authority.

3. Definition of acquisition cost. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

##### a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost. (See Acquisition Cost Worksheet, Exhibit G, Item 4 and Appraiser Report, Exhibit H).

(3) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

##### b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

(2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal

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descendants) in constructing or completing the residence.

4. Acquisition cost worksheet (Exhibit G) and Appraiser Report (Exhibit H). The PDS agent is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this subsection B. The PDS agent shall assist the eligible borrower in the correct completion of the worksheet. The PDS agent must also obtain from the appraiser a completed appraiser's report which may also be relied upon in completing the acquisition cost worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the affidavit of borrower required to be submitted with the loan submission. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

5. Review by PDS agent. The PDS agent shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the PDS agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the PDS agent must contact the authority for this determination in all cases). Also, as part of its review, the PDS agent must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to the authority that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the PDS agent must compare the information contained in the acquisition cost worksheet with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

6. Independent appraisal. The authority reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

## § 2.2.3. Targeted areas.

### A. In general.

In accordance with the tax code, the authority will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. The authority will exercise due diligence in making mortgage loans in targeted areas by advising PDS agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of

such funds through advertising and/or news releases. The amount, if any, allocated to a PDS agent exclusively for targeted areas will be specified in a forward commitment agreement between the PDS agent and the authority.

### B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement in § 2.2.1.B.

#### 1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in b below, or an area of chronic economic distress, as described in c below.

b. A qualified census tract is a census tract in the Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury.

c. An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury under criteria specified in the tax code. PDS agents will be informed by the authority as to the location of areas so designated.

#### § 2.3. Sales price limits.

##### A. For reservations made on or after March 1, 1989.

The authority's maximum allowable sales price for new loans for which reservations are taken by the authority on or after March 1, 1989, shall be as follows:

#### MAXIMUM ALLOWABLE SALES PRICES

Applicable to All New Loans for which Reservations are Taken by the Authority On or after March 1, 1989

AREA	NEW CONSTRUCTION/ EXISTING/ SUBSTANTIAL REHABILITATION
Washington, DC-MD-VA MSA (Virginia Portion) 1/	\$120,000
Norfolk-Virginia Beach- Newport News MSA 2/	\$ 81,500
Richmond-Petersburg MSA 3/	\$ 79,500

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Charlottesville MSA 4/	\$ 77,000
Fauquier County	\$ 77,000
Spotsylvania and King George Counties	\$ 75,500
Balance of State	\$ 75,500

1/ Includes: Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.

*B. For reservations made between August 10, 1987, and March 1, 1989.*

The authority's maximum allowable sales prices for new loans for which reservations are taken by the authority on or after August 10, 1987, but prior to March 1, 1989, shall be as follows:

### MAXIMUM ALLOWABLE SALES PRICES

Applicable to All New Loans for which Reservations are Taken by the Authority on or after August 10, 1987, but prior to March 1, 1989.

	New Construction	Substantial Rehabilitation	Existing
Washington, DC-MD-VA MSA (Virginia Portion) 1/	\$120,000	\$120,000	\$110,000
Norfolk-Virginia Beach- Newport News MSA 2/	\$ 81,500	\$ 81,500	\$ 75,500
Richmond-Petersburg MSA 3/	\$ 77,000	\$ 71,500	\$ 68,500
Roanoke MSA 4/	\$ 73,500	\$ 56,500	\$ 56,500
Lynchburg MSA 5/	\$ 65,000	\$ 58,500	\$ 58,500

Charlottesville MSA 6/	\$ 77,000	\$ 74,500	\$ 68,500
Fringe of Washington MSA Fauquier County	\$ 77,000	\$ 77,000	\$ 77,000
Fredericksburg	\$ 64,000	\$ 60,000	\$ 60,000
Spotsylvania County	\$ 66,000	\$ 60,000	\$ 60,000
Winchester Area 7/	\$ 64,000	\$ 58,500	\$ 58,500
North Piedmont (Rural Pt Part ) 8/	\$ 64,000	\$ 56,500	\$ 56,500
Balance of State	\$ 64,000	\$ 56,500	\$ 56,500

1/ Includes: ~~Virginia Portion~~; Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

5/ Includes: Amherst County, Campbell County, Lynchburg City.

6/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.

7/ Includes: Clarke County, Frederick County, Winchester City.

8/ Includes: Caroline County, Culpeper County, King George County, Louisa County, Madison County, Orange County, Rappahannock County.

*C.* The applicable maximum allowable sales price for new construction shall be increased by the amount of any grant to be received by a mortgagor under the authority's Solar Home Grant Program in connection with the acquisition of a residence.

§ 2.4. Net worth.

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To be eligible for authority financing, an applicant cannot have a net worth exceeding \$20,000 plus an additional \$1,000 of net worth for every \$5,000 of income over \$20,000. (The value of furniture and household goods shall not be included in determining net worth.) In addition, the portion of the applicant's liquid assets which are used to make the down payment and to pay closing costs, up to a maximum of 25% of the sale price, will not be included in the net worth calculation.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining whether this net worth limitation has been violated.

## § 2.5. Income requirements.

### A. Maximum gross income.

1. ~~Maximum gross income (only applicable to loans for which reservations are taken by the authority on or after August 10, 1987, and for assumptions of loans for which applications are taken by the PDS agent on or after August 10, 1987):~~ As provided in § 2.2.1.A.6 the gross family income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this ~~paragraph 1 subsection A~~ apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of § 2.2.1.A.6 are met as long as the requirements of this subsection are met. The maximum annual gross family incomes for eligible borrowers shall be *determined or set forth* as follows:

#### 1. For reservations made on or after March 1, 1989.

#### MAXIMUM ALLOWABLE GROSS INCOMES

*Applicable only to loans for which reservations are taken by the authority and to assumptions for which applications are taken by the PDS Agent on or after March 1, 1989.*

*The maximum allowable gross income for each borrower shall be a percentage (based on family size) of the applicable median family income (as defined in § 143(f)(4) of the Internal Revenue Code of 1986 (as amended), with respect to the residence of such borrower, which percentages shall be as follows:*

Family Size	Percentage of applicable Median Family Income (Regardless of whether residence is new construction, existing or substantially rehabilitated)
1 person	70%
2 person	85%

3 or more persons 100%

[ *However, the maximum allowable gross income for each borrower assuming a mortgage loan made prior to March 1, 1989, shall be the amount established for a family of three or more persons, regardless of the family size of such borrowers.* ]

*The authority shall from time to time inform the PDS Agents by written notification thereto of the foregoing maximum allowable gross income limits expressed in dollar amounts for each area of the state and each family size. The effective dates of such limits shall be determined by the executive director.*

#### 2. For reservations made between August 10, 1987, and March 1, 1989.

#### MAXIMUM ALLOWABLE GROSS INCOMES

Applicable only to loans for which reservations are taken by the Authority and to assumptions for which applications are taken by the PDS agent on or after August 10, 1987, and prior to March 1, 1989.

	New Construction	Substantial Rehabilitation	Existing
Washington, DC-MD-VA MSA (Virginia Portion) 1/	\$ 49,400	\$ 49,400	\$ 46,000
Norfolk-Virginia Beach-Newport News MSA 2/	\$ 37,000	\$ 37,000	\$ 35,800
Richmond-Petersburg MSA 3/	\$ 36,400	\$ 34,400	\$ 33,300
Roanoke MSA 4/	\$ 35,100	\$ 32,700	\$ 31,500
Lynchburg MSA 5/	\$ 32,200	\$ 32,200	\$ 30,000
Charlottesville MSA 6/	\$ 36,400	\$ 35,400	\$ 33,300
Fringe of Washington MSA			
Fauquier County	\$ 34,400	\$ 34,400	\$ 34,400
Fredericksburg	\$ 32,700	\$ 32,700	\$ 31,500
Spotsylvania County	\$ 32,700	\$ 32,700	\$ 31,500
Winchester Area 7/	\$ 32,200	\$ 32,200	\$ 30,000
North Piedmont (Rural 8/	\$ 32,700	Pt Part ) \$ 32,700	\$ 31,500

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Balance of State  
 \$ 32,200                      \$ 32,200                      \$ 30,000

1/ Includes: Virginia Portion; Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

5/ Includes: Amherst County, Campbell County, Lynchburg City.

6/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.

7/ Includes: Clarke County, Frederick County, Winchester City.

8/ Includes: Caroline County, Culpeper County, King George County, Louisa County, Madison County, Orange County, Rappahannock County.

2. Maximum adjusted family income. (Only applicable to loans for which reservations are taken by the authority before August 10, 1987, and to assumptions of loans for which applications are taken by the PDS agent before August 10, 1987.)

NOTE: No federal income limits apply to these loans. The maximum adjusted family incomes for eligible borrowers shall be as follows:

### MAXIMUM ALLOWABLE ADJUSTED FAMILY INCOMES

Applicable only to loans for which reservations are taken by the authority or to assumptions for which applications are taken by the PDS agent before August 10, 1987.

	New Construction	Substantial Rehabilitation	Existing
Northern Virginia portion of Washington, DC MD-VA MSA			
1/	\$ 46,600	\$ 46,600	\$ 43,200

Norfolk-Virginia Beach Newport News MSA			
2/	\$ 34,300	\$ 34,300	\$ 29,000
Richmond-Petersburg			
3/	\$ 29,900	\$ 29,900	\$ 28,700
Northern Piedmont/ Roanoke MSA			
4/	\$ 29,900	\$ 29,900	\$ 28,700
Remainder of State			
5/	\$ 29,400	\$ 29,400	\$ 27,200

1/ Includes: Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Norfolk City, Portsmouth City, Suffolk City, Virginia Beach City, Hampton City, Newport News City, Poquoson City, Williamsburg City, Gloucester County, James City County, York County.

3/ Richmond-Petersburg MSA includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Roanoke MSA includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

North Piedmont includes: Albemarle County, Caroline County, Charlottesville City, Culpeper County, Fauquier County, Fluvanna County, Fredericksburg City, Greene County, King George County, Louisa County, Madison County, Orange County, Rappahannock County, Spotsylvania County.

5/ Any jurisdiction not a part of the Northern Virginia portion of the Washington, DC-MD-VA-MSA, the Norfolk-Virginia Beach-Newport News MSA or the North Piedmont/Richmond Petersburg MSA/Roanoke MSA.

B. Minimum income (not applicable to applicants for loans to be insured or guaranteed by the Federal Housing Administration or the Veterans Administration (hereinafter referred to as "FHA or VA loans").

An applicant satisfies the minimum income requirement for authority financing if the monthly principal and interest, tax, insurance (PITI) and other additional monthly fees such as condominium assessments, townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income. (See Exhibit B) For units in condominiums, 60% of the monthly condominium assessment shall be used in the foregoing



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ratio calculations.

## § 2.6. Calculation of maximum loan amount.

Single family detached residence and townhouse (fee simple ownership) Maximum of 95% (or, in the case of a FHA or VA loan, such other percentage as may be permitted by FHA or VA) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - Maximum of 95% (or, in the case of a FHA or VA loan, such other percentage as may be permitted by FHA or VA) of the lesser of the sales price or appraised value, except as may be otherwise approved by the authority.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) The value of personal property included in the appraisal shall not be deducted from the appraised value. (See Appraiser Report, Exhibit H)

In the case of a FHA or VA loan, the FHA or VA insurance fees charged in connection with such loan (and, if a FHA loan, the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA and VA requirements; provided, however, that in no event shall this revised maximum loan amount which includes such fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

## § 2.7. Mortgage insurance requirements.

Unless the loan is an FHA or VA loan, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on all loans which exceed 80% of the lesser of sales price or appraised value. The PDS agent is required to escrow for annual payment of mortgage insurance. If the authority requires FHA or VA insurance, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the PDS agent's name and purchased by the authority once the FHA Certificate of Insurance or VA Guaranty has been obtained. In the event the authority purchases an FHA or VA loan, the PDS agent must enter into a purchase and sale agreement. (See Exhibit C) For assumptions of conventional loans (i.e., loans other than FHA and VA loans), full private mortgage insurance as described above is required unless waived by the authority.

## § 2.8. Underwriting.

### A. Conventional loans.

### 1. Employment and income.

a. Length of employment. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. Self-employed applicants. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See § 2.2.1.C Principal residence requirement.) Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

(1) Federal income tax returns for the two most recent tax years.

(2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. Income derived from sources other than primary employment.

(1) Alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant for a loan.

(2) Social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

(3) Part-time employment. Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

(4) Overtime, commission and bonus. Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

## 2. Credit.

a. Credit experience. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references are considered to be one of the most important requirements in order to obtain an authority loan.

b. Bankruptcies. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years and has a poor credit history. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy and poor credit history. The authority has complete discretion to decline a loan when a bankruptcy and poor credit is involved.

c. Judgments. An applicant is required to submit a written explanation for all judgments. Judgments must be paid before an applicant will be considered for an authority loan.

3. Appraisals. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

## B. FHA loans only.

1. In general. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Mortgage insurance premium. Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed, except that, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. Closing fees. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. Appraisals. FHA appraisals are acceptable. VA

certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

## C. VA loans only.

1. In general. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, most of the authority's basic eligibility requirements (including those described in §§ 2.1 through 2.5 hereof) remain in effect due to treasury restrictions or authority policy.

2. VA funding fee. 1.0% funding fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

3. Appraisals. VA certificates of reasonable value (CRV's) are acceptable.

## § 2.9. Funds necessary to close.

### A. Cash (Not applicable to FHA or VA loans).

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

### B. Gift letters.

A gift letter is required when an applicant proposes to obtain funds from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.

### C. Housing expenses.

Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.

## § 2.10. Loan assumptions.

### A. Requirements for assumptions.

VHDA currently permits assumptions of all of its single family mortgage loans as long as certain requirements are met. The requirements for each of the four different categories of mortgage loans listed below are as follows:

1. Assumptions of conventional loans.

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a. For assumptions of conventional loans financed by the proceeds of bonds issued on or after December 17, 1981, the requirements of the following sections hereof must be met:

- (1) § 2.5 (Income requirement).
- (2) § 2.2.1.C (Principal residence requirement)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.2.1.B (Three year requirement)
- (5) § 2.2.2.B (Acquisition cost requirement)
- (6) § 2.7 (Mortgage insurance requirement).

b. For assumptions of conventional loans financed by the proceeds of bonds issued prior to December 17, 1981, the requirements of the following sections hereof must be met:

- (1) § 2.5 (Income requirements)
- (2) § 2.2.1.C (Principal residence requirements)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.7 (Mortgage insurance requirements).

## 2. Assumptions of FHA or VA loans.

a. For assumptions of FHA or VA loans financed by the proceeds of bonds issued on or after December 17, 1981 the following conditions must be met:

- (1) § 2.5.A (Maximum income requirement)
- (2) § 2.2.1.C (Principal residence requirement)
- (3) § 2.2.1.B (Three year requirement)
- (4) § 2.2.2.B (Acquisition cost requirements).

In addition, all applicable FHA or VA underwriting requirements, if any, must be met.

b. For assumptions of FHA or VA loans financed by the proceeds of bonds issued prior to December 17, 1981, only the applicable FHA or VA underwriting requirements, if any, must be met.

## B. Requirement that the authority be contacted.

The PDS agent must in each case of a request for assumption of a mortgage loan contact the authority in order to determine which category of loans described in subsection A above applies to the loan and whether or not the requirements of the applicable category are satisfied. (For example, in cases of assumptions, the PDS agent may not rely - as it may for new loans - on the fact that the

acquisition cost of the dwelling is less than the authority's sales price limits to satisfy the acquisition cost requirement. It is therefore essential that the authority be contacted in each case.)

## C. Application package for assumptions.

Once the PDS agent has contacted the authority and it has been determined which of the four categories described in subsection A above applies to the loan, the PDS agent must submit to the authority the information and documents listed below for the applicable category:

### 1. Assumption package for conventional loans:

a. Conventional loans financed by the proceeds of bonds issued on or after December 17, 1981:

- (1) Affidavit of borrower (Exhibit E).
- (2) Affidavit of seller (Exhibit F).
- (3) Acquisition cost worksheet (Exhibit G).
- (4) Appraiser's report (Exhibit H).
- (5) Three year's tax returns.
- (6) PDS agent's checklist (Exhibit A(1)).
- (7) 4506 form (Exhibit Q).
- (8) PDS agent's loan submission cover letter (Exhibit 0(1)).
- (9) Authority's completed application (Exhibit D).
- (10) Verification of employment (VOE's) (and other income related information).
- (11) Verification of deposit (VOD's).
- (12) Credit report.
- (13) Sales contract.
- (14) Truth-in-lending (Exhibit K) and estimate of charges.
- (15) Equal credit opportunity act (ECOA) notice (Exhibit I).
- (16) Authority underwriting qualification sheet (Exhibit B(1)).

b. Conventional loans financed by the proceeds of bonds issued prior to December 17, 1981:

- (1) Authority's completed application (Exhibit D).
- (2) Verification of employment (VOE's) (and other

income related information).

- (3) Verification of deposit (VOD's).
- (4) Credit report.
- (5) Sales contract.
- (6) Truth-in-lending (Exhibit K) and estimate of charges.
- (7) Equal credit opportunity act (ECOA) notice (Exhibit I).
- (8) Authority underwriting qualification sheet (Exhibit B(2)).

## 2. Assumption package for FHA or VA loans.

a. FHA or VA loans financed by the proceeds of bonds issued on or after December 17, 1981:

- (1) Affidavit of borrower (Exhibit E).
- (2) Affidavit of seller (Exhibit F).
- (3) Acquisition cost worksheet (Exhibit G).
- (4) Appraiser's Report (Exhibit H).
- (5) Three year's tax returns.
- (6) PDS agent's checklist (Exhibit A(1)).
- (7) 4506 form (Exhibit Q).
- (8) PDS agent's loan submission cover letter (Exhibit 0(2) or (3)).
- (9) Authority's completed application (Exhibit D).
- (10) In addition, all applicable requirements, if any, of FHA or VA must also be met.

b. FHA or VA loans financed by the proceeds of bonds issued prior to December 17, 1981: Only the applicable requirements, if any, of FHA or VA must be met.

## D. Review by the authority/additional requirements.

Upon receipt of an application package for assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the PDS agent of such determination in writing. The authority will further advise the PDS agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory

evidence of mortgage insurance or mortgage guaranty including, if applicable, pool insurance and submission of an escrow transfer letter.

## § 2.11. Leasing, loan term, and owner occupancy.

### A. Leasing.

The owner may not lease the property without first contacting the authority.

### B. Loan term.

Loan terms may not exceed 30 years.

### C. Owner occupancy.

No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

## § 2.12. Reservations/fees.

### A. Making a reservation.

The authority currently reserves funds for each mortgage loan on a first come, first served basis. In order to make a reservation of funds for a loan, the PDS agent shall:

1. First make a determination based on the information then made available to it by the applicant or otherwise that neither the applicant nor the property appears to violate any of the authority's eligibility requirements for a new loan.

2. Collect a \$100 nonrefundable reservation fee (or such other amount as the authority may require).

3. Determine what type of mortgage insurance will be required; specifically, whether the loan will be a conventional loan, an FHA loan or a VA loan.

4. Complete a reservation sheet (Exhibit C).

5. Call the authority (after completing the four preceding requirements) between 9 a.m. and 5 p.m. Monday through Friday for the assignment of a reservation number for the loan, an interest rate for the reserved funds and an expiration date for the reservation, all of which will be assigned after the PDS agent gives to the authority the following information:

- a. Name of primary applicant
- b. Social security number of applicant
- c. Estimated loan amount
- d. PDS agent's servicer number

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e. Gross family income of applicant and family, if any

f. Location of property (city or county)

g. Verification of receipt of the reservation fee

h. Type of mortgage insurance to be used (if conventional, the authority will assign the loan a suffix "C;" if FHA, the suffix will be "F;" and, if VA, it will be "V").

6. Complete the reservation card by filling in the reservation number, interest rate, expiration date and by executing it (only an authorized representative of the PDS agent may sign the reservation card).

7. Submit the complete application package to the authority (see § 2.13) along with evidence of receipt of the reservation fee within 60 days after the authority assigns the reservation number to the loan (i.e., takes the reservation). Funds will not be reserved longer than 60 days unless the PDS agent requests and receives an additional one-time extension prior to the 60-day deadline.

## B. More than one reservation.

An applicant may request a second reservation if the first has expired, but in no case may the interest rate be reduced without the authority's prior approval. In addition, a second reservation fee must be collected for a second reservation.

## C. The reservation fee.

Under no circumstances is this fee refundable. If the loan closes, it will be retained by the PDS agent as part of its 1.0% origination fee. If (i) the application is not submitted prior to the expiration of the reservation, or (ii) the authority determines at any time that the loan will not close, this reservation fee must be submitted to the authority within 30 days after such expiration or such determination by the authority, as applicable. If, in such cases, the fee is not received by the authority within such 30-day period, the PDS Agent shall be charged a penalty fee of \$50 in addition to the reservation fee (see subsection D for other fees). No substitutions of applicants or properties are permitted.

## D. Other fee.

1. Commitment fee. The PDS agent must collect at the time of the issuance of a commitment by the authority an amount equal to 1.0% of the loan amount less the amount of the reservation fee already collected (such that the total amount received by the PDS agent at that point equals 1.0% of the loan amount - please also note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only). If the loan closes, the PDS

agent retains the full 1.0% as its original fee. If the loan does not close the origination fee (which includes the reservation fee) must be submitted to the authority when the failure to close is due to the fault of the applicant. On the other hand, if the failure to close is not due to the fault of the applicant, then everything collected except for the reservation fee may at the option of the authority be refunded to the applicant. (The reservation fee, as required in subsection C above is always submitted to the authority when a loan fails to close.)

2. Discount point. The PDS agent must collect at the time of closing an amount equal to 1.0% of the loan amount from the seller. This fee is to be remitted to the authority by the PDS agent.

## § 2.13. Preparation of application package for new loans.

### A. Conventional loans.

The application package submitted to the authority for approval of a conventional loan must contain the following:

1. Reservation sheet (Exhibit C).
2. Application - the application must be made on the authority's approved application form. (Exhibit D)
3. Preliminary underwriting form. (Exhibit B)
4. Credit report issued by local credit bureau and miscellaneous information as applicable explanation of bankruptcies, etc., (and any additional documentation).
5. Verification of employment (and any additional documentation).
6. Verification of other income.
7. Verification of deposits (and any additional documentation).
8. Gift letters (and verification).
9. Sales contract - contract must be signed by seller and all parties entering into the contract and state which parties are paying points and closing costs.
10. Appraisal (FHLMC No. 70) should be the Federal National Mortgage Association ("FNMA") or Federal Home Loan Mortgage Corporation ("FHLMC") form and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to the authority or who has a certification from a trade organization approved by the authority (photos and required supporting documentation).
11. Loan submission cover letter. (Exhibit O(1))

12. Appraiser's report. (Exhibit H)
13. Acquisition cost worksheet. (Exhibit G)
14. Affidavit of seller. (Exhibit F)
15. Affidavit of borrower. (Exhibit E)
16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.  
  
(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).
17. PDS agent's checklist for certain requirements of the tax code. (Exhibit A(1))
18. Signed request for copy of tax returns. (Exhibit Q)
19. U.S. Department of Housing and Urban Development ("HUD") information booklet acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulations Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.
20. Equal Credit Opportunity Act ("ECOA") notice statement to borrower of provisions of the ECOA, with borrower's acknowledgement of receipt. (Exhibit I)
21. Truth-in-lending disclosure. (Exhibit K)

## B. FHA loans.

The application package submitted to the authority for approval of an FHA loan must contain the following items:

1. Reservation sheet (Exhibit C).
2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).
3. Copy the HUD application (FHA form 92900).
4. Copy of the Mortgage Credit Analysis Worksheet (HUD form 92900-ws).
5. Copy of the credit report.
6. Copy of verification of employment.

7. Copy of verification of other income.
8. Copy of verification of deposits.
9. Copy of gift letters (and verification).
10. Copy of sales contract.
11. Assignment letter - this must reference the case number, name of applicant.
12. Copy of appraisal - this must be on a form acceptable to FHA and must contain all supporting documentation necessary for valuation.
13. FHA Notice to Buyers (Document F-9)
14. Loan submission cover letter. (Exhibit O(2))
15. Appraiser's report. (Exhibit H)
16. Acquisition cost worksheet. (Exhibit G)
17. Affidavit of seller. (Exhibit F)
18. Affidavit of borrower. (Exhibit E)
19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.  
  
(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1 B3 hereof, such letter must be enclosed instead).
20. PDS agent's checklist for certain requirements of the tax code. (Exhibit A(1))
21. Signed request for copy of tax returns (Exhibit Q)
22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.
23. Equal Credit Opportunity Act ("ECOA") notice statement to borrower of provisions of ECOA, with borrower's acknowledgement of receipt. (Exhibit I)
24. Truth-in-lending disclosure. (Exhibit K)

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## C. VA loans.

The application package submitted to the authority for approval of a VA loan must contain the following items:

1. Reservation sheet (Exhibit C).
  2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).
  3. Copy the VA application (VA form 26-1802A).
  4. Copy of the Loan Analysis Worksheet (VA form 6393).
  5. Copy of the credit report.
  6. Copy of verification of employment.
  7. Copy of verification of other income.
  8. Copy of verification of deposits.
  9. Copy of gift letters (and verification).
  10. Copy of sales contract.
  11. Copy of appraisal - this must be on a form acceptable to VA and must contain all supporting documentation necessary for valuation.
  12. Loan submission cover letter. (Exhibit O(3))
  13. Appraiser's report. (Exhibit H)
  14. Acquisition cost worksheet. (Exhibit G)
  15. Affidavit of seller. (Exhibit F)
  16. Affidavit of borrower. (Exhibit E)
  17. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.
- (NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).
18. PDS agent's checklist for certain requirements of the tax code. (Exhibit A(1))
  19. Signed request for copy of tax returns (Exhibit Q)
  20. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended,

the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

21. Equal Credit Opportunity Act ("ECOA") notice statement to borrower of provisions of ECOA, with borrower's acknowledgement of receipt. (Exhibit I)

22. Truth-in-lending disclosure. (Exhibit K)

## D. Delivery of package to authority.

After the application package has been completed, it should be forwarded to:

Single Family Originations Division  
Virginia Housing Development Authority  
13 South 13th Street  
Richmond, VA. 23219

## § 2.14. Commitment. (Exhibit J)

### A. In general.

Upon approval of the applicant, the authority will send a mortgage loan commitment to the borrower in care of the PDS agent. Also enclosed in this package will be other documents necessary for closing. The PDS agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the PDS agent. A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. Generally, no more than one commitment will be issued to an applicant in any calendar year. However, if an applicant who received a commitment fails to close the mortgage loan transaction through no fault of his own, that borrower may be considered for one additional commitment upon proper reapplication to the authority within the one year period from the cancellation or expiration of the original commitment; provided, however, that the interest rate offered in the additional commitment, if issued, may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

### B. Loan rejection.

If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, the credit

documentation cannot be more than 90 days old and the appraisal not more than six months old.

## § 2.15. Loan settlement.

### A. Loan closing.

1. In general. Upon the borrower's acceptance of the mortgage loan commitment, the PDS agent will send the authority's letter and closing instructions (see Exhibits M and N) and the closing papers to the closing attorney. The PDS agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. The authority will provide the PDS agent with the documents which the closing attorney is required to complete. After the authority reviews the closing attorney's preliminary work and has been advised by the PDS agent in the case of an FHA or VA loan that all applicable FHA or VA requirements have been met, it will approve closing and, a loan proceeds check will be sent to the closing attorney or firm named in the commitment or binder as approved under the issuing company's insured closing service, along with additional closing instructions. The closing attorney may disburse loan proceeds only after he has conducted the loan closing and recorded all necessary documents, including the deed of trust securing repayment of the loan to the authority and in all other respects is in a position to disburse proceeds in accordance with the authority's letter authorizing the closing, the commitment and the instructions previously issued by the PDS agent. It is the PDS agent's responsibility to see that all documents and checks are received immediately after loan closings and that they are completed in accordance with the authority's requirements, Regulation Z and ECOA.

2. Special note regarding check for buy-down points. A certified or cashier's check made payable to the authority is to be provided at loan closing for buy-down points, if any. Under the tax code, the original proceeds of a bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. If buy-down points are paid out of mortgage loan proceeds (which are financed by bonds), then this federal regulation is violated because bond proceeds have in effect been used to pay interest rather than for the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down fees may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

### B. Post-closing requirements.

All post-closing documents, including the post-closing cover letter (Exhibit P), should be forwarded as follows to:

Single Family Servicing Division  
Post-Closing Section  
Virginia Housing Development Authority  
13 South 13th Street  
Richmond, VA. 23219

Within five days after the closing of the loan, the PDS agent must forward the fees, interest and any other money due the authority, a repayment of the authority's outstanding construction loan, if any, private mortgage insurance affidavit and all closing documents except the original recorded deed of trust and title insurance policy and hazard insurance policy.

Within 45 days after loan closing, the PDS agent shall forward to the authority the original recorded deed of trust and final mortgage title insurance policy. Within 55 days after loan closing the PDS agent shall forward to the authority the original hazard insurance policy.

During the 120-day period following the loan closing the PDS agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the address of the borrower are the same, and also to ascertain any change of address during such period and shall notify the authority if such addresses are not the same or if there is any such change of address. Subject to the authority's approval, the PDS agent may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event the agent at any time otherwise becomes aware of the fact that any item noted on the PDS agent's checklist for certain requirements of the tax code may not be correct or proper, the PDS agent shall immediately notify the authority.

## § 2.16. Property guidelines.

### A. In general.

For each application the authority must make the determination that the property will constitute adequate security for the loan. The determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property.

In addition, manufactured housing may be financed only if it is new construction and insured 100% by FHA (see subsection C).

### B. Conventional loans.

1. Existing housing and new construction. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state



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maintained road (easements or right-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements will be acceptable to the authority; and (iii) joint ownership of well and septic will be considered on a case-by-case basis to determine whether such ownership is acceptable - to - the authority.

2. Additional requirements for new construction. New construction financed by a conventional loan must also meet Uniform Statewide Building Code and local code.

## C. FHA or VA loans.

1. Existing housing and new construction. Both new construction and existing housing financed by an FHA or VA loan must meet all applicable requirements imposed by FHA or VA.

2. Additional requirements for new construction. If such homes being financed by FHA loans are new manufactured housing they must meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

## § 2.17. Substantially rehabilitated.

For the purpose of qualifying as substantially rehabilitated housing under the authority's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets the authority's underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the

rehabilitated housing unit.

3. The authority's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards. An appraisal is to be submitted after the authority's inspection and is to list the improvements and estimate their value.

4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in § 2.2.1.D (New mortgage requirement). The authority will approve loans to cover the purchase of a residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

## § 2.18. Condominium requirements.

### A. Conventional loans.

1. The PDS agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The PDS agent must submit evidence at the time the borrower's application is submitted to the authority for approval.

2. At the time the borrower's loan application is submitted for the financing of a unit in any condominium in which the authority has not previously financed the purchase of any units, Exhibit S providing basic information about the condominium must be completed by the Unit Owners Association. The most recent financial statement and operating budget of the condominium (or, in the case of a newly constructed or converted condominium, a copy of the projected operating budget and a copy of the most recent financial statement, if any) must also be submitted. The authority will review the above described form and financial information. If on the basis of such review the authority finds the condominium to be acceptable, the condominium will be approved and the individual loan application will be processed. Exhibit S requires that the Unit Owners Association agree to submit to the authority upon its request, the condominium's annual financial statements, operating budget and other information as the authority may require. The association is also

required to agree that the authority shall have a right to inspect the condominium and its records. The form states that failure to comply with the foregoing shall be grounds for the authority's termination of its approval of the condominium.

3. Each year the authority will send Exhibit T to the Unit Owners Association requesting information concerning the condominium including a statement as to the status of the approvals of VA, FNMA and FHLMC, as applicable, and a copy of the condominium's financial statement and operating budget. The association will be advised that if the request for information is not received within 90 days from the date of the request, the authority may terminate its approval of the condominium. The authority will review the financial statement and operating budget and the questionnaire and if the condominium remains in satisfactory condition, the authority will continue to make mortgage loans on the units subject to the limitations in paragraph 4 below. In the event the authority determines a condominium is not in satisfactory condition, the Unit Owners Association will be given 60 days to correct the deficiencies. If the deficiencies are not corrected to the satisfaction of the authority, the condominium will no longer be approved for financing. The requirements and procedures in this section will also apply to condominiums previously approved by the authority.

4. If a condominium is approved by FNMA, the authority will make mortgage loans on no more than 50% of the units in the condominium. If the condominium is not approved by FNMA, the authority will make mortgage loans on no more than 25% of the units in the condominium. If a condominium is to be phased, the foregoing percentage limits will be applied to each phase until all phases are completed. If the condominium has been previously approved by the authority and exceeds the foregoing percentage limitations, the authority will make no further mortgage loans for the purchase of the units in the condominium until such time as its percentage limits are no longer violated.

B. FHA or VA loans. The authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, or by VA, in the case of a VA loan.

The effective date of the foregoing amendments shall be October 19, 1988 *March 1, 1989*.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: VR 480-05-2. Rules and Regulations Governing the Certification of Diesel Engine Mechanics

### in Underground Coal Mines.

Statutory Authority: §§ 45.1-1:3(4) and 45.1-12 of the Code of Virginia.

Effective Date: April 12, 1989

### Summary:

*These regulations establish requirements for obtaining a certificate to perform the duties and responsibilities of a diesel-engine mechanic in an underground coal mine. They are designed to ensure that competent personnel are employed to maintain diesel engines in such a manner as to protect the health and safety of miners working in mines where diesel equipment is used. The regulations list the qualifications, terms of issuance, fees and effective dates for diesel-engine mechanic certificates.*

*An explanation of substantial changes made to the proposed regulation follows:*

*1. Part I of the regulation is now entitled "Definitions," and contains a definition of the term "maintenance," specifying the tasks for which a Diesel-Engine Mechanic Certification is required.*

*2. Part II of the regulation is now entitled "Purpose and Authority," and has been amended to clarify that the certificate required by the regulation is for people who perform maintenance on diesel engines used in underground coal mines.*

*3. Part III of the regulation is now entitled "Applicability," and has been amended to allow other persons such as diesel-mechanics trainees and factory-trained mechanics to perform maintenance work on diesel engines, provided they are under the direct supervision of a certified diesel-engine mechanic.*

*4. Section 4.1 of Part IV is now entitled "Qualifications" and has been amended to eliminate the requirement for underground mining experience to qualify for a Diesel-Engine Mechanic Certificate. Also in Part IV, § 4.2 specifies when an applicant may attempt to take the mechanic's examination again after having failed the exam three times.*

*5. Part V of the regulation is now entitled "Certification of Instructors." This part has been amended to eliminate the requirements for both mining and teaching experience as qualification to become an instructor. This section now requires only "suitable experience as determined by the division."*

*6. Part VI of the regulation is now entitled "Diesel Mechanic Training Courses." This part has been amended to give the Chief of the Division of Mines the discretion to approve the content and length of*

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diesel mechanic training courses. The amended version specifies only general subjects, not specific topics.

7. Part VII of the regulation is now entitled "Terms of Issuance." This part has been amended to change the length of the term of a certificate from "one year from the date of issuance" to "one year from the last day of the month in which the certificate was issued."

8. Elimination of the requirement for underground mining experience has eliminated the need for Form BOE-1, which was included with the proposed regulations.

VR 480-05-2. Rules and Regulations Governing the Certification of Diesel Engine Mechanics in Underground Coal Mines.

## PART I. [ DEFINITIONS.

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

"Maintenance" means all of the tasks required to be performed routinely to ensure that the engine exhaust emissions conform with the requirements of the laws and regulations of Virginia, and with the maintenance recommendations of the manufacturer of the engine. ]

## [ PART II. ] PURPOSE AND AUTHORITY.

[ § 1.1. § 2.1. ] These regulations establish requirements for obtaining a certificate to perform [ the duties and responsibilities of a diesel-engine mechanic in an maintenance on diesel engines used in ] underground coal [ mine mines ] in the Commonwealth of Virginia. The purpose of the regulations is to ensure that competent personnel are employed to maintain diesel engines in such a manner as to protect the health and safety of workers. The regulations are promulgated under the rulemaking authority of the Department of Mines, Minerals and Energy pursuant to § 45.1-1.3(4) of the Code of Virginia, and are adopted by the Board of Examiners by the authority pursuant to § 45.1-12 of the Code.

## PART [ H. III. ] APPLICABILITY.

[ § 2.1. § 3.1. ] Beginning April 1, 1990, [ no person may perform All ] maintenance work [ performed ] on [ a ] diesel [ engines ] used to power equipment in [ an ] underground coal [ mine without first mines must be performed by, or under the direct supervision of, a person ] possessing a Diesel-Engine Mechanic Certificate issued by the Board of Examiners. Beginning April 1, 1990, no operator of an underground coal mine in the

Commonwealth of Virginia may use diesel-powered equipment in such a mine without first employing a diesel-engine mechanic who is certified by the Board of Examiners.

## PART [ H. IV. ] QUALIFICATIONS.

[ § 3.1. Applicants for a Diesel-Engine Mechanic Certificate shall have at least two years of underground mining experience, verified by a notarized statement and Certification of Work Experience form (BOE-2). Satisfactory completion of a four-year mining related degree at a college or university may be substituted for one year of underground mining experience. Satisfactory completion of a two-year mining related degree at a college or technical school may be substituted for six months of underground mining experience. All degree programs used as substitutes for experience must be approved by the Division of Mines. Applicants shall submit proof of satisfactory completion of such programs when applying for a certificate. In no case may an applicant have less than one year of actual underground mining experience. ]

[ § 3.2. § 4.1. ] Applicants [ for a Diesel-Engine Mechanic Certificate ] must have at least six months of practical experience as a diesel-engine mechanic, verified by a notarized statement. Satisfactory completion of the Division of Mines Diesel-Engine Mechanic Course, or completion of a one-year diesel mechanic program approved by the division, may be substituted for this diesel-engine mechanic experience.

[ § 3.3. § 4.2. ] Applicants for a Diesel-Engine Mechanic Certificate must score 85% or more on all sections of the Diesel-Engine Mechanic Examination. Prior to taking the examination, the applicant must have met the experience requirements for certification, including verification, have submitted a complete application for certification, and have paid a \$10 fee for the examination and certificate. Applicants that fail one or more sections of the examination may take those sections of the examination again within 90 days after taking the complete examination. Applicants that fail one or more sections a second time may take the entire examination again within 90 days after failing those sections. Applicants who fail any part of the examination three times may not take the examination again until at least one year after the [ third first ] attempt.

## PART [ H. V. ] CERTIFICATION OF INSTRUCTORS.

[ § 4.1. § 5.1. ] All training conducted for the purpose of qualifying individuals for the Diesel Engine Mechanic Certificate, or for renewal of that certificate, shall be administered by instructors who are certified by the Division of Mines. Such a certificate shall be known as Diesel Engine Mechanic Instructor Certificate. To qualify for the instructor's certificate, an applicant must pass the

Diesel Engine Mechanic Instructor Examination, and possess either a Diesel Engine Mechanic Certificate or suitable [ mining and teaching ] experience as determined by the division.

[ ~~§ 4.2~~, § 5.2. ] The holder of a Diesel Engine Mechanic Instructor Certificate may maintain validation of the certificate by having taught at least one approved [ ~~60-hour~~ ] diesel engine mechanic course every two years, or by having taught at least three diesel-engine mechanic retraining courses every year. The Board of Examiners may revoke the certification, in accordance with § 45.1-13 of the Code of Virginia, when the certificate holder fails to meet these validation requirements.

PART [ ~~V~~, VI. ]  
DIESEL MECHANIC TRAINING COURSES.

[ ~~§ 5.1~~, § 6.1. ] The Chief of the Division of Mines at his discretion may approve independently created diesel engine mechanic annual retraining courses and courses for training miners to be certified initially.

[ ~~§ 5.2~~, § 6.2. ] To qualify for consideration by the chief, a diesel engine mechanic annual retraining course shall consist of at least four hours of classroom instruction. The content of the course shall include, but is not limited to, diesel technology, diesel laws and regulations, safe use of diesel equipment, and the protection of health of workers exposed to diesel equipment.

[ ~~§ 5.3~~, § 6.3. ] To qualify for consideration by the chief, a diesel engine mechanic certification course shall [ ~~consist of at least 60 hours of instruction. The course shall contain, include, ]~~ but is not limited to, instruction [ ~~in the following on the ]~~ subjects [ ~~of~~

1. Principles of diesel-engine combustion, including strokes and cycles; engine valve systems; bore, stroke and displacement; heat transfer; superchargers and turbochargers; combustion chambers; injectors; and pumps;

2. Diesel fuels and emissions, including flashpoints; carbon residue; sulfur content; nitrogen compounds; oxidation and water; commercial diesel fuels; fuel combustion properties; exhaust systems, catalytic converters; and scrubbers.

3. State and federal regulations pertaining to diesel use in underground coal mines, including those regulations prescribing general requirements; proper ventilation; fire protection; maintenance; permissibility; intake and exhaust systems; cooling systems; and the use, storage and handling of fuel.

4. Preventive maintenance, including engine lubrication; filtering; cooling systems; exhaust systems; safety equipment; housekeeping; and miscellaneous general maintenance.

5. Emissions testing and analysis, including methods and locations for testing; test equipment; and maximum allowable levels of exhaust constituents for which testing is required; diesel-engine principles, fuel systems, diesel fuel, engine exhaust systems, diesel laws and regulations, preventive maintenance, emission controls, emission testing, safe use of diesel equipment, and protection of health of workers exposed to diesel equipment. ]

PART [ ~~VI~~, VII. ]  
TERMS OF ISSUANCE.

[ ~~§ 6.1~~, § 7.1. ] A Diesel Engine Mechanic Certificate shall remain valid for one year from the [ date of issuance last day of the month in which the certificate was issued ] ,unless the certificate is revoked by the Board of Examiners in accordance with § 45.1-13 of the Code of Virginia. The holder of a certificate may renew the certificate by satisfactorily completing a diesel engine mechanic annual retraining program approved by the Division of Mines and taught by an instructor certified by the division.

[ ~~§ 6.2~~, § 7.2. ] If a certificate expires because the certificate holder fails to complete retraining requirements, then the holder of the expired certificate must complete the retraining requirements and pass the Diesel Engine Mechanic Examination prior to reinstatement of certification.

[ ~~§ 6.3~~, § 7.3. ] Reciprocity of certification from MSHA and other states may be granted pursuant to § 45.1-14 of the Code of Virginia.

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# EMERGENCY REGULATIONS

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## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Criteria for Preadmission Screening and Nursing Home Placement of Mentally Ill and Mentally Retarded Individuals.

VR 460-01-46. Utilization Control.

VR 460-02-4.141. Criteria for Preadmission Screening and Nursing Home Placement of Mentally Ill and Mentally Retarded Individuals.

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

Effective Dates: February 17, 1989 through February 16, 1990.

### Summary:

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled "Criteria for Pre-Admission Screening and Nursing Home Placement of Mentally Ill and Mentally Retarded Individuals" as federally required in the Omnibus Budget Reconciliation Act of 1987.

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action. The purpose of this emergency regulation is, with the concurrence of the Department of Mental Health, Mental Retardation and Substance Abuse Services, to conform the Plan for Medical Assistance to Congressional intent.

/s/ Bruce U. Kozlowski, Director  
Date: February 9, 1989

### 3. CONCURRENCES:

/s/ Eva S. Teig  
Secretary of Health and Human Resources  
Date: February 13, 1989

### 4. GOVERNOR'S ACTION:

/s/ Gerald L. Baliles, Governor  
Date: February 16, 1989

### 5. FILED WITH:

/s/ Ann M. Brown  
Deputy Registrar of Regulations  
Date: February 17, 1989 - 3:04 p.m.

### DISCUSSION

6. BACKGROUND: The Omnibus Budget Reconciliation Act (OBRA) of 1987, Part 2, Subtitle C of Title IV added § 1919 to the Social Security Act. Specifically, § 1919(b)(3)(F) prohibits a nursing facility from admitting any new resident who has mental illness or mental

retardation (or a related condition), unless that individual has been determined by the State Mental Health or Mental Retardation Authority to require the level of services provided by a nursing facility. If so, the State Mental Health or Mental Retardation Authority will determine whether active treatment is required. Section 1919(e)(7) requires the states to have pre-admission screening programs to identify individuals with mental illness or mental retardation, using criteria established by the Secretary of Health and Human Services.

On November 30, 1988, emergency regulations entitled "Criteria for Pre-Admission Screening and Nursing Home Placement of Mentally Ill and Mentally Retarded Individuals" were signed by the Governor. These regulations provided for the pre-admission screening only of persons who were Medicaid eligible or anticipated becoming Medicaid eligible within 180 days of admission to the nursing facility.

Since that time, the Health Care Financing Administration (HCFA) has interpreted that § 4211 of OBRA of 1987 required, as a condition of nursing facilities' Medicaid participation, the pre-admission screening of all persons admitted regardless of their Medicaid eligibility or potential eligibility. Moreover, nursing facilities must not admit, on or after January 1, 1989, any new resident who is mentally ill or mentally retarded who has not been determined to need nursing facility services, regardless of payment source.

To comply with HCFA's recent interpretation of OBRA '87, these revised emergency regulations are submitted to supersede the previously gubernatorially approved emergency regulations. The Governor's signature is required on these revised regulations to assure the Department's compliance with federal requirements.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance in lieu of the Board according to its requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's adoption of emergency regulations subject to the Governor's approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the Code requires this agency to initiate the public notice and comment process as contained in Article 2 of the APA.

This action was mandated by the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203), and is therefore exempt from Article 2 of the APA. The final federal criteria still have not been received. However, the language of OBRA required the states to have a pre-admission screening program in effect for these individuals by January 1, 1989. OBRA specified that the states were required to implement this pre-admission screening requirement regardless of whether the Secretary of Health and Human Services failed to develop minimum

# Emergency Regulations

criteria by the statutory effective date.

8. **FISCAL/BUDGETARY IMPACT:** This revised emergency regulation will have the same budgetary impact, with one exception, on the Department of Medical Assistance Services as provided in the earlier regulation. The exception concerns the number of Utilization Review Analysts DMAS requires to implement this new federal requirement. Five Utilization Review Analysts will complete policy development, conduct training, and monitor the expanded program at a cost of \$156,886 (\$78,443 GF; \$ 78,443 NGF) for Fiscal Year 1990. This figure includes salaries, benefits and all other general administrative costs. The funds for this emergency regulation have been included in the Department's budget addendum request.

9. **RECOMMENDATION:** Recommend approval of this request for the Department to make an addition to the emergency adoption action of the regulation entitled "Criteria for Pre-Admission Screening and Nursing Home Placement of Mentally Ill and Mentally Retarded Individuals." Without an effective emergency regulation, the Department would lack the authority to implement this federal mandate.

10. **APPROVAL SOUGHT FOR VR 460-01-46 and 460-02-4.141.** Approval of the Governor is sought for an emergency modification to the State Plan for Medical Assistance in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the regulations found on the following pages.

## VR 460-01-46. Utilization Control.

Revision: HCFA PM 87-9 (BERC) ..... OMB No.: 0938-0193  
August 1987

State Territory : Virginia

### Citation 4.14 Utilization Control

42 CFR 431.630 A Statewide program of surveillance  
42 CFR 456.2 and utilization control has been  
50 FR 15312 implemented that safeguards against  
unnecessary or inappropriate use of  
Medicaid services available under  
this plan and against excess payments,  
and that assesses the quality of  
services. The requirements of 42 CFR  
Part 456 are met:

- Directly. Attachment 4.14 A contains the criteria for pre-admission screening and nursing home placement of MI/MR persons.

1902(a)(30)(C) and 1902(d) of the Act, P.L. 99-509 (Section 9431)  By undertaking medical and utilization review requirements (including quality review requirements described in section 1902(a)(30)(C) of the Act relating to services furnished by HMOs under contract) through a contract with a Utilization and Quality Control Peer Review Organization (PRO) designated under 42 CFR Part 462. The contract with the PRO -

- (1) Meets the requirements of § 434.6(a);
- (2) Includes a monitoring and evaluation plan to ensure satisfactory performance;
- (3) Identifies the services and providers subject to PRO review;
- (4) Ensures that PRO review activities are not inconsistent with the PRO review of Medicare services; and
- (5) Includes a description of the extent to which PRO determinations are considered conclusive for payment purposes.

Quality review requirements described in section 1902(a)(30)(C) of the Act relating to services furnished by HMOs under contract are undertaken through contract with the PRO designated under 42 CFR Part 462.

1902(a)(30)(C) and 1902(d) of the Act, P.L. 99-509 (Section 9431)  By undertaking quality review of services furnished under each contract with an HMO through a private accreditation body.

## VR 460-02-4.141. Criteria for Pre-Admission Screening and Nursing Home Placement of Mentally Ill and Mentally Retarded Individuals.

### § 1. Definitions.

"Active treatment for mental illness" means the implementation of an individual plan of care developed under and supervised by a physician, provided by a physician and other qualified mental health professionals, that prescribes specific therapies and activities for the treatment of persons who are experiencing an acute episode of severe mental illness, which necessitates supervision by trained mental health personnel.

"Active treatment for mental retardation" means a continuous program for each client, which includes aggressive, consistent implementation of specialized and generic training, treatment, health services, and related services that are directed towards (1) the acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and (2) the prevention or deceleration of regression or loss of current optimal functional status. Active treatment does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment program.

"Community Services Board (CSB)" means the local governmental agency responsible for local mental health, mental retardation, and substance abuse services. Boards function as service providers, client advocates, and community educators.

"Diagnostic and Statistical Manual of Mental Disorders, 3rd edition (DSM III-R)" means the 1980 publication of the American Psychiatric Association classifying diagnoses of abnormal behavior.

"DMAS-95 form" means the six-page assessment tool

# Emergency Regulations

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used by Nursing Home Pre-Admission Screening Committees and Utilization Review staff to assess an individual's medical and social status and to reflect justification for a certified level of care.

"Level I Identification Screening" means the screening process (whether done by the local Nursing Home Pre-Admission Screening Committees or private practitioners) to identify those individuals who have a known or suspected diagnosis of mental illness or mental retardation (or related condition).

"Level II Evaluation Process" means the evaluation process for those individuals who are identified as having conditions of mental illness and/or mental retardation. For individuals who are Medicaid eligible or expected to become Medicaid eligible within 180 days, the CSBs will submit the required assessments to the State Mental Health or Mental Retardation Authority which will decide whether or not active treatment is indicated. For private pay individuals, the nursing facility shall submit copies of the required evaluations to the State Mental Health or Mental Retardation Authority. The State Mental Health or Mental Retardation Authority shall decide whether or not active treatment is indicated and shall inform the nursing facility of the decision. Nursing facilities are prohibited from admitting any individual who is mentally ill or mentally retarded unless it has been determined that the individual requires the level of services provided by a nursing facility and does not require active treatment.

"Mental Illness" means the existence of a diagnosis of a major mental disorder as defined in the Diagnostic and Statistical Manual of Mental Disorders, 3rd edition (DSM III-R), limited to schizophrenic, paranoid, major affective, schizoaffective disorders, and atypical psychosis, and does not include a primary diagnosis of dementia (including Alzheimer's disease or a related disorder).

"Mental Retardation and related conditions" means the existence of a level of retardation (mild, moderate, severe and profound) as described in the American Association on Mental Deficiency's Manual on Classification in Mental Retardation (1983) which states that "Mental retardation refers to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period." The provisions of this section also apply to persons with "related conditions," meaning severe, chronic disabilities that meet all of the following conditions:

- They are attributable to cerebral palsy or epilepsy or any other condition, other than mental illness, found to be closely related to mental retardation because the related condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for those persons.
- They are manifested before the person reaches age 22.

- They are likely to continue indefinitely.

- They result in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.

"MI/MR Supplemental Assessment" means the assessment form developed to meet the requirements of OBRA '87. It will be utilized by the Nursing Home Pre-Admission Screening Committees in conjunction with the DMAS-95 form to identify those individuals with a known or suspected diagnosis of mental illness or mental retardation.

"Nursing Home Pre-Admission Screening Committee" means either a local committee organized by the local health director or a committee established in a hospital setting for the purpose of determining whether an individual meets nursing facility criteria. Those committees organized by the local health director must be composed, at a minimum, of a physician, nurse, and social worker. The nurse and physician (both of whom must be licensed or eligible to be licensed) shall be employed by the local health department, and the social worker shall be employed from the adult services section of the local department of social services or the local health department. The committee, at the discretion of the local health director, may include representatives of other agencies which provide community services to aged and disabled individuals. Hospital committees are composed of a social worker or discharge planner and physician. If the discharge planner is not a nurse, collaboration with a registered nurse who is knowledgeable about the individual's medical needs is required prior to completion of the screening process. A mental health professional from the local Community Services Board may also serve on the committee.

"Nursing Home Pre-Admission Screening Program" means a process to: (1) evaluate the medical, nursing, developmental, psychological, and social needs of each individual believed to be in need of nursing home admission; (2) analyze what specific services the individual needs; and (3) evaluate whether a service or a combination of existing community services is available to meet the individual's needs. An essential part of the assessment process is determining the level of care required by applying existing criteria for skilled and intermediate nursing home care.

"Private Pay Individuals" means persons who are not Medicaid eligible or are not expected to be Medicaid eligible within 180 days of admission to a nursing facility.

"State Mental Health or Mental Retardation Authority" means the designated representative of the Department of Mental Health, Mental Retardation, and Substance Abuse Services who shall make active treatment decisions.

*§ 2. Persons Subject to Nursing Home Pre-Admission Screening and Identification of Conditions of Mental Illness and Mental Retardation.*

*A. As a condition of a nursing facility's Medicaid participation, all persons applying for admission to it shall be screened to determine whether they meet the criteria for nursing facility placement and for conditions of mental illness and mental retardation. Nursing facilities are responsible for ensuring that applicants for admission who are mentally ill or mentally retarded are not admitted until their determinations have been made under the screening process.*

*B. Beginning 4/1/90, nursing facility residents shall be reviewed annually for conditions of mental illness and/or mental retardation.*

*§ 3. Pre-Admission Screening Process.*

*A. Level I Identification Screening: For individuals who are Medicaid eligible or are expected to become Medicaid eligible within 180 days, the initial screening shall be administered by local Nursing Home Pre-Admission Screening Committees to determine 1) the need for nursing facility services and 2) whether or not the individual has a known or suspected diagnosis of mental illness and/or mental retardation (or a related condition). The DMAS-95 form and the MI/MR Supplemental Assessment will be used by the screening committees in making Level I identifications. Persons identified as possibly mentally ill and/or mentally retarded shall be referred for further diagnostic evaluation performed by the local Community Services Board (CSB).*

*B. Level I Identification Screening: For private pay individuals applying to enter a nursing facility, it will be the responsibility of the nursing facility to determine 1) the need for nursing facility services and 2) whether or not the individual is or may be mentally ill and/or mentally retarded (or has a related condition). Persons identified as mentally ill and/or mentally retarded shall be referred to their private practitioners for further diagnostic evaluation.*

*C. Level II Evaluation Process: For individuals who are Medicaid eligible or expected to be Medicaid eligible within 180 days, the local CSB shall further evaluate the individual suspected of having conditions of mental illness and/or mental retardation for the need for active treatment and to determine appropriate placement if active treatment is indicated. The criteria used in making a decision about appropriate placement is not, in any way, to be affected by the availability of placement alternatives. The State Mental Health or Mental Retardation Authority shall decide whether or not active treatment is indicated, based on the CSB's recommendation. If active treatment for mental retardation or mental illness is required, the CSB will arrange for the appropriate services to be provided and nursing facility services under Medicaid will be denied.*

*D. Level II Evaluation Process: For those private pay individuals, the private practitioners shall further evaluate the individual suspected of having conditions of mental illness and/or mental retardation to determine if there is a need for active treatment and to determine appropriate placement if active treatment is indicated. The criteria used in making a decision about appropriate placement are not, in any way, to be affected by the availability of placement alternatives. The nursing facility shall submit copies of the required evaluations to the Department of Mental Health, Mental Retardation and Substance Abuse Services which shall decide whether or not active treatment is indicated, based on the private practitioner's recommendation. If active treatment for mental retardation or mental illness is required, the Department of Mental Health, Mental Retardation and Substance Abuse Services shall notify the nursing facility that the individual may not be admitted to the nursing facility.*



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# STATE CORPORATION COMMISSION

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## STATE CORPORATION COMMISSION

### Bureau of Insurance

February 16, 1989

TO: All Companies Licensed to Write Commercial Liability Insurance.

RE: Administrative Letter 1989-1  
Supplemental Report for Certain Lines and Subclassifications of Liability Insurance as Required by Virginia Code § 38.2-1905.2.

Administrative Letter 1989-1, dated February 1, 1989, was mailed to all companies licensed to write commercial liability insurance. This letter outlined the data reporting requirements pursuant to § 38.2-1905.1 of the Code of Virginia.

Item 3 of Exhibit 1 (Supplemental Report Instructions) incorrectly referenced Exhibit 33 for use in filing zero reports (lines of insurance where the insurer had no written premium). The instruction should have referenced Exhibit 34. Please make note of this change.

In addition, Item 7 of Exhibit 1 (Supplemental Report Instructions) incorrectly referenced Items 4 C, D, and E as not including incurred but not reported losses. The instruction should have referenced Items 4 B and C only. Please make note of this change also.

/s/ Robert A. Miller, CPCU  
Deputy Commissioner

\* \* \*

February 1, 1989

Administrative Letter 1989-1

TO: All Companies Licensed to Write Commercial Liability Insurance.

RE: Supplemental Report for Certain Lines and Subclassifications of Liability Insurance as Required by Virginia Code § 38.2-1905.2.

Virginia Code § 38.2-1905.1 requires the State Corporation Commission (SCC) to designate lines and subclassifications of insurance where it believes competition may not be an effective regulator of rates. Virginia Code § 38.2-1905.2 provides that all insurers licensed to write to 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 and subclassifications of liability insurance designated by the SCC in accordance with subsection B of § 38.2-1905.1.

The lines and subclassifications where the SCC has cause

to believe that competition may not be an effective regulator of rates have been designated in the SCC's report, "The Level of Competition, Availability and Affordability in the Commercial Liability Insurance Industry," submitted to the General Assembly in December, 1988. Copies of this report (House Document No. 25) may be obtained from Legislative Services at (804) 786-6530. A listing of the designated lines and subclassifications is attached.

To collect the data required by Virginia Code § 38.2-1905.2, the SCC has adopted the attached supplemental reports format (see Exhibits 3-33) that each insurer is required to complete for the designated lines and subclassifications. The attached supplemental reports request information in a different manner but have not been substantially changed from the supplemental report adopted by the SCC in 1988. A separate report is required for each insurer having written premium in 1988 for each of the lines or subclassifications described in the attached market definitions (see Exhibit 2). The market definitions provided are to be used as a guide in defining specific markets which are required to be reported. Companies should also report the required information for policies written under any comparable classification in use by the individual company.

Pursuant to the Commission's order of January 31, 1989, which is attached, the report is due May 1, 1989. Insurers shall report data in the detail prescribed by the report format. If some information is not available, insurers should estimate appropriate figures to complete the form.

If you have any questions regarding the form, please contact our staff actuary at the following address:

Anthony J. Pipia  
Actuarial Analyst  
Property and Casualty Division  
Bureau of Insurance  
Box 1157  
Richmond, Virginia 23209  
(804) 786-0333

Virginia Code § 38.2-218 provides that any person who knowingly or willfully violates any provision of the insurance laws shall be punished for each violation by a penalty of not more than \$5,000. Failure to file a substantially complete and accurate supplemental report by the due date will be considered a willful violation and an appropriate penalty will be assessed.

Attached is a sheet of additional instructions (see Exhibit 1) to facilitate accurate completion of the supplemental reports.

/s/ Steven T. Foster  
Commissioner of Insurance

NOTE: Exhibits are not being published. These exhibits are on file at the offices of the Registrar of Regulations

# State Corporation Commission

and the State Corporation Commission.

\* \* \*

AT RICHMOND, JANUARY 31, 1989

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS890002

EX PARTE in re: Adoption of amended supplemental report form pursuant to Virginia Code § 38.2-1905.2.B.

## ORDER ADOPTING SUPPLEMENTAL REPORT FORM

WHEREAS by order entered herein January 9, 1989, the Commission provided an opportunity for the Attorney General and insurers licensed in the Commonwealth to transact the business of property and casualty insurance to comment on a proposed supplemental report form for 1989 reporting purposes as required by Virginia Code § 38.2-1905.2.B;

WHEREAS, the Commission has reviewed the responses filed with the Clerk of the Commission by the Office of Attorney General and certain insurers,

IT IS ORDERED that the supplemental report form, which is attached hereto and made a part hereof be, and it is hereby,

ADOPTED for filing with the Commission in accordance with Chapter 19 of Title 38.2 of the Code of Virginia on or before May 1, 1989.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Honorable Mary Sue Terry, Attorney General of Virginia, Division of Consumer Counsel, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; and Robert A. Miller, Deputy Commissioner, Bureau of Insurance who shall cause a copy of this order to be sent to each insurer licensed to transact the business of property and casualty insurance in the Commonwealth of Virginia.

\* \* \* \* \*

**Bureau of Insurance**

February 1, 1989

Administrative Letter 1989-2

TO: All Companies Licensed to Write Commercial Liability Insurance

RE: Report of Certain Liability Claims as Required by

Virginia Code § 38.2-2228.1

Virginia Code § 38.2-2228.1 requires that all liability claims for commercial liability insurance as defined in §§ 38.2-117 (personal injury liability) and 38.2-118 (property damage liability) be reported annually to the State Corporation Commission (SCC). To collect the required data, the SCC Bureau of Insurance has developed the attached market definitions and reporting formats that insurers are required to complete. Mutual assessment insurers and insurers with 1988 written premiums of \$100,000, or less, for "Other Liability" and "Medical Professional Liability" combined (lines 17 and 11 respectively of page 14 of the Annual Statement) are exempt from the data reporting requirements.

A separate report is required of each insurer not exempt from the data reporting requirements for each of the market definitions attached. For the purposes of the data report, "insurer" shall mean an individual insurer or group of insurers including all companies under common ownership or control. A combined report must indicate it is a group report and include the group NAIC number as well as the name and NAIC number of each individual company comprising the group. These reports are due September 1, 1989.

Insurers shall report data in the detail prescribed by the report formats. If some information is not available, insurers should estimate appropriate figures to complete the form.

The market definitions provided are to be used as a guide in defining specific markets which are required to be reported. Companies should also report the required information for policies written under any comparable classification in use by the individual company.

Companies and statistical agents should contact Jan Fatouros (804) 786-4418 at the SCC for details regarding the computerized transmission of the reports to the Bureau of Insurance. While the receipt of computerized reports is preferred, manual reports will be accepted.

Actuarial questions about the report may be addressed to our staff actuary at the following address:

Anthony J. Pipia  
Actuarial Analyst  
Property and Casualty Division  
Bureau of Insurance  
Box 1157  
Richmond, Virginia 23209  
(804) 786-0333

Virginia Code § 38.2-218 provides that any person who knowingly or willfully violates any provision of the insurance laws shall be punished for each violation by a penalty of not more than \$5,000. Failure to file a substantially complete and accurate liability claims report by the due date will be considered a willful violation and

# State Corporation Commission

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an appropriate penalty will be assessed.

Attached is a sheet of additional instructions to facilitate accurate completion of the required reports.

/s/ Steven T. Foster  
Commissioner of Insurance

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## LIABILITY CLAIMS REPORT INSTRUCTIONS

The following should be utilized to assure the proper completion of the liability claims report.

1. Do not change the format of the report.
2. Submit only one report per market definition. For example, all contractors are considered one market definition and separate reports should not be submitted for the various subclassifications within that market definition.
3. In the event you had no written premium in 1988 for a specific market definition, or in the event you had 1988 written premiums of \$100,000, or less, for "Other Liability" and "Medical Professional Liability" combined (lines 17 and 11 respectively of page 14 of the Annual Statement), complete Exhibit 1. Completion of Exhibit 1 verifies that you are exempt from the data reporting requirements.
4. Reports must contain the individual company name and NAIC number or the group name and group NAIC number. Group reports should clearly indicate the name and NAIC number of all companies within that group in addition to the group information.
5. Claims made coverage and occurrence coverage data should be reported by separate reports. In addition, tail coverage and basic coverage for claims made data should each be identified on a separate report. Each report shall clearly indicate what type of coverage is being reported.
6. All data applicable for deductible liability insurance should be included with data for non-deductible insurance and must not be reported separately.
7. All bodily injury, property damage and medical payments data should be combined to provide one report for each market definition.
8. Reports are due September 1, 1989.

## VIRGINIA LIABILITY CLAIMS REPORT DEFINITIONS

### Calendar Year Earned Premium (#2)

Report premium that is earned during the Calendar year beginning January 1st and ending December 31st for each

year.

### Incurred But Not Reported (IBNR) Loss and Allocated Loss Adjustment Expenses

Report IBNR loss and allocated loss adjustment expense reserves segregated by year of accident or occurrence at annual intervals for each accident year. IBNR is the amount held in reserve for claims which have occurred, but have not yet been reported, plus the amount held in reserve for the deficiency (or redundancy) of known case reserves. It is the estimated ultimate incurred loss and allocated loss adjustment expenses for each accident year as of the particular evaluation date minus the incurred loss and allocated loss adjustment expenses for all reported accidents as of the particular evaluation date.

### Evaluation Dates

Report data on a cumulative basis for the evaluation points indicated up to 120 months.

### Market Definitions

The attached Insurance Services Office (ISO) Commercial Statistical Plan (CSP) subline and classification codes are to be used as a guide in defining specific markets which are required to be reported. Companies should also report the required premium and loss data written under any comparable classification in use by the individual company.

NOTE: The Plan is on file at the offices of the State Corporation Commission and the Registrar of Regulations.

### Attorney's Fees (#3)

Attorney's fees are all expenses billed by an attorney to the insurer including hourly billings, expert or other witnesses, stenographic, summons and copies of documents.

# STATE LOTTERY DEPARTMENT

## STATE LOTTERY DEPARTMENT (LOTTERY BOARD)

**Title of Regulation:** VR 447-02-2. On-line Game Regulations.

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

**Effective Dates:** February 21, 1989 through February 20, 1990

### Summary:

1. **REQUEST:** The Governor's approval is hereby requested to adopt the On-line Game Emergency Regulations.

2. **RECOMMENDATION:** The State Lottery Department recommends approval of the Department's request to adopt the on-line game emergency regulations. The regulations set out general parameters for the on-line games. This includes setting standards and requirements for licensing of on-line lottery retailers, ticket validation, setting the general framework for the operations of on-line lottery games and the payment of prizes. The Governor's approval of this emergency regulation will allow the State Lottery Department to better serve the general public. As provided in the Code of Virginia, § 9-6.14:4.1 subsection C, paragraph 5, the agency shall receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

3. **GOVERNOR'S COMMENTS:** In accordance with the Administrative Process Act, § 9-6.14:4.1C.5 of the Code of Virginia, the Governor has reviewed and approved the State Lottery Department's Emergency On-line Game Regulations, VR 447-02-2 with the exception of § 1.5 which is under further review.

VR 447-02-2. On-line Game Regulations.

### PART I. ON-LINE GAMES.

#### § 1.1. Development of on-line games.

The director shall select, operate, and contract for the operation of on-line games which meet the general criteria set forth in these regulations. The board shall determine the specific details of each on-line lottery game after consultation with the director. These details include, but are not limited to:

1. The type or types of on-line lottery games,
2. Individual prize amounts and overall prize structure,
3. Types of noncash prizes, if any,
4. The amount and type of any jackpot or grand prize which may be awarded and how awarded, and
5. Chances of winning.

#### § 1.2. General definitions for on-line games.

"Auto-picks" means computer generated numbers or items. The director may select a different name to identify this feature for marketing purposes.

"Breakage" means the fraction of a dollar not paid out due to rounding down and shall be used exclusively to fund prizes.

"Cancelled ticket" means a ticket that has been placed into the terminal, whereupon the terminal must read the information from the ticket, cancel the transaction and brand the ticket with a mark or words indicating that the ticket is cancelled and void.

"Certified drawing" means a drawing in which a lottery official and an independent certified public accountant attest that the drawing equipment functioned properly and that a random selection of a winning combination has occurred.

"Drawing" means a procedure by which the lottery randomly selects numbers or items in accordance with the specific game rules for those games requiring random selection of number(s) or item(s).

"Duplicate ticket" means a ticket produced by any means other than by an on-line terminal with intent to imitate the original ticket.

"On-line game" means a lottery game, the play of which is dependent upon the use of an on-line terminal in direct communication with an on-line game main frame operated by or at the direction of the department.

"On-line lottery retailer" means a licensed lottery retailer who has entered an agreement with the department to sell on-line tickets.

"On-line system" means the department's on-line computer system consisting of on-line terminals, central processing equipment, and a communication network.

"On-line terminal" means computer hardware through which a combination of numbers or items is selected or generated and through which on-line tickets are generated and claims may be validated.

"On-line ticket" means a computer-generated ticket issued by an on-line lottery retailer to a player as a receipt for the number, numbers, or items or combination of numbers or items the player has selected.

"Play" means a wager on a single set of selected numbers.

"Player-selected item" means a number or item or group of numbers or items selected by a player in connection with an on-line game. Player-selected items include selections of items randomly generated by the

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computer on-line system. Such computer-generated numbers or items are also known as "auto-picks" or "quick picks."

"Quick pick" means the same as "auto pick."

"Retailer," as used in these on-line game regulations, means a licensed on-line lottery retailer, unless the context clearly requires otherwise.

"Roll stock" means the paper roll placed into the lottery retailer terminals from which a unique lottery ticket is generated by the computer, displaying the player selected item(s) or number(s).

"Share" means a percentage of ownership in a winning ticket.

"Validation" means the process of determining whether an on-line ticket presented for payment is a winning ticket.

"Validation number" means a unique number assigned by the on-line central computer and printed on the front of each on-line ticket which is used for validation.

"Winning combination" means two or more items or numbers selected by a drawing.

## § 1.3. Prize structure.

The prize structure for any on-line game shall be designed to return to winners approximately 50% of gross sales.

A. The specific prize structure for each type of on-line game shall be determined in advance by the board.

B. From time to time, the board may determine temporary adjustments to the prize structure to account for breakage or other fluctuations in the anticipated redemption of prizes.

## § 1.4. Drawing and selling times.

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

B. On-line tickets may be purchased up to a time prior to the drawing as specified in the on-line drawing rules. That time will be designated by the director.

## § 1.5. Ticket price.

A. The sale price of a lottery ticket for each game will be determined by the board and will be between \$.50 and \$15.00. These limits shall not operate to prevent the sale of more than one lottery play on a single ticket. Lottery retailers may not discount the sale price of on-line game tickets or provide free lottery tickets as a promotion with

the sale of on-line tickets. This section shall not prevent a licensed retailer from providing free on-line tickets with the purchase of other goods or services customarily offered for sale at the retailer's place of business; provided, however, that such promotion shall not be for the primary purpose of inducing persons to participate in the lottery. (see § 1.9)

## § 1.6. Ticket cancellation.

A ticket may be cancelled and a refund of the purchase price obtained at the request of the bearer of the ticket under the following conditions:

A. To be accepted for cancellation, the ticket must be presented to the lottery retailer location at which the ticket was sold within ten minutes of the date and time at which the ticket was issued.

B. Cancellation may only be effected by inserting the ticket into the lottery terminal, whereupon the terminal must read the information from the ticket, cancel the transaction and brand the ticket with a mark or words indicating that the ticket is cancelled and void. Any ticket which cannot be cancelled by this procedure remains valid for the drawing for which purchased, and is to be returned to the person who presented the ticket for cancellation and no refund will be available. Any ticket which is mutilated, damaged or has been rendered unreadable, and cannot be inserted into or read by the lottery terminal, cannot be cancelled by any other means.

C. The cancelled ticket must be surrendered by the bearer to the retailer who must deliver the cancelled ticket to the lottery sales representative serving that location. Cancelled tickets will be returned to lottery headquarters.

D. The lottery's internal auditor will audit cancelled tickets on a sample basis.

## § 1.7. Chances of winning.

The director shall publicize the overall chances of winning a prize in each on-line game. The chances may be printed in informational materials.

## § 1.8. Licensed retailers' compensation.

A. Licensed retailers shall receive 5.0% compensation on all net sales from on-line games. "Net sales" are gross sales less cancels.

B. The board shall approve any bonus or incentive system for payment to retailers. The director will publicize any such system in the rules of the game(s) to which it applies. The director may then award such cash bonuses or other incentives to retailers.

## § 1.9. Retailers' conduct.

A. Retailers shall sell on-line tickets at the price fixed by the board, unless the board allows reduced prices or ticket give-aways.

B. All ticket sales shall be for cash, check, cashier's check, traveler's check or money order at the discretion of and in accordance with the licensed retailer's policy for accepting payment by such means. A ticket shall not be purchased with credit cards, food stamps or food coupons.

C. All ticket sales shall be final. Retailers shall not accept ticket returns except as allowed by department regulations or policies, or with the department's specific approval.

D. Tickets shall be sold during all normal business hours of the lottery retailer when the on-line terminal is available unless the director approves otherwise.

E. Tickets shall be sold only at the location listed on each retailer's license from the department.

F. On-line retailers must offer for sale all lottery products offered by the department.

G. An on-line game ticket shall not be sold to, purchased by, or given as a gift to any individual under 18 years of age.

H. On-line retailers shall furnish players with proper claim forms provided by the department.

I. On-line retailers shall post winning numbers prominently.

J. On-line retailers and employees who will operate on-line equipment shall attend training provided by the department and allow only trained personnel to operate terminals.

## § 1.10. End of game; suspension.

The director may suspend or terminate an on-line game without advance notice if he finds that this action will serve and protect the public interest.

## PART II LICENSING OF RETAILERS FOR ON-LINE GAMES.

### § 2.1. Licensing.

Generally.

The director may license persons as lottery retailers for on-line games who will best serve the public convenience and promote the sale of tickets and who meet the eligibility criteria and standards for licensing.

For purposes of this Part on licensing, "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company,

receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including its counties, cities, and towns.

### § 2.2. Eligibility.

#### A. Eighteen years of age and bondable.

Any person who is 18 years of age or older and who is bondable may be considered for licensure, except no person may be considered for licensure:

1. Who will be engaged solely in the business of selling lottery tickets; or
2. Who is a board member, officer or employee of the State Lottery Department or who resides in the same household as board member, officer or employee of the department; or
3. Who is a vendor to the department of instant or on-line lottery tickets or goods or data processing services, whose tickets, goods or services are provided directly to the lottery department, or whose business is owned by, controlled by, or affiliated with a vendor of instant or on-line lottery tickets or goods or data processing services whose tickets, goods or services are provided directly to the lottery department.

#### B. Form submission.

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

### § 2.3. General standards for licensing.

#### A. Selection factors for licensing.

The director may license those persons who, in his opinion, will best serve the public interest and public trust in the lottery and promote the sale of lottery tickets. The director will consider the following factors before issuing or renewing a license:

1. The financial responsibility and integrity of the retailer, to include:
  - a. A credit and criminal record history search or when deemed necessary a full investigation of the retailer.
  - b. A check for outstanding delinquent state tax liability;
  - c. A check for required business licenses, tax and business permits.

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- d. An evaluation of physical security at the place of business, including insurance coverage.
2. The accessibility of his place of business to public, to include:
- a. The hours of operation compared to the on-line system selling hours;
  - b. The availability of parking including ease of ingress and egress to parking;
  - c. Public transportation stops and passenger traffic volume;
  - d. The vehicle traffic density, including levels of congestion in the market area.
  - e. Customer transaction count within the place of business;
  - f. Other factors indicating high public accessibility and public convenience when compared with other retailers;
  - g. Adequate space and physical layout to sell a high volume of lottery tickets efficiently.
3. The sufficiency of existing lottery retailers to serve the public convenience, to include:
- a. The number of and proximity to other lottery retailers in the market area;
  - b. The expected impact on sales volume of potentially competing lottery retailers;
  - c. The adequacy of coverage of all regions of the Commonwealth with lottery retailers;
  - d. The population to terminal ratio, compared to other geographical market areas.
4. The volume of expected lottery ticket sales, to include:
- a. Type and volume of the products and services sold by the retailer;
  - b. Dollar sales volume of the business;
  - c. Sales history of the market area;
  - d. Sales history for instant tickets, if already licensed as an instant retailer.
  - e. Volume of customer traffic in place of business.
  - f. Market area potential, compared to other market areas.
5. The ability to offer high levels of customer service to on-line lottery players, including:
- a. A history demonstrating successful use of lottery product related promotions.
  - b. Volume and quality of point of sale display.
  - c. A history of compliance with lottery directives.
  - d. Ability to display jackpot prize amounts to pedestrians and vehicles passing by.
  - e. A favorable image consistent with lottery standards.
  - f. Ability to pay prizes less than \$600 during maximum selling hours, compared to other area retailers.
  - g. Commitment to authorize employee participation in all required on-line lottery training.
  - h. Commitment and opportunity to post jackpot levels near the point of sale.
- B. Additional factors for selection.
- The director may develop and, by director's order, publish additional criteria which, in the director's judgment, are necessary to serve the public interest and public trust in the lottery.
- C. Filing of forms with the department.
- After notification of selection as an on-line lottery retailer, the retailer shall file required forms with the department. The retailer must submit all information required to be considered for licensing. Failure to submit required forms and information within the times specified in these regulations may result in the loss of the opportunity to become or remain a licensed on-line retailer. The forms to be submitted shall include:
- 1. Signed retailer agreement,
  - 2. Signed EFT Authorization form with a voided check or deposit slip from the specified account.
  - 3. Executed bond requirement.
- § 2.4. Bonding of lottery retailers.
- A. Approved retailer to secure bond.
- A lottery retailer approved for licensing shall obtain a surety bond in the amount of \$10,000 from a surety company entitled to do business in Virginia. If the retailer is already bonded for instant games, a second bond will not be required. However, the amount of the original bond

must be increased to \$10,000. The purpose of the surety bond is to protect the Commonwealth from a potential loss in the event the retailer fails to perform his responsibilities.

1. Unless otherwise provided under paragraph C of this section, the surety bond shall be in the amount and penalty of \$10,000 and shall be payable to the State Lottery Department and conditioned upon the faithful performance of the lottery retailer's duties.

2. Within 15 calendar days of receipt of the "On-Line License Approval Notice," the lottery retailer shall return the properly executed "Bonding Requirement" portion of the "On-Line License Approval Notice" to the State Lottery Department to be filed with his record.

#### B. Continuation of surety bond on renewal of license.

A lottery retailer applying for renewal of a license shall:

1. Obtain a letter or certificate from the surety company to verify that the surety bond is being continued for the license renewal period; and

2. Submit the surety company's letter or certificate with the required license renewal fee to the State Lottery Department.

#### C. Sliding scale for surety bond amounts.

The department may establish a sliding scale for surety bonding requirements based on the average volume of lottery ticket sales by a retailer to ensure that the Commonwealth's interest in tickets to be sold by a licensed lottery retailer is adequately safeguarded. Such sliding scale may require a surety bond amount either greater or lesser than the amount fixed by paragraph A of this section.

#### D. Effective date for sliding scale.

The sliding scale for surety bonding requirements will become effective when the director determines that sufficient data on lottery retailer ticket sales volume activity are available. Any changes in a retailer's surety bonding requirements that result from instituting the sliding scale will become effective only at the time of the retailer's next renewal action.

#### § 2.5. Lottery bank accounts and EFT authorization.

##### A. Approved retailer to establish lottery bank account.

A lottery retailer approved for licensing shall establish a separate bank account to be used exclusively for lottery business in a bank participating in the Automatic Clearing House (ACH) system. A single bank account may be used for both on-line and instant lottery business.

##### B. Retailer's use of lottery account.

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

##### C. Retailer responsible for bank charges.

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

##### D. Retailer to authorize electronic funds transfer.

Within 15 calendar days of receipt of the "On-Line License Approval Notice," the lottery retailer shall return the properly executed "On-Line Electronic Funds Transfer Authorization" portion of the "License Approval Notice" to the department recording the establishment of his account.

##### E. Change in retailer's bank account.

If a retailer finds it necessary to change his bank account from one bank account to another, he must submit a newly executed "Electronic Funds Transfer Authorization" form for the new bank account. The retailer may not discontinue use of his previously approved bank account until he receives notice from the department that the new account is approved for use.

##### F. Director to establish EFT account settlement schedule.

The director will establish a schedule for processing the EFT transactions against retailers' lottery bank accounts and issue instructions to retailers on how settlement of accounts will be made.

#### § 2.6. Deposit of lottery receipts; interest and penalty for late payment; dishonored EFT transfers or checks.

##### A. Payment due date.

Payments shall be due as specified by the director in the instructions to retailers regarding the settlement of accounts.

##### B. Penalty and interest charge for late payment.

Any retailer who fails to make payment when payment is due will have his on-line terminal disconnected. The retailer will not be reconnected until payment is made by cashiers check, certified check or wire transfer. Additionally, interest will be charged on the moneys due



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plus a \$25.00 penalty. The interest charge will be equal to the "Underpayment Rate" established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended. The interest charge will be calculated beginning the date following the retailer's due date for payment through the day preceding receipt of the late payment by the department for deposit.

C. Service charge for dishonored EFT transfer or bad check.

In addition to the penalty authorized by paragraph B of this Section, the director will assess a service charge of \$25.00 against any retailer whose payment through electronic funds transfer (EFT) or by check is dishonored.

D. Service charge for debts referred for collection.

If the department refers a debt of any retailer to the Attorney General, the Department of Taxation or any other central collection unit of the Commonwealth, the retailer owing the debt shall be liable for an additional service charge which shall be in the amount of the administrative costs associated with the collection of the debt incurred by the department and the agencies to which the debt is referred.

## § 2.7. License term and renewal.

A. License term.

A general on-line license for an approved lottery retailer shall be issued for a one-year period. A general on-line license requires the retailer to sell both on-line and instant lottery tickets.

B. License renewal.

A general on-line license shall be renewed annually at least 30 days prior to its expiration date and shall be accompanied by the appropriate fee(s) as specified elsewhere in these regulations. The director may implement a staggered, monthly basis for annual license renewals and allow for the proration of annual license fees to credit licensees for the time remaining on their current license when the staggered renewal requirement is imposed. This section shall not be deemed to allow for a refund of license fees when a license is terminated, revoked or suspended for any other reason.

C. Amended license term.

An amended license shall be valid for the remainder of the period of the license it replaces.

D. Special license.

The director may issue special licenses. Special licenses shall be for a limited duration and under terms and conditions that he determines appropriate to serve the public interest.

## § 2.8. License fees.

A. License fee.

The fee for a lottery retailer general license to sell on-line game tickets shall be \$25.00. The general license fee to sell on-line game tickets shall be paid for each location to be licensed. This fee is nonrefundable.

B. License renewal fee.

The annual fee for renewal of a lottery retailer general license to sell on-line game tickets shall be an amount determined by the board at its November meeting or as soon thereafter as practicable for all renewals occurring in the next calendar year. The renewal fee shall be designed to recover all or a portion of the annual costs of the department in providing services to the retailer. The renewal fee shall be paid for each location for which a license is renewed. This fee is nonrefundable. The renewal fee shall be submitted at least 30 days prior to the expiration of a retailer's general license.

C. Amended license fee.

The fee for processing an amended license for a lottery retailer general license shall be an amount as determined by the board at its November meeting or as soon thereafter as practicable for all amendments occurring in the next calendar year. The amended license fee shall be paid for each location affected. This fee is nonrefundable. An amended license shall be submitted in cases where a business change has occurred.

## § 2.9. Fees for operational costs.

A. Installation fee.

The fee for initial terminal telecommunications installation for the on-line terminal shall be \$275.00. This fee may be subject to change based upon an annual cost review by the department.

1. If the retailer has purchased a business where a terminal is presently installed or telecommunication service is available, a fee of \$25.00 per year shall be charged upon issuance of a new license.

2. No installation fee will be charged if interruption of service to the terminal has not occurred.

B. Weekly on-line telecommunications line charge.

Each retailer shall be assessed a weekly charge of \$15.00 per week. This fee may be subject to change based upon an annual cost review by the department.

## § 2.10. Transfer of license prohibited; invalidation of license.

A. License not transferrable.

A license issued by the director authorizes a specified person to act as a lottery retailer at a specified location as set out in the license. The license is not transferrable to any other person or location.

## B. License invalidated.

A license shall become invalid in the event of any of the following circumstances:

1. Change in business location;
2. Change in business structure (e.g., from a partnership to a sole proprietorship);
3. Change in the business owners listed on the original Personal Data Forms for which submission of a Personal Data Form is required under the license procedure.

## C. Amended Personal Data Form required.

A licensed lottery retailer who anticipates any change listed in subsection B must notify the department of the anticipated change at least 30 calendar days before it takes place and submit an amended Personal Data Form. The director shall review the changed factors in the same manner that would be required for a review of an original Personal Data Form.

§ 2.11. Denial, suspension, revocation or nonrenewal of license.

## A. Grounds for refusal to license.

The director may refuse to issue a license to a person if the person has been:

1. Convicted of a felony;
2. Convicted of a crime involving moral turpitude;
3. Convicted of any fraud or misrepresentation in any connection;
4. Convicted of bookmaking or other forms of illegal gambling;
5. Convicted of knowingly and willfully falsifying, or misrepresenting, or concealing a material fact or makes a false, fictitious, or fraudulent statement or misrepresentation;
6. Determined not to meet the eligibility criteria or general standards for licensing.

## B. Grounds for refusal to license partnership or corporation.

In addition to refusing a license to a partnership or corporation under subsection A of this Section, the director

may also refuse to issue a license to any partnership or corporation if he finds that any general or limited partner or officer or director of the partnership or corporation has been convicted of any of the offenses cited in paragraph A of this section.

## C. Appeals of refusal to license.

Any person refused a license under subsections A or B may appeal the director's decision in the manner provided by VR 447-01-02, Part III, Article 2, § 3.4.

## D. Grounds for suspension, revocation or refusal to renew license.

After notice and a hearing, the director may suspend, revoke, or refuse to renew a license for any of the following reasons:

1. Failure to properly account for on-line terminal ticket roll stock, for cancelled ticket, for prizes claimed and paid, or for the proceeds of the sale of lottery tickets;
2. Failure to file or maintain the required bond or the required lottery bank account;
3. Failure to comply with applicable laws, instructions, terms or conditions of the license, or rules and regulations of the department concerning the licensed activity, especially with regard to the prompt payment of claims;
4. Conviction, following the approval of the license, of any of the offenses cited in subsection A;
5. Failure to file any return or report or to keep records or to pay any fees or other charges as required by the state lottery law or the rules or regulations of the department or board;
6. Commission of any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery;
7. Failure to maintain lottery ticket sales at a level sufficient to meet the department's administrative costs for servicing the retailer, provided that the public convenience is adequately served by other retailers. This failure may be determined by comparison of the retailer's sales to a sales quota established by the director;
8. Failure to notify the department of a material change, after the license is issued, of any matter required to be considered by the director in the licensing process;
9. Failure to comply with lottery game rules;
10. Failure to meet minimum point of sale standards.

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## *E. Notice of intent to suspend, revoke or deny renewal of license.*

Before taking action under subsection C, the director will notify the retailer in writing of his intent to suspend, revoke or deny renewal of the license. The notification will include the reason or reasons for the proposed action and will provide the retailer with the procedures for requesting a hearing before the board. Such notice shall be given to the retailer at least 14 calendar days prior to the effective date of suspension, revocation or denial.

## *F. Temporary suspension without notice.*

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

## *G. Surrender of license and lottery property upon revocation or suspension.*

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

## § 2.12. Responsibility of lottery retailers.

Each retailer shall comply with all applicable state and federal laws, rules and regulations of the department, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the director.

## § 2.13. Display of license.

### *License displayed in general view.*

Every licensed lottery retailer shall conspicuously display his lottery license in an area visible to the general public where lottery tickets are sold.

## § 2.14. Display of material.

### *A. Material in general view.*

Lottery retailers shall display lottery point-of-sale material provided by the director in a manner which is readily seen by and available to the public.

### *B. Prior approval for retailer-sponsored material.*

A lottery retailer may use or display his own promotional and point-of-sale material, provided it has been submitted to and approved for use by the department in accordance with instructions issued by the director.

## *C. Removal of unapproved material.*

The director may require removal of any licensed retailer's lottery promotional material that has not been approved for use by the department.

## § 2.15. Inspection of premises.

### *Access to premises by department.*

Each lottery retailer shall provide access during normal business hours or at such other times as may be required by the director or state lottery representatives to enter the premises of the licensed retailer. The premises include the licensed location where lottery tickets are sold or any other location under the control of the licensed retailer where the director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect the lottery materials or tickets and the licensed premises.

## § 2.16. Examination of records; seizure of records.

### *A. Inspection, auditing or copying of records.*

Each lottery retailer shall make all books and records pertaining to his lottery activities available for inspection, auditing or copying as required by the director between the hours of 8 a.m. and 5 p.m., Mondays through Fridays and during the normal business hours of the licensed retailer.

### *B. Records subject to seizure.*

All books and records pertaining to the licensed retailer's lottery activities may be seized with good cause by the director without prior notice.

## § 2.17. Audit of records.

The director may require a lottery retailer to submit to the department an audit report conducted by an independent certified public accountant on the licensed retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one license term.

§ 2.18. Reporting requirements and settlement procedures. Instructions for ordering on-line terminal ticket roll stock, reporting transactions and settling accounts. Before a retailer may begin lottery sales, the director will issue to him instructions and report forms that specify the procedures for (i) ordering on-line terminal ticket roll stock; (ii) reporting receipts, transactions and disbursements pertaining to on-line lottery ticket sales; and (iii) settling the retailer's account with the department.

## § 2.19. Training of retailers and their employees.

### *Retailer training.*

Each retailer or anyone that operates an on-line

terminal at the retailer's location will be required to participate in training given by the department for the operation of each game. The director may consider nonparticipation in the training as grounds for suspending or revoking the retailer's license.

## § 2.20. License termination by retailer.

### Voluntary termination of license.

The licensed retailer may voluntarily terminate his license with the department by first notifying the department in writing at least 30 calendar days before the proposed termination date. The department will then notify the retailer of the date by which settlement of the retailer's account will take place. The retailer shall maintain his bond and the required accounts and records until settlement is completed and all lottery property belonging to the department has been surrendered.

## PART III. ON-LINE TICKET VALIDATION REQUIREMENTS.

### § 3.1. Validation requirements.

To be valid, a Virginia lottery on-line game ticket shall meet all of the validation requirements listed here:

A. The original ticket must be presented for validation.

B. The ticket validation number shall be presented in its entirety and shall correspond using the computer validation file to the selected numbers printed on the ticket.

C. The ticket shall not be mutilated, altered, or tampered with in any manner. (see § 3.4)

D. The ticket shall not be counterfeited, forged, fraudulently made or a duplicate of another winning ticket.

E. The ticket shall have been issued by the department through an licensed on-line lottery retailer in an authorized manner.

F. The ticket shall not have been cancelled.

G. The ticket shall be validated in accordance with procedures for claiming and paying prizes. (see §§ 3.10 and 3.12)

H. The ticket data shall have been recorded in the central computer system before the drawing, and the ticket data shall match this computer record in every respect.

I. The player-selected items, the validation data, and the drawing date of an apparent winning ticket must appear on the official file of winning tickets and a ticket with that exact data must not have been previously paid.

J. The ticket may not be misregistered or defectively printed to an extent that it cannot be processed by the department.

K. The ticket shall pass any validation requirement contained in the rules for the on-line game for which the ticket was issued.

L. The ticket shall pass all other confidential security checks of the department.

### § 3.2. Invalid ticket.

An on-line ticket which does not pass all the validation requirements listed in these regulations and any validation requirements contained in the rules for its on-line game is invalid. An invalid ticket is not eligible for any prize.

### § 3.3. Replacement of ticket.

The director may refund the purchase price of an invalid ticket. If a defective ticket is purchased, the department's only liability or responsibility shall be to refund the purchase price of the defective ticket.

### § 3.4. When ticket cannot be validated through normal procedures.

If an on-line ticket is partially mutilated or if the ticket cannot be validated through normal procedure but can still be validated by other validation tests, the director may pay the prize for that ticket.

### § 3.5. Director's decision final.

All decisions of the director regarding ticket validation shall be final.

### § 3.6. Prize winning tickets.

Prize-winning on-line tickets are those that have been validated in accordance with these regulations and the rules of the department and determined to be official prize winners. Criteria and specific rules for winning prizes shall be published for each on-line game and available for all players. Final validation and determination of prize winning tickets remain with the department.

### § 3.7. Time for filing claim for prizes.

All claims for on-line game winning tickets must be postmarked or received for payment as prescribed in these regulations within 180 days after the date of the drawing for which the ticket was purchased.

### § 3.8. Using winners' names.

The department shall have the right to use the names of prize winners and the city, town or county in which they live. Photographs of prize winners may be used with the

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written permission of the winners. No additional consideration shall be paid by the department for this purpose.

## § 3.9. No prize paid to people under 18.

No prize shall be claimed by or paid to any individual under 18 years of age.

## § 3.10. Where prizes claimed.

Winners may claim on-line game prizes from any licensed on-line retailer or the department in the manner specified in these regulations. Licensed on-line retailers are authorized and required to make payment of all validated prizes of less than \$600.

## § 3.11. Validating winning tickets.

Winning tickets shall be validated by the retailer or the department as set out in these regulations and in any other manner which the director may prescribe in the specific rules for each type of on-line game.

## § 3.12. How prize claim entered.

A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is \$600 or greater, the person or entity also shall furnish a tax identification number.

A. An individual shall provide his social security number if a claim form is required by these regulations. A nonresident alien shall furnish their Immigration and Naturalization Service Number. This I.N.S. number begins with an A and is followed by numerical data.

B. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) issued by the Internal Revenue Service. If the department or these regulations require that a claim form be filed, the FEIN must be shown on the claim form.

C. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the department. This form designates to whom winnings are to be paid and the person(s) to whom winnings are taxable.

D. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN and which does not file IRS Form 5754 with the department shall designate one individual in whose name the claim shall be entered and that person's social security number shall be furnished.

## § 3.13. Right to prize not assignable.

No right of any person to a prize shall be assignable, except that:

A. The director may pay any prize to the estate of a deceased prize winner, and

B. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate judicial order.

## § 3.14. No accelerated payments.

The director shall not accelerate payment of a prize for any reason.

## § 3.15. Liability ends with prize payment.

All liability of the Commonwealth, its officials, officers and employees, and of the department, the board, the director and employees of the department, terminates upon final payment of a lottery prize.

## § 3.16. Delay of payment allowed.

The director may refrain from making payment of the prize pending a final determination by the director, under any of the following circumstances:

A. If a dispute occurs or it appears that a dispute may occur relative to any prize;

B. If there is any question regarding the identity of the claimant;

C. If there is any question regarding the validity of any ticket presented for payment; or

D. If the claim is subject to any set-off for delinquent debts owed to any agency eligible to participate in the Set-Off Debt Collection Act, when the agency has registered such debt with the Virginia Department of Taxation and timely notice of the debt has been furnished by the Virginia Department of Taxation to the State Lottery Department. No liability for interest for such delay shall accrue to the benefit of the claimant pending payment of the claim.

## § 3.17. When installment prize payment may be delayed.

The director may, at any time, delay any installment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter that has been brought to the department's attention. All delayed installments shall be brought up to date immediately upon the director's confirmation. Delayed installments shall continue to be paid according to the original payment schedule after the director's decision is given.

## § 3.18. Ticket is bearer instrument.

A ticket that has been legally issued by a licensed lottery retailer is a bearer instrument until the ticket has been signed. The person who signs the ticket is considered the bearer of the ticket.

## § 3.19. Payment made to bearer.

Payment of any prize will be made to the bearer of the validated winning ticket for that prize upon submission of a prize claim form, if one is required, unless otherwise delayed in accordance with these regulations. If a validated winning ticket has been signed, the bearer may be required to present proper identification.

## § 3.20. Marking tickets prohibited; exceptions.

Marking of tickets in any way is prohibited except by a player to claim a prize or by the department or a retailer to identify or to void the ticket.

## § 3.21. Penalty for counterfeit, forged or altered ticket.

Knowingly presenting a counterfeit, forged or altered ticket for prize payment or transferring such a ticket to another person to be presented for prize payment is a Class 6 felony in accordance with the state lottery law.

## § 3.22. Lost, stolen, destroyed tickets.

The department is not liable for lost, stolen or destroyed tickets.

## § 3.23. Retailer to pay all prizes less than \$600.

Prizes less than \$600 shall be paid by any licensed on-line retailer, or by the department at the option of the ticket holder, or by the department when the ticket cannot be validated by the retailer.

## § 3.24. Retailers' prize payment procedures.

Procedures for prize payments by retailers are as follows:

A. Retailers may pay prizes in cash, by certified check, cashier's check, business check, or money order, or by any combination of these methods.

B. If a check for payment of a prize by a retailer to a claimant is denied for any reason, the retailer is subject to the same service charge for referring a debt to the department for collection and penalty payments that would apply if the check were made payable to the department. A claimant whose prize check is denied shall notify the department to obtain the prize.

C. Retailers shall pay claims for all prizes under \$600 during all normal business hours of the lottery retailer when the on-line terminal is operational and the ticket claim can be validated.

D. Prize claims shall be payable only at the location specified on the license.

## § 3.25. When retailer cannot validate ticket.

If, for any reason, a retailer is unable to validate a prize-winning ticket, the retailer shall provide the ticket holder with a department claim form and instruct the ticket holder on how to file a claim with the department.

## § 3.26. No reimbursement for retailer errors.

The department shall not reimburse retailers for prize claims a retailer has paid in error.

## § 3.27. Retailer to void winning ticket.

After a winning ticket is validated and signed by the ticket holder, the retailer shall physically void the ticket to prevent it from being redeemed more than once. The manner of voiding the ticket will be prescribed by the director.

## § 3.28. Prizes of less than \$600.

A retailer shall pay on-line prizes of less than \$600 won on tickets validated and determined by the department to be official prize winners, regardless of where the tickets were sold. The retailer shall display special informational material provided by or approved by the department informing the public that the retailer pays all prizes of less than \$600.

## § 3.29. When prize shall be claimed from the department.

The department will process claims for payment of prizes in any of the following circumstances:

A. If a retailer cannot validate a claim which the retailer otherwise would pay, the ticket holder shall send or present the ticket to the department for validation with a completed claim form.

B. If a ticket holder is unable to return to any on-line retailer, a completed claim form and the ticket may be presented or mailed to the department for validation.

C. If the prize amount is \$600 or more, a completed claim form with the ticket shall be presented or mailed to the department for validation.

## § 3.30. Prizes of \$25,000 or less.

Prizes of \$25,000 or less may be claimed from any of the department's regional offices. Regional offices will pay prizes by check after tickets are validated and after any other applicable requirements contained in these regulations are met.

## § 3.31. Prizes of more than \$25,000.

# State Lottery Department

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Prizes of more than \$25,000 and noncash prizes other than free lottery tickets may be claimed from the department's central office in Richmond. The central office will pay prizes by check, after tickets are validated and after any other applicable requirements contained in these regulations are met.

## § 3.32. Grand prize event.

If an on-line game includes a grand prize or jack-pot event, the following general criteria shall be used:

A. Entrants in the event shall be selected from tickets which meet the criteria stated in specific game rules set by the director consistent with § 1.1 of these regulations.

B. Participation in the drawing(s) shall be limited to those tickets which are actually purchased by the entrants on or before the date announced by the director.

C. If, after the event is held, the director determines that a ticket should have been entered into the event, the director may place that ticket into a grand prize drawing for the next equivalent event. That action is the extent of the department's liability.

D. The director shall determine the date(s), time(s) and procedures for selecting grand prize winner(s) for each on-line game. The proceedings for selection of the winners shall be open to members of the news media and to either the general public or entrants or both.

## § 3.33. When prize payable over time.

Unless the rules for any specific on-line game provide otherwise, any cash prize of \$500,000 or more will be paid in multiple payments over time. The schedule of payments shall be designed to pay the winner equal dollar amounts over a period of years until the total payments equal the prize amount.

## § 3.34. Rounding total prize payment.

When a prize or share is to be paid over time, except for the first payment, the director may round the actual amount of the prize or share to the nearest \$1,000 to facilitate purchase of an appropriate funding mechanism.

## § 3.35. When prize payable for "life".

If a prize is advertised as payable for the life of the winner, only an individual may claim the prize. If a claim is filed on behalf of a group, company, corporation or any other type of organization, the life of the claim shall be 20 years.

## § 3.36. When claims form required.

A claim form for a winning ticket may be obtained from any department office or any licensed lottery retailer. A Claim form shall be required to claim any

prize from the department's central and regional offices.

## § 3.37. Department action on claims for prizes submitted to department.

The department shall validate the winning ticket claim according to procedures contained in these regulations.

A. If the claim is not valid, the department will promptly notify the ticket holder.

B. If the claim is mailed to the department and the department validates the claim, a check for the prize amount will be mailed to the winner.

C. If an individual presents a claim to the department in person and the department validates the claim, a check for the prize amount will be presented to the bearer.

## § 3.38. Withholding, notification of prize payments when paying any prize of \$600 or more, the department shall:

A. File the appropriate income reporting form(s) with the Virginia Department of Taxation and the Federal Internal Revenue Service; and

B. Withhold any moneys due for delinquent debts listed with the Commonwealth's Set-Off Debt Collection Program.

C. Withhold federal and state taxes from any winnings over \$5,000.

## § 3.39. Director may postpone drawing.

The director may postpone any drawing to a certain time and publicize the postponement if he finds that the postponement will serve and protect the public interest.

/S/ Kenneth W. Thorson  
Director, State Lottery Department  
Date: February 7, 1989

/s/ Gerald L. Baliles  
Governor, Commonwealth of Virginia  
Date: February 16, 1989

/s/ Joan W. Smith  
Registrar of Regulations  
Date: February 21, 1989 - 4:08 p.m.

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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

### DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: VR 627-30-1. Regulations Governing  
the Transportation of Hazardous Materials.

Governor's Comment:

No objections to the proposed regulations as presented.

/s/ Gerald L. Baliles  
Date: February 15, 1989



# GENERAL NOTICES/ERRATA

## Symbol Key †

† Indicates entries since last publication of the Virginia Register

### ALCOHOLIC BEVERAGE CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider amending regulations entitled: **VR 125-01-01. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations.** The purpose of the proposed action is to receive information from industry, the general public and licensees of the board concerning adopting, amending or repealing the board's regulations.

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

Written comments may be submitted until March 22, 1989.

#### NOTICE TO THE PUBLIC

A. Pursuant to the Virginia Alcoholic Beverage Control Board's "Public Participation Guidelines For Adoption Or Amendment Of Regulations" (VR 125-01-1, Part V of the Regulations of the Virginia Alcoholic Beverage Control Board), the board will conduct a public meeting on May 25, 1989, at 10 a.m. in its Hearing Room, First Floor, A.B.C. Board, Main Offices, 2901 Hermitage Road, City of Richmond, Virginia, to receive comments and suggestions. Any group or individual may file with the board a written petition for the adoption, amendment or repeal of any regulation. Any such petition shall contain the following information, if available.

1. Name of petitioner.
2. Petitioner's mailing address and telephone number.
3. Recommended adoption, amendment or repeal 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 regulate entities, the public, or others incurred by this change as compared to current regulations.
7. Who is affected by recommended change? How affected?

#### 8. Supporting documents.

The board may also consider any other request for regulatory change at its discretion. All petitions or requests for regulatory change should be submitted to the board no later than March 22, 1989.

B. The board will also be appointing an Ad Hoc Advisory Panel consisting of persons on its General Mailing List who will be affected by or interested in the adoption, amendment or repeal of board regulations. This panel will study requests for a regulation, if it concludes a regulation is necessary. Anyone interested in serving on such panel should notify the undersigned by March 22, 1989, requesting that their name be placed on the General Mailing List.

C. Applicable laws or regulation (authority to adopt regulations): §§ 4-11, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103 and 9-6.14:1 et seq., Virginia Code; VR 125-01-1, Part V, Board Regulations.

D. Entities affected: (1) all licensees (manufacturers, wholesalers, importers, retailers) and (2) the general public.

**Contact:** Robert N. Swinson, Secretary to the Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616 or SCATS 367-0616

### DEPARTMENT OF CORRECTIONS (BOARD OF)

#### † Notice of Intended Regulatory Action

**Title of Regulation:** Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

See Notice under Department of Social Services for additional information.

### DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Deaf and Hard-of-Hearing intends to consider promulgating regulations entitled: **VR 245-01-01. Public Participation Guidelines.** The purpose of the proposed regulation is to seek public participation from interested parties prior to

formation and during the drafting, promulgating and final adoption process of regulations.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until May 26, 1989.

**Contact:** Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard-of-Hearing, 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-2570, SCATS 225-2570 or 1-800-553-7917 (toll-free)

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Deaf and Hard-of-Hearing intends to consider promulgating regulations entitled: **VR 245-01-02. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.** The purpose of the proposed regulation is to screen eligible hearing-impaired and speech-impaired residents of Virginia for the Telecommunications Assistance Program (TAP) and to determine the approved applicant's contribution toward the purchase of telecommunications equipment.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until May 26, 1989.

**Contact:** Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard-of-Hearing, 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-2570, SCATS 225-2570 or 1-800-552-7917 (toll-free)

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Deaf and Hard-of-Hearing intends to consider promulgating regulations entitled: **VR 245-03-01. Regulations Governing Interpreter Services for the Hearing Impaired.** The purpose of the proposed regulation is to regulate the administration of interpreter services and the administration of quality assurance screenings.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until May 26, 1989.

**Contact:** Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard-of-Hearing, 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-2570, SCATS 225-2570 or 1-800-552-7917 (toll-free)

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

### † Notice of Intended Regulatory Action

**Title of Regulation: Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.**

See Notice under Department of Social Services for additional information.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code - Volume I, New Construction Code - 1987 Edition.** The purpose of the proposed action is to amend those portions of the regulations pertaining to; Article 1 - § 104.0 Fees (fee schedules); Article 5 - § 512.0 Building Accessibility and Usability for the Physically Handicapped; Article 6 - § 627.0 Installation of Underground Storage Tanks; and Articles 5, 8, 9, and 10 Fire Protection Systems for Use Groups R-1 (Hotels, Motels) and R-2 (Multifamily Dwellings)

Statutory Authority: 36-98 et seq. of the Code of Virginia.

Written comments may be submitted until April 21, 1989.

**Contact:** Gregory H. Revels, Program Manager, Department of Housing and Community Development - Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone, (804) 371-7772 or SCATS 371-7772

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-6. Statewide Fire Prevention Code - 1987 Edition.** The purpose of the proposed action is to amend those portions of the regulations governing; Article 26 - Manufacture, Handling, Storage and Use of Explosives, Ammunition and Blasting Agents; and Article 4 - Hazard Abatement in Existing Buildings; Fire Protection Systems for Use Group R-1 (Hotels, Motels).

Statutory Authority: § 27-29 of the Code of Virginia

Written comments may be submitted until April 21, 1989.

**Contact:** Gregory H. Revels, Program Manager, Department of Housing and Community Development -

# General Notices/Errata

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Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-7. Asbestos Survey Standards for Buildings to be Renovated or Demolished.** The purpose of the proposed action is to amend the standards for inspection and management of buildings to be renovated or demolished.

Statutory Authority: § 36-98 et seq. of the Code of Virginia.

Written comments may be submitted until April 21, 1989.

**Contact:** Gregory H. Revels, Program Manager, Department of Housing and Community Development - Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II Building Maintenance Code.** The purpose of the proposed action is to amend those portions of the regulations pertaining to Article 9, Hazard Abatement in Existing Buildings; Fire Protection for Use Group R-1 (Hotels, Motels).

Statutory Authority: 36-98 et seq. of the Code of Virginia.

Written comments may be submitted until April 21, 1989.

**Contact:** Gregory H. Revels, Program Manager, Department of Housing and Community Development - Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

## 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 Board of Medical Assistance Services intends to consider amending regulations entitled: **Pharmacy Program Coverage.** The purpose of the proposed action is to exempt from Medicaid coverage legend drugs prescribed for cosmetic purposes.

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

Written comments may be submitted until 4:30 p.m. on March 13, 1989, to Mary Ann Johnson, Program Pharmacist, Division of Health Services Review, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD OF)

### † Notice of Intended Regulatory Action

Title of Regulation: **Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.**

See Notice under Department of Social Services for additional information.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.** The purpose of the proposed action is to establish the minimum licensure requirements for psychiatric hospitals in order to protect the health and safety of clients in such facilities and to assure that they receive services that are appropriate to meet their identified needs.

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The above referenced regulations became effective on May 1, 1978, over 10 years ago. They have served as the basic licensure regulations for institutions such as psychiatric hospitals, mental hospitals, psychiatric centers, psychiatric institutes, psychiatric units in general hospitals, inpatient psychiatric units in community mental health centers, and other privately operated facilities serving persons requiring inpatient psychiatric care.

As part of an effort to revise and improve all of its licensure regulations, it is the intention of the department to repeal VR 470-02-03 Rules and Regulations for the Licensure of Private Psychiatric Hospitals and to promulgate a new regulation entitled VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals

and Inpatient Substance Abuse Facilities that will govern the licensure of psychiatric hospitals, including correctional psychiatric facilities, as well as hospital-based medical detoxification facilities, inpatient substance abuse facilities, and similar facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone in inpatient settings.

In VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities it is proposed that the term "psychiatric hospital" will include with certain exceptions any facility or institution whose primary function is to provide psychiatric diagnosis and treatment, including medical, nursing and related services, in an inpatient setting for two or more nonrelated mentally ill individuals, including hospitals known by varying nomenclature or designation such as sanatoriums; sanitariums; general, acute, short-term, and long-term hospitals; psychiatric institutes; and psychiatric units within general hospitals, community mental health centers, and correctional institutions.

It is proposed that the term "inpatient substance abuse facility" include any facility or institution or any identifiable component of any facility or institution whose primary function is to provide effective intervention for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

VR 470-02-03 Rules and Regulations for the Licensure of Private Psychiatric Hospitals are comprised of the following issues which have impact on facilities subject to licensure:

Licensure procedure, rights of patients and residents, physical facility and safety, health and safety regulations, organization and management, psychiatric facility - general, psychiatric facility services, rehabilitation service, personnel practices, medical staff, admissions, diagnosis and treatment, emergency services, nursing service, social work service, psychological service, religious service, laboratory service, radiology service, pharmacy, medical records, education programs, orientation and education, and dietary department.

Statutory Authority: §§ 37.1-10 and 37.1-179 et seq. of the Code of Virginia.

Written comments may be submitted until March 13, 1989.

**Contact:** Barry P. Craig, Director of Licensure, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3472 or SCATS 786-3472

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.**

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The above referenced regulations became effective on January 1, 1980. They have served as the basic licensure regulations for inpatient facilities, intermediate care facilities, subacute detoxification facilities, outpatient facilities, screening and referral facilities, transitional domiciliary facilities, and facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, which serve adult persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants.

On February 24, 1988, the State Mental Health, Mental Retardation and Substance Abuse Services Board repealed the regulation VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities effective July 1, 1988, with respect to all types of substance treatment and rehabilitation facilities except hospital-based medical detoxification facilities, inpatient substance abuse facilities, and similar facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone in inpatient settings. Those latter inpatient substance abuse treatment and rehabilitation facilities continue to be licensed under VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

As part of an effort to revise and improve all of its licensure regulations it is the intention of the department to repeal VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities and to promulgate a new regulation entitled VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities that will govern the licensure of psychiatric hospitals, including correctional psychiatric facilities, as well as hospital-based medical detoxification facilities, inpatient substance abuse facilities, and similar facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone in inpatient settings.

In VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities it is proposed that the term "psychiatric

## General Notices/Errata

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hospital" will include with certain exceptions any facility or institution or any identifiable component of any facility or institution whose primary function is to provide psychiatric diagnosis and treatment, including medical, nursing and related services, in an inpatient setting for two or more nonrelated mentally ill individuals, including hospitals known by varying nomenclature or designation such as sanatoriums; sanitariums; general, acute, short-term, and long-term hospitals; psychiatric hospitals; mental hospitals; psychiatric centers; psychiatric institutes; and psychiatric units within general hospitals, community mental health centers, and correctional institutions.

It is proposed that the term "inpatient substance abuse facility" include any facility or institution or any identifiable component of any facility or institution whose primary function is to provide effective intervention for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities are comprised of the following issues which have impact on substance abuse treatment and rehabilitation facilities subject to licensure:

Patient rights; health and safety; space usage; sanitary, health and special medical requirements; personnel practices; programs and services; requirements for treatment in inpatient, intermediate care, subacute detoxification and transitional domiciliary substance abuse treatment facility only; record keeping and accountability; organization and management; and methadone treatment facilities.

Statutory Authority: §§ 37.1-10 and 37.1-179 et seq. of the Code of Virginia.

Written comments may be submitted until March 13, 1989.

**Contact:** Barry P. Craig, Director of Licensure, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3472 or SCATS 786-3472

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.** The purpose of the proposed action is to establish the minimum licensure requirements for correctional psychiatric facilities hospitals in order to protect the health and safety of clients in such facilities and to assure that they receive services that are

appropriate to meet their identified needs.

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The above referenced regulations became effective on April 30, 1986. They have served as the basic licensure regulations for psychiatric hospital facilities operated by the Department of Corrections. In the regulations the term "facility" is defined as: ". . . the psychiatric unit of a correctional institution under the management and control of the Department of Corrections, devoted to the care and treatment of the mentally ill."

As part of an effort to revise and improve all of its licensure regulations, it is the intention of the department to repeal VR 470-02-07 Rules and Regulations for the Licensure of Correctional Psychiatric Facilities and to promulgate a new regulation VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities that will govern the licensure of psychiatric hospitals, including correctional psychiatric facilities, as well as hospital-based medical detoxification facilities, inpatient substance abuse facilities, and similar facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone in inpatient settings.

In VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities it is proposed that the term "psychiatric hospital" will include with certain exceptions any facility or institution or any identifiable component of any facility or institution whose primary function is to provide psychiatric diagnosis and treatment, including medical, nursing and related services, in an inpatient setting for two or more nonrelated mentally ill individuals, including hospitals known by varying nomenclature or designation such as sanatoriums; sanitariums; general, acute, short-term, and long-term hospitals; psychiatric hospitals; mental hospitals; psychiatric centers; psychiatric institutes; and psychiatric units within general hospitals, community mental health centers, and correctional institutions.

It is proposed that the term "inpatient substance abuse facility" include any facility or institution or any identifiable component of any facility or institution whose primary function is to provide effective intervention for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

VR 470-02-07 Rules and Regulations for the Licensure of Correctional Psychiatric Facilities are comprised of the

following issues which have impact on facilities subject to licensure:

Licensure procedures, client rights, physical facility and safety, health and safety regulations, organization and management, psychiatric facility - general, psychiatric facility services, rehabilitation service, personnel practices, professional staff, admissions to psychiatric facility, diagnosis and treatment, emergency services, nursing service, social work service, psychological services, religious services, laboratory service, radiology services, pharmacy service, medical records, dietary department, and variances.

Statutory Authority: §§ 37.1-10 and 37.1-179 et seq. of the Code of Virginia.

Written comments may be submitted until March 13, 1989.

**Contacts:** Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3472 or SCATS 786-3472

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider promulgating regulations entitled: **VR 470-02-13. Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities.** The purpose of the proposed action is to establish the minimum licensure requirements for psychiatric hospitals and inpatient substance abuse treatment facilities in order to protect the health and safety of clients in such facilities and to assure that they receive services that are appropriate to meet their identified needs.

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

VR 470-02-03 Rules and Regulations for the Licensure of Private Psychiatric Hospitals became effective on May 1, 1978, over 10 years ago. They have served as the basic licensure regulations for institutions such as psychiatric hospitals, mental hospitals, psychiatric centers, psychiatric institutes, psychiatric units in general hospitals, inpatient psychiatric units in community mental health centers, and other privately operated facilities serving persons requiring inpatient psychiatric care.

On February 24, 1988, the State Mental Health, Mental Retardation and Substance Abuse Services Board repealed the regulation VR 470-02-05 Rules and Regulations for the

Licensure of Substance Abuse Treatment and Rehabilitation Facilities effective July 1, 1988, with respect to all types of substance treatment and rehabilitation facilities except hospital-based medical detoxification facilities, inpatient substance abuse facilities, and similar facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone in inpatient settings. These latter inpatient substance abuse treatment and rehabilitation facilities continue to be licensed under VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

As part of an effort to revise and improve all of its licensure regulations, it is the intention of the department to repeal VR 470-02-03 Rules and Regulations for the Licensure of Private Psychiatric Hospitals and VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities and to promulgate a new regulation entitled VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities that will govern the licensure of psychiatric hospitals, including correctional psychiatric facilities, as well as hospital-based medical detoxification facilities, inpatient substance abuse facilities, and similar facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone in inpatient settings.

In VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities it is proposed that the term "psychiatric hospital" will include with certain exceptions any facility or institution or any identifiable component of any facility or institution whose primary function is to provide psychiatric diagnosis and treatment, including medical, nursing and related services, in an inpatient setting for two or more nonrelated mentally ill individuals, including hospitals known by varying nomenclature or designation such as sanatoriums; sanitariums; general, acute, short-term, and long-term hospitals; psychiatric hospitals; mental hospitals; psychiatric centers; psychiatric institutes; and psychiatric units within general hospitals, community mental health centers, and correctional institutions.

It is proposed that the term "inpatient substance abuse facility" include any facility or institution or any identifiable component of any facility or institution whose primary function is to provide effective intervention for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities will be comprised of the following general issues that will have impact on the facilities subject to licensure:

# General Notices/Errata

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Licensure procedures, organization and administration, personnel, physical environment, programs and services, disaster and emergency plans, and methodone treatment.

Statutory Authority: §§ 37.1-10 and 37.1-179 et seq. of the Code of Virginia.

Written comments maybe submitted until March 13, 1989.

**Contact:** Barry P. Craig, Director of Licensure, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3472 or SCATS 786-3472

## DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Rehabilitative Services intends to consider amending regulations entitled: **Provision of Vocational Rehabilitation Services**. The purpose of the proposed action is to amend certain portions of the regulations to comply with new federal regulations and broaden the service capabilities of the department.

Statutory Authority: § 51.5-5 of the Code of Virginia.

Written comments may be submitted until April 28, 1989, to Charles H. Merritt, Assistant Commissioner, P.O. Box 11045, Richmond, VA 23230.

**Contact:** James L. Hunter, Board Administrator, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-6446, SCATS 367-6446, 1-800-552-5019 TDD/Voice or (804) 367-0280 TDD/Voice

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Boards of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intend to consider amending regulations entitled: **Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children**. The regulation establishes 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 supervision of children.

Statutory Authority: §§ 63.1-196, 63.1-217, 22.1-321, 37.1-179,

and 16.1-311 of the Code of Virginia.

Written comments may be submitted until April 14, 1989.

**Contact:** Ms. Tommye R. Finley, Assistant Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-7124 or SCATS 662-7124

## DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider promulgating regulations entitled: **Regulations for the Development of Waste Management Plans**. These regulations would establish standards and procedures pertaining to waste management planning in the Commonwealth, promote local and regional planning that provides for environmentally sound waste management and maximum utilization of valuable resources, and establish minimum requirements for local and regional waste management plans under § 10.1-1411 of the Code of Virginia.

The Department will form a technical advisory committee to help formulate the proposed regulations. Persons who have a desire to be a part of that committee should indicate their desire in their comments and discuss the personal resources and expertise they would bring to the committee if they were selected to be a member.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Written comments may be submitted until March 27, 1989.

**Contact:** Robert G. Wickline, Director of R and D, DTS, Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2667 or SCATS 225-2667

## GENERAL NOTICES

### 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  
DEPARTMENT OF PLANNING AND BUDGET  
(Transmittal Sheet) - DPERR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.



# 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

(804) 786-3516

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

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

**May 17, 1989 - 10 a.m. – Public Hearing**  
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. ☒

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-04-01. Rules and Regulations for Enforcement of the Endangered Plant and Insect Species Act.** This amendment adds the following rare plant species as endangered under the Virginia Endangered Plant and Insect Species Act: Shale Barren Rock Cress, Arabis serotina; Mat-Forming Water-Hyssop, Bacopa stragula; Piratebush, Buckleya distichophylla; Variable Sedge, Carex polymorpha; Harper's Fimbristylis, Fimbristylis perpusilla; Virginia Sneezeweed, Helenium virginicum; Swamp-Pink, Helonias bullata; Long-Stalked Holly, Ilex collina; Peter's Mountain Mallow, Iliamna corei; Nestronia, Nestronia umbellula; Northeastern Bulrush, Scirpus ancistrochaetus; Virginia Spiraea, Spiraea virginiana.

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

Written comments may be submitted until April 27, 1989.

**Contact:** D. J. Schweitzer, Endangered Species Coordinator, Department of Agriculture and Consumer Services, 1100 Bank St., P.O. Box 1163, Richmond, VA 23209, telephone

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**May 17, 1989 - 10 a.m. – Public Hearing**  
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. ☒

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 115-04-04. Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law.** The purpose of the proposed action is to amend the regulation to exempt users of vehicle scales from the minimum net load restriction (50 scale divisions) of U.R.3.7. of the Scale Code, Natinal Bureau of Standards Handbook 44, 1989 Edition.

Statutory Authority: § 3.1-926 of the Code of Virginia.

Written comments may be submitted until 5 p.m., April 28, 1989.

**Contact:** J. Alan Rogers, Bureau Chief, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 402, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-2476 or SCATS 786-2476

## VIRGINIA AGRICULTURAL COUNCIL

**† May 15, 1989 - 9 a.m. – Open Meeting**  
Holiday Inn-Airport, 5203 Williamsburg Road, Sandston, Virginia. ☒

A meeting of the Council called by the Chairman to (i) hear any new project proposals which are properly supported by the Board of Directors of a commodity group; (ii) review progress reports on research completed on approved projects funded during this fiscal year; and (iii) consider any other business that may come before the members of the Council.

**Contact:** Henry H. Budd, Assistant Secretary, Washington Bldg., 1100 Bank St., Room 203, Richmond, VA 23219, telephone (804) 786-2373

## DEPARTMENT OF AIR POLLUTION CONTROL (STATE AIR POLLUTION CONTROL BOARD)

**March 22, 1989 - 7:30 p.m. – Public Hearing**  
Dabney Lancaster Community College, Moomaw Student

Center, Seminar Room, Clifton Forge, Virginia

**March 22, 1989 - 10 a.m. – Public Hearing**  
Town Council Chambers, Town Hall, 329 Sixth Street, West Point, Virginia

**March 22, 1989 - 2 p.m. – Public Hearing**  
Hopewell Circuit Court Room, Municipal Building, 300 North Main Street, Hopewell, Virginia

**March 22, 1989 - 10 a.m. – Public Hearing**  
Franklin High School, 611 Crescent Drive, Auditorium, Franklin, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The regulation requires the owner/operator to limit TRS emissions from the kraft pulp mill to a level resultant from the use of reasonably available control technology and necessary for the protection of public welfare.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until March 22, 1989.

**Contact:** Robert A. Mann, Director, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-5789 or SCATS 786-5789

† **March 27, 1989 - 7:30 p.m. – Open Meeting**  
Circuit Court Room, Smyth County Courthouse, 109 W. Main Street, Marion, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to receive public comments on an application from Merillat Industries, Inc., for a permit to construct and operate a cabinet door manufacturing plant on State Route 686 in Atkins, Smyth County.

**Contact:** Michael D. Overstreet, Director, Region I, Department of Air Pollution Control, 121 Russell Rd., Abingdon, VA 24210, telephone (703) 628-7841

**April 28, 1989 - 9 a.m. – Open Meeting**  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia

A general meeting of the board.

**Contact:** Richard Stone, Public Information Officer, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-5478 or SCATS 786-5478

## BOARD FOR ARCHITECTS

† **March 31, 1989 - 9 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes of February 3, 1989, meeting; (ii) review correspondence; (iii) review applications; (iv) review enforcement files; and (v) consider regulatory review.

**Contact :** Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, SCATS 367-8514 or toll-free 1-800-552-3016

## VIRGINIA BOATING ADVISORY BOARD

**April 13, 1989 - 10:30 a.m. – Open Meeting**  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A meeting to review and act on issues, legislation and regulations affecting Virginia's recreational boating public.

**Contact:** Wayland W. Rennie, Chairman, 8411 Patterson Ave., Richmond, VA 23229, telephone (804) 740-7206

## STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **March 24, 1989 - 10 a.m. – Open Meeting**  
Fourth Street Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeals boards regarding application of the Virginia Uniform Statewide Building Code, and (iii) approve minutes of previous meeting.

**Contact:** Jack A. Proctor, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-4752

## LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

**April 6, 1989 - 5:30 p.m. – Open Meeting**  
Chesterfield County Administration Building, 10001 Ironbridge Road, Room 502, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

**Contact:** Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P. O. Box 40,

# Calendar of Events

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Chesterfield, VA 23832, telephone (804) 748-1236

## DEPARTMENT FOR CHILDREN

### Consortium on Child Mental Health

† **April 5, 1989 - 9 a.m.** - Open Meeting  
† **May 3, 1989 - 9 a.m.** - Open Meeting  
† **June 7, 1989 - 9 a.m.** - Open Meeting  
Virginia Department for Children, Eighth Street Office Building, 11th Floor Conference Room, 805 East Broad Street, Richmond, Virginia. ☒

A regular business meeting open to the public, followed by an executive session, for purposes of confidentiality, to review applications for funding of services to individuals.

**Contact:** Wenda Singer, Chair, Virginia Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-2208 or SCATS 786-2208

## BOARD OF COMMERCE

**March 23, 1989 - 11 a.m.** - Open Meeting  
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th floor Conference Room 1, Richmond, Virginia

An open business meeting of the board. The agenda may include (i) report of the director; (ii) discussion of occupational studies requested by the General Assembly, which may include estheticians, radon gas testers and mitigators, arborists; and (iii) subcommittee report on Examinations Study.

**Contact :** Susan C. Patton, Secretary to Board, 3600 W. Broad St., Travelers Bldg., 5th floor, Richmond, VA 23230, telephone (804) 367-8519, SCATS 367-8519 or toll-free 1-800-552-3016

## STATE BOARD FOR COMMUNITY COLLEGES

† **March 22, 1989 - 2 p.m.** - Open Meeting  
James Monroe Building, 101 North 14th Street, Board Room, 15th Floor, Richmond, Virginia. ☒

2 p.m. - Working session.

3 p.m. - Committee meetings.

† **March 23, 1989 - 9 a.m.** - Open Meeting  
James Monroe Building, 101 North 14th Street, Board Room, 15th Floor, Richmond, Virginia. ☒

State board meeting.

**Contact:** Joy Graham, State Board for Community Colleges,

James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2126

## DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

### Goose Creek Scenic River Advisory Board

† **March 29, 1989 - 2 p.m.** - Open Meeting  
Fisher Residence, Route 642, Loudoun County, Virginia

A review of river issues and programs.

### Moormans Scenic River Advisory Board

† **March 14, 1989 - 7 p.m.** - Open Meeting  
Old Lane High School, 1401 McIntire Road, Meeting Room I, Charlottesville, Virginia

A review of river issues and programs.

### North Landing and Tributaries Scenic River Advisory Board

† **March 13, 1989 - 7 p.m.** - Open Meeting  
Indian River Community Center, 2250 Old Greenbriar Road, Chesapeake, Virginia

A review of river issues and programs

**Contact:** Richard G. Gibbons, Environmental Program Manager, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or SCATS 786-4132

### Virginia Soil and Water Conservation Board

† **March 16, 1989 - 9 a.m.** - Open Meeting  
203 Governor Street, Room 200, Richmond, Virginia.

A regular bi-monthly meeting.

**Contact:** Donald L. Wells, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-4356

### Division of Soil and Water Conservation

† **April 3, 1989 - 7 p.m.** - Open Meeting  
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Roanoke, Virginia. ☒

† **April 6, 1989 - 7 p.m.** - Open Meeting  
Williamsburg-James City County General District Court, 321-45 Court Street, Williamsburg, Virginia. ☒

† **April 10, 1989 - 7 p.m.** - Open Meeting  
Prince William County Administration Center, McCourt Building, 4850 Davis Ford Road, Board of Supervisors Room, Prince William, Virginia. ☒

# Calendar of Events

A meeting to provide an opportunity for public review and comment on the Virginia Nonpoint Source Pollution Assessment Report and the Virginia Nonpoint Source Pollution Management Plan developed and revised in accordance with § 319 of the Clean Water Act of 1987.

**Contact:** Deborah Southard, Environmental Engineer, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064 or SCATS 786-2064

## BOARD FOR CONTRACTORS

NOTE: CHANGE IN MEETING DATE

† April 12, 1989 - 9 a.m. - Open Meeting

† April 13, 1989 - 9 a.m. - Open Meeting

Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A quarterly meeting to (i) address policy and procedural issues, (ii) review and render decisions on applications for contractors' licenses, (iii) review staff recommendations for revisions to its rules and regulations to determine needed changes, additions and revisions in procedures, requirements, and standards applicable to Class B Registrations and Class A Licenses; and (iv) review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a large portion of the board's business will be discussed in the executive session.

**Contact:** Laster G. Thompson, Jr., Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557 or toll-free 1-800-552-3016

### Regulatory Review Committee

† March 15, 1989 - 10 a.m. - Open Meeting

Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to review the rules and regulations and to determine needed changes, additions or revisions in the procedure, requirements, and standards applicable to Class B Registrations and Class A Licenses.

**Contact:** Laster G. Thompson, Jr., Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557 or 1-800-552-3016 (toll-free)

## BOARD OF CORRECTIONAL EDUCATION

† May 19, 1989 - 10 a.m. - Open Meeting

Hanover Learning Center, Hanover, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to discuss general business of the Board of

Correctional Education.

**Contact:** Joan C. Macklin, Confidential Secretary, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-3314 or SCATS 335-3314

## BOARD OF CORRECTIONS

† March 15, 1989 - 10 a.m. - Open Meeting

Board of Corrections Board Room, 6900 Atmore Drive, Richmond, Virginia. ☒

Regular monthly meeting to consider such matters as may be presented to the Board of Corrections.

**Contact:** Vivian Toler, Secretary of the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235

## BOARD FOR COSMETOLOGY

March 20, 1989 - 9 a.m. - Open Meeting

Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review correspondence; (ii) review applications; (iii) review enforcement cases; and (iv) consider routine board business.

**Contact:** Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

## CRIMINAL JUSTICE SERVICES BOARD

### Committee on Criminal Justice Information Systems

March 16, 1989 - 10 a.m. - Open Meeting

Ninth Street Office Building, 9th and Grace Streets, 6th Floor, Governor's Cabinet Conference Room, Richmond, Virginia. ☒

A meeting to discuss projects and business of the committee.

**Contact:** Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000 or SCATS 786-4000

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May 3, 1989 - 9 a.m. - Public Hearing

General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services

# Calendar of Events

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Board intends to amend regulations entitled: **VR 240-01-2. Rules Relating to Compulsory In-Service Training Standards for Law-enforcement, Jailor or Custodial, Courtroom Security and Civil Process Officers and Officers of the Department of Corrections, Division of Adult Institutions.** These rules amend existing in-service training requirements for criminal justice officers and promulgate in-service training requirements for court security officers and process servers in accordance with the 1988 amendments to § 9-170 of the Code of Virginia.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until April 13, 1989.

**Contact:** Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000 or SCATS 786-4000

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**May 3, 1989 - 9 a.m. – Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-3. Compulsory Minimum Training Standards for Undercover Investigative Officers.** The purpose of the proposed amendments is to update and revise required training for law-enforcement personnel assigned duties as undercover investigating officer.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until April 13, 1989.

**Contact:** Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730

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**May 3, 1989 - 9 a.m. – Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-5. Rules Relating to Compulsory Minimum Training Standards for Dispatchers.** The purpose of the proposed action is to update and state added requirements for compulsory minimum training standards for dispatchers employed by or in local law-enforcement agencies or independent communication centers.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until April 13, 1989.

**Contact:** Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA, telephone (804) 786-8730

## DANVILLE LOCAL EMERGENCY PLANNING COMMITTEE

**March 16, 1989 - 3 p.m. – Open Meeting**  
Municipal Building, 2nd Floor Conference Room, Danville, Virginia

Local Committee, SARA Title III. Hazardous Material Community Right-to-Know.

**Contact:** C. David Lampley, Chairman, 297 Bridge St., Danville, VA 24541, telephone (804) 799-5228

## BOARD OF DENTISTRY

**March 22, 1989 - 9 a.m. – Open Meeting**  
1601 Rolling Hills Drive, Richmond, Virginia

The following committees will meet:

- 9 a.m. - Executive Committee
- 10 a.m. - Test Committee
- 11 a.m. - Budget Committee
- noon - Legislative Committee
- 1 p.m. - Informal Conference
- 5 p.m. - Full Board.

**Contact:** N. Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9906

## STATE BOARD OF EDUCATION

**March 30, 1989 - 2 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 State Board of Education intends to amend regulations entitled: **VR 270-01-0006. Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia.** These amendments prescribe the scope of operational procedures and requirements, distribution of funds, driver requirements, body and chassis standards including lift-gate buses, and requirements for activity vehicles.

Statutory Authority: §§ 22.1-16 and 22.1-176 of the Code of Virginia.

Written comments may be submitted until April 13, 1989.

**Contact:** R. A. Bynum, Associate Director, Public Transportation Service, Department of Education, P.O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2037

\* \* \* \* \*

† **March 31, 1989 - 1:30 p.m.** — Public Hearing  
James Monroe Building, 101 North 14th Street, Room C,  
Richmond, Virginia. ☒

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **VR 270-02-0000. Teacher Certification Regulations.** The proposed amendments to the regulations will ensure compliance with the requirements of P.L. 99-457. The proposed amendments to the regulations require that after July 1, 1992, all persons requiring endorsement in speech-language pathology meet the new requirements. In order to reduce the hardship to persons currently certified for employment, but meet the mandate that the highest standard be met, a provision for exception to the regulation was developed.

## STATEMENT

Statement of purpose: The Teacher Certification Regulations provide program standards for certification of teachers, administrators and other school specialists. Persons employed in Virginia public and accredited private schools must meet these certification regulations.

The proposed amendments to the regulations are in response to federal legislation (P.L. 99-457) which requires that personnel serving special education students meet the highest standard for the profession in the Commonwealth. The result of the proposed amendments is to align the Virginia Department of Education's teacher certification requirements for speech-language pathologists with the licensure requirements of the Board of Audiology and Speech Pathology, of the Department of Health Professions. Editorial modifications to the requirements for certification in Preschool Handicapped are proposed to accommodate the federal requirements regarding on provision of services to handicapped infants, as found in P.L. 99-457.

### Estimated impact:

#### Number and type of regulated entities or persons affected:

All speech-language pathologists employed in Virginia may be impacted by this regulation. In 1987-88 there were 803 speech-language pathologists so employed. All of these persons meet the certification and endorsement requirements of the Teacher Certification Regulations.

A study completed by the Department of Education in November 1987 gathered specific information on 751

speech-language pathologists. The majority (57%) of these persons currently hold the master's degree, and hence would meet the proposed certification standard.

Futher data were gathered to determine the impact of the proposed exception to the requirement for persons not holding the master's degree. Of the 326 persons holding the bachelor's degree, 66% currently have five or more years of experience, which would qualify them for one part of the proposed requirements. With implementation date in 1992, the number meeting the years of experience requirement should be approximately 100%.

The study requested information regarding graduate coursework completed by the speech-language pathologists with bachelor's degrees. Data are available for 100 persons. The majority of these persons (72%) have completed an average of 14 semester hours of graduate coursework. The average speech-language pathologist with a bachelors' degree has taken nine semester hours of graduate coursework.

This study indicates that the average speech-language pathologist with a bachelor's degree will need to take six semester hours of graduate coursework before July 1, 1992. The cost of this coursework would be \$576, based on 1987-88 in-state tuition rates at Virginia universities currently offering graduate coursework in speech-language pathology.

The Virginia Department of Education has allocated moneys currently allocated to Special Education Retraining Institutes and traineeship loans to meet the needs of this required retraining.

School divisions may need to compensate speech-language pathologists at a higher rate following completion of additional coursework. VEA data (1987) indicate that an average pay increment of \$1686 would be provided in forty-nine school divisions to faculty achieving the bachelor's degree + 15 graduate hours as a result of this requirement.

School divisions hiring new personnel after July 1, 1992, will be required to hire persons at the master's degree level. This would be an increased cost to the divisions if their current practice is to hire bachelor's degree personnel. However, four of Virginia's five universities with training programs in speech-language pathology will not be graduating persons at the bachelor's degree in 1992. The fifth university is currently evaluating the future of its baccalaureate training program. As a result, any increased personnel cost would be a result of the training program modifications, in the absence of these proposed amendments to the regulations.

#### Projected Cost to Agency for Implementation and Enforcement:

# Calendar of Events

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Since the Virginia Department of Education currently endorses personnel in the area of speech-language pathology, there is no anticipated cost to the department attributed to changing the current requirements.

Statutory Authority: §§ 22.1-298 and 22.1-299 of the Code of Virginia.

Written comments may be submitted until April 28, 1989.

**Contact:** Dr. Thomas A. Elliott, Administrative Director, Office of Professional Development, Department of Education, P.O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2094 or SCATS 225-2094

† **March 30, 1989 - 9 a.m.** – Open Meeting  
† **March 31, 1989 - 9 a.m.** – Open Meeting  
James Monroe Building, 101 North Fourteenth Street, Conference Rooms D & E, Richmond, Virginia. (Interpreter for deaf provided if requested)

† **April 26, 1989 - 9 a.m.** – Open Meeting  
† **April 27, 1989 - 9 a.m.** – Open Meeting  
† **April 28, 1989 - 9 a.m.** – Open Meeting  
Fair Oaks Holiday Inn, 11787 Lee Jackson Highway, Fairfax, Virginia. (Interpreter for deaf provided if requested)

† **May 25, 1989 - 9 a.m.** – Open Meeting  
† **May 26, 1989 - 9 a.m.** – Open Meeting  
James Monroe Building, 101 North Fourteenth Street, Conference Room D & E, Richmond, Virginia. (Interpreter for deaf provided if requested)

A regularly scheduled meeting to be conducted 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 required.

**Contact:** Margaret Roberts, James Monroe Building, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **April 5, 1989 - 10 a.m.** – Open Meeting  
Henry County Administration Building, Kings Mountain Road, Collinsville, Virginia

A formal administrative hearing and a general board meeting. Proposed regulations may be discussed.

NOTE: CHANGE OF MEETING DATE  
**April 24, 1989 - 9 a.m.** – Open Meeting  
Shoney's Inn of Richmond, 7007 West Broad Street, Richmond, Virginia. ☒

A general board meeting to consider certifying

candidates for the May examination and to discuss proposed regulations.

**Contact:** Mark L. Forberg, Executive Secretary, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907

## BOARD OF GAME AND INLAND FISHERIES

**March 15, 1989 - 1 p.m.** – Open Meeting  
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia

The following committees of the board will meet to discuss administrative and related matters as appropriate to each committee, which will be reported to the full board at its meetings, March 16-17, 1989.

Wildlife & Boat - 1:00 p.m.  
Finance Committee - 4:00 p.m.  
Law and Education - 4:30 p.m.

**March 16, 1989 - 9:30 a.m.** – Public Hearing  
**March 17, 1989 - 9:30 a.m.** – Public Hearing  
Holiday Inn - I-64 West End, 6531 W. Broad Street, Richmond, Virginia

The board will consider recommendations and proposals from the staff and public relative to changes in the hunting and trapping regulations of the board, for the 1989 and 1990 hunting seasons. This will involve season dates, bag limits, etc., on various species of game animals and game birds.

**Contact:** Norma G. Adams, Agency Regulatory Coordinator, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000, SCATS 367-1000, or toll-free 1-800-237-5712

## BOARD FOR GEOLOGY

† **March 28, 1989 - 10 a.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes of January 6, 1989; (ii) review applications; and (iii) consider general correspondence.

**Contact:** Bonnié S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, SCATS 367-8514 or 1-800-552-3016 (toll-free)

## STATE BOARD OF HEALTH

**March 17, 1989 - 9 a.m.** – Open Meeting  
**May 22, 1989 - 9 a.m.** – Open Meeting  
James Madison Building, 109 Governor Street, Main Floor

Conference Room, Richmond, Virginia

Regular meetings of the board.

**Contact:** Sarah H. Jenkins, Legislative Analyst/Secretary to the Board, Department of Health, Commissioner's Officer, 109 Governor St., Room 400, Richmond, VA 23219, telephone (804) 786-3561 or SCATS 786-3561

## DEPARTMENT OF HEALTH PROFESSIONS

### Compliance and Disciplinary Committee

† **March 23, 1989 - 10 a.m.** - Open Meeting  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review drafts of consultant and staff reports on the evaluation of the health professional regulatory enforcement system.

### Regulatory Evaluation and Research Committee

† **March 28, 1989 - 10 a.m.** - Open Meeting  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. FT3001 5

A meeting to discuss regulatory review, criteria for evaluating the need for health professional regulatory programs, and the issue of direct access to physical therapists' services.

**Contact:** Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9918

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **March 28, 1989 - 9:30 a.m.** - Open Meeting  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

**Contact:** Ann Y. McGee, Director, 805 E. Broad St., 9th Floor, Richmond, VA 23219, telephone (804) 786-6371 or SCATS 786-6371

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

† **April 4, 1989 - 9 a.m.** - Open Meeting  
† **May 2, 1989 - 9 a.m.** - Open Meeting  
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

**Contact:** Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **March 21, 1989 - 10 a.m.** - Open Meeting  
13 South 13th Street, Richmond, Virginia. ☒

A regular meeting to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** J. Judson McKellar, Jr., General Counsel, 13 S. 13th St., Richmond, VA 23219, telephone (804) 782-1986

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

† **April 14, 1989 - 10 a.m.** - Open Meeting  
Human Services Center Auditorium, 5249 Olde Towne Road, Williamsburg, Virginia. ☒

† **April 17, 1989 - 9 a.m.** - Open Meeting  
Prince William County Board Chamber, County Administration Building, 1 County Complex Court, Prince William, Virginia. ☒

† **April 18, 1989 - 10 a.m.** - Open Meeting  
City Office Building, First Floor, 2039 Sycamore Avenue, Buena Vista, Virginia. ☒

† **April 19, 1989 - 10 a.m.** - Open Meeting  
Smyth County Courthouse, Ground Floor Conference Room, Marion, Virginia. ☒

A meeting to receive public comments regarding the Board of Housing and Community Development's intent to amend the 1987 Virginia Uniform Statewide Building Code, Volume I, New Construction Code; the 1987 Virginia Uniform Statewide Building Code, Volume II, Building Maintenance Code; the 1987 Virginia Statewide Fire Prevention Code; the Asbestos Survey Standards for Buildings to be Renovated or Demolished; and the Survey Standards for the Inspection of Buildings being Converted to



# Calendar of Events

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Condominiums for the Presence of Asbestos.

**Contact:** Gregory H. Revels, Program Manager, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

## COUNCIL ON INDIANS

† **March 15, 1989 - 2 p.m.** – Open Meeting  
Ninth Street Office Building, Cabinet Conference Room, 6th Floor, Richmond, Virginia. ☒

A regular meeting of the Council on Indians to conduct general business and to receive reports from the council standing committees.

**Contact:** Mary Zoller, Information Director, Virginia Council on Indians, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9285 or SCATS 662-9285

## COUNCIL ON INFORMATION MANAGEMENT

† **March 22, 1989 - 9 a.m.** – Open Meeting  
Washington Building, 1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia. ☒

A regular bi-monthly meeting.

**Contact:** Linda W. Hening, Office Manager, Washington Bldg., 1100 Bank St., Suite 1100, Richmond, VA 23219, telephone (804) 225-3622 or SCATS 225-3622

## DEPARTMENT OF LABOR AND INDUSTRY

### Safety and Health Codes Board

**March 13, 1989 - 1:30 p.m.** – Open Meeting  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The board will meet to consider (i) variance request appeal: Avtex Fibers Front Royal, Inc., Front Royal, VA; (ii) request for a variance under the Boiler and Pressure Vessel Safety Act: Bunker Hill Foods, Bedford, VA; and (iii) amendment to Air Contaminants Standard, 1910.1000 Including Tables Z-1, Z-2 and Z-3.

**Contact:** Margaret T. Gravett, Staff Specialist, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-9877 or SCATS 786-9877

## STATE LAND EVALUATION ADVISORY COUNCIL

**March 27, 1989 - 10 a.m.** – Open Meeting  
Department of Taxation, 2220 West Broad Street, Richmond, Virginia

A meeting to discuss policy on use-value assessment of Christmas trees.

**Contact:** Otho C. W. Fraher, Director, Property Tax Division, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8020

## COMMISSION ON LOCAL GOVERNMENT

**March 20, 1989 - 9 a.m.** – Open Meeting  
Richmond, Virginia (Site to be determined)

A regular meeting of the Commission on Local Government to consider such matters as may be presented.

**Contact:** Barbara W. Bingham, Senior Executive Secretary, Room 901, Ninth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508

## LONGWOOD COLLEGE

### Board of Visitors

**March 15, 1989 - 11 a.m.** – Open Meeting  
Longwood College, Wygal Building, Farmville, Virginia

A meeting to conduct business pertaining to the governance of the institution.

**Contact:** William F. Dorrill, Longwood College, Farmville, VA 23901, telephone (804) 392-9211 or SCATS 265-4211

## STATE LOTTERY BOARD

† **March 22, 1989 - 10 a.m.** – Open Meeting  
State Lottery Department, 2201 West Broad Street, Conference Room, Richmond, Virginia. ☒

A regularly scheduled monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined.

**Contact:** Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433 or SCATS 367-9433

## VIRGINIA MARINE PRODUCTS BOARD

**March 15, 1989 - 5:30 p.m.** – Open Meeting  
97 Main Street, Room 103, Newport News, Virginia

The board will meet to receive reports from the Executive Director of the Virginia Marine Products Board on (i) finance; (ii) marketing; (iii) past and future program planning; (iv) publicity/public relations; and (v) old/new business.

**Contact:** Shirley Estes Berg, Executive Director, 97 Main St., Room 103, Newport News, VA 23601, telephone (804) 594-7261 or SCATS 594-7261

## BOARD OF MEDICAL ASSISTANCE SERVICES

**March 14, 1989 - 5 p.m. – Open Meeting**  
Radisson Hotel, Hampton, Virginia

A meeting for reorganization of policy, and legislative/public affairs subcommittees.

**March 15, 1989 - 9 a.m. – Open Meeting**  
Hampton University, Marine Science Building, Marshall Avenue, Hampton, Virginia

An open meeting to review 1989 legislation and budget amendments.

**Contact:** Jacqueline Fritz, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

**April 13, 1989 –** 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-03-2.6150. Burial Exclusion.** The amendment to this regulation proposes to incorporate the SSI burial set aside policy as modified by the General Assembly.

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

Written comments may be submitted until April 13, 1989, to Marsha Vandervall, Manager, Division of Medical Social Services, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933

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**April 14, 1989 –** 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 Medical Assistance Services intends to adopt regulations entitled: **VR 460-04-8.3. Lock-in/Lock-out Programs.** The Lock-in/Lock-out Programs provide medical

management to recipients who have high utilization patterns of service.

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

Written comments may be submitted until April 14, 1989, to Steven B. Riggs, D.D.S., Director, Division of Health Services Review, Department of Medical Assistance, 600 E. Broad St., Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933

## BOARD OF MEDICINE

**March 16, 1989 - 8 a.m. – Open Meeting**

**March 17, 1989 - 8 a.m. – Open Meeting**

**March 18, 1989 - 8 a.m. – Open Meeting**

**March 19, 1989 - 8 a.m. – Open Meeting**

Virginia Beach Resort and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia. ☒

A meeting to review reports, interview licensees and make decisions on discipline matters before the board on Thursday, Friday and Saturday. At 8:15 a.m. on Sunday, March 19, 1989, the full board will meet in open session and conduct general board business and discuss any other items which may come before the board.

## Advisory Board on Physical Therapy

NOTE: CHANGE OF MEETING DATE

**March 18, 1989 - 9 a.m. – Open Meeting**

Virginia Beach Resort and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia

A meeting to conduct general board business and respond to correspondence. The advisory board will also discuss any other items which may come before them.

**Contact:** Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

**March 22, 1989 - 9:30 a.m. – Open Meeting**

Chesapeake Community Services Board, Chesapeake, Virginia

A regular monthly meeting. The agenda will be published on March 15 and may be obtained by calling Jane Helfrich.

# Calendar of Events

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**Contact:** Jane V. Helfrich, State Board Staff, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921

## **Prevention and Promotion Advisory Council**

**March 16, 1989 - 10 a.m. – Open Meeting**  
James Madison Building, 8th Floor Conference Room, Richmond, Virginia

A meeting to consider implementation of a plan for prevention services, budget requests, status of prevention office and future direction of council.

**Contact:** Sue Geller or Hope Seward, Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Prevention, Promotion and Library Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530

## **DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES**

### **State Human Rights Committee**

† **March 22, 1989 - 9 a.m. – Open Meeting**  
Holiday Inn/Greenbrier, 725 Woodlake Drive, Chesapeake, Virginia. ☒

A regular meeting to discuss business relative to human rights issues. Agenda items will be listed prior to meeting.

**Contact:** Elsie D. Little, State Human Rights Director, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988

## **DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; UNIVERSITY OF VIRGINIA INSTITUTE OF LAW, PSYCHIATRY AND PUBLIC POLICY, DIVISION OF CONTINUING EDUCATION, OFFICE OF CONTINUING LEGAL EDUCATION AND OFFICE OF CONTINUING MEDICAL EDUCATION**

**March 16, 1989 - Time to be announced – Open Meeting**  
**March 17, 1989 - Time to be announced – Open Meeting**  
The Williamsburg Hilton, Colonial Williamsburg, Virginia. ☒

Twelfth Annual Symposium on Mental Health and the Law.

An annual symposium addressing issues related to mental health and the law. 9 hours in Category 1 CME, .9 CEU and 9 CLE credits applied for.

**Contact:** Lynn Daidone, Administrator, Institute of Law, Psychiatry and Public Policy, Box 100, Blue Ridge Hospital, Charlottesville, VA 22901

## **VIRGINIA MILITARY INSTITUTE**

### **Board of Visitors**

**April 1, 1989 - 8 a.m. – Open Meeting**  
The Virginia Military Institute, Smith Hall Board Room, Smith Hall, Lexington, Virginia. ☒

A regular Spring meeting of the VMI Board of Visitors to (i) discuss committee reports; (ii) visit academic departments; and (iii) adopt 1989-90 operating budget.

**Contact:** Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

## **DEPARTMENT OF MINES, MINERALS AND ENERGY (DIRECTOR OF DIVISION OF MINERAL MINING)**

**April 28, 1989 - 10 a.m. – Public Hearing**  
Department of Mines, Minerals and Energy, Division of Mineral Mining, 7705 Timberlake Road, Lynchburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Director of the Division of Mineral Mining of the Department of Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-05-1.2. Safety and Health Regulation for Mineral Mining**. The amended regulation governs safety and health of persons working in surface and underground noncoal mineral mines.

Statutory Authority: §§ 45.1-33 and 45.1-104 of the Code of Virginia.

Written comments may be submitted until April 28, 1989.

**Contact:** William O. Roller, Director, Division of Mineral Mining, P.O. Box 4499, Lynchburg, Va. 24502, telephone (804) 239-0602 or SCATS 947-2169

## **Virginia Oil and Gas Conservation Board**

† **March 14, 1989 - 9:30 a.m. – Open Meeting**  
Department of Mines, Minerals and Energy Administrative Offices, Powell Valley Shopping Center, Big Stone Gap, Virginia. ☒

A meeting of the board will be held to consider and issue decisions on pending spacing and pooling orders for gas wells and fields in Dickenson, Lee, Scott, Russell and Wise Counties.

† **March 14, 1989 - 2 p.m. – Public Hearing**  
Lee County Public Library, 406 Joslyn Avenue, Pennington Gap, Virginia. ☒

A public hearing will be held to consider well spacing

for the Stones River Formation in Lee County and a forced pooling request for well # 8836 in Lee County.

**Contact:** B. Thomas Fulmer, Oil and Gas Inspector, Department of Mines, Minerals and Energy, Division of Gas and Oil, P.O. Box 1416, Abingdon, VA 24210, telephone (703) 628-8115 or SCATS 676-3104

## COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG LOCAL EMERGENCY PLANNING COMMITTEE

**March 14, 1989 - 3 p.m.** – Open Meeting  
Montgomery County Courthouse, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia

A development of a Hazardous Materials Emergency Response Plan for Montgomery County and the Town of Blacksburg.

**Contact:** Steve Via, New River Valley Planning District Commission, P.O. Box 3726, Radford, VA 24143, telephone (703) 639-9313 or SCATS 676-4012

## VIRGINIA MUSEUM OF FINE ARTS

### Accessions Committee

† **March 17, 1989 - 2 p.m.** – Open Meeting  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Library Reading Room, Richmond, Virginia. ☒

A meeting to consider gift offers and purchase recommendations of art works and to review the current deaccessioning policy.

### Finance Committee

† **March 18, 1989 - 1 p.m.** – Open Meeting  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, The Payne Room, Members' Dining Room, Richmond, Virginia. ☒

A meeting to review the museum budgets.

### Full Board of Trustees

† **March 18, 1989 - 2:30 p.m.** – Open Meeting  
Virginia Museum of Fine Arts, Auditorium, Boulevard and Grove Avenue, Richmond, Virginia. ☒

A meeting to (i) review budget; (ii) consider staff and committee reports; and (iii) consider long-range planning documents.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum, Boulevard and Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553

## BOARD OF NURSING

**March 27, 1989 - 9 a.m.** – Open Meeting

**March 28, 1989 - 9 a.m.** – Open Meeting

**March 29, 1989 - 9 a.m.** – Open Meeting

Department of Health Professions, 1601 Hills Drive, Richmond, Virginia

A regular meeting of the Board of Nursing to consider (i) matters related to nursing education programs; (ii) discipline of licensees; (iii) licensing by examination and endorsement; and (iv) other matters under the jurisdiction of the board.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or toll-free 1-800-533-1560

## JOINT BOARDS OF NURSING AND MEDICINE

**April 14, 1989 - 1:30 p.m.** – Open Meeting

Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia

A regular meeting to consider matters related to the Regulation of Nurse Practitioners in the Commonwealth.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or toll-free 1-800-533-1560

## VIRGINIA PEANUT BOARD

† **March 16, 1989 - 10 a.m.** – Open Meeting

Tidewater Research Station, Holland Road, Suffolk, Virginia. ☒

A meeting to discuss funding of Agricultural Research Projects at the Tidewater Research Station in 1989.

**Contact:** Russell C. Schools, Secretary, P.O. Box 149, Capron, VA 23829, telephone (804) 658-4573 or SCATS 371-2162

## BOARD OF PHARMACY

† **March 22, 1989 - 9 a.m.** – Open Meeting

† **March 23, 1989 - 9 a.m.** – Open Meeting

Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

Routine board business, reinstatement hearings and possible consideration of any committee proposals for licensing of physicians to dispense drugs.

**Contact:** Jack B. Carson, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA

# Calendar of Events

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23229, telephone (804) 662-9911

## POLYGRAPH EXAMINERS ADVISORY BOARD

March 16, 1989 - 9 a.m. - Open Meeting  
Travelers Building, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☒

The board will meet for the purpose of administering the Polygraph Examiners Licensing Examination to eligible Polygraph Examiner Interns and to conduct other board business.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534, toll-free 1-800-552-3016 or SCATS 367-8534

## VIRGINIA PORK INDUSTRY BOARD

† March 17, 1989 - 2:30 p.m. - Open Meeting  
Omni International Hotel, Norfolk, Virginia. ☒

A meeting to (i) consider general business; (ii) appoint committees; (iii) receive research reports; and (iv) receive promotion updates.

Contact: John H. Parker, Program Director, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-7092

## PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY LOCAL EMERGENCY PLANNING COMMITTEE

March 17, 1989 - 2 p.m. - Open Meeting  
March 31, 1989 - 2 p.m. - Open Meeting  
April 14, 1989 - 2 p.m. - Open Meeting  
April 28, 1989 - 2 p.m. - Open Meeting  
1 County Complex Court, Prince William, Virginia. ☒

Local Emergency Planning Committee to discharge the provisions of SARA Title III.

Contact: Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William, VA 22192-9201, telephone (703) 335-6800

## BOARD OF PROFESSIONAL COUNSELORS

† March 24, 1989 - 9 a.m. - Open Meeting  
117 Fairfax Street, Alexandria, Virginia

The Examination Committee will meet at 9 a.m. to discuss the board's examination process and revise forms.

The Scope of Practice Committee will meet at 2 p.m.

to discuss the practice of professional counseling.

Contact: Stephanie A. Sivert, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9912

\* \* \* \* \*

† May 11, 1989 - 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 Professional Counselors intends to amend regulations entitled: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.**

## STATEMENT

Statement of purpose: The Board of Professional Counselors has determined that, within its existing regulations that became effective July 6, 1988, it is necessary to amend two sections, §§ 2.2 B 2, the Supervisor and 2.2 B 4, Documentation of Supervision. The board proposes to make permanent two emergency regulations currently in effect governing these sections. A text of the board's proposed amendments to its regulations is available to the public through the Board of Professional Counselors, Department of Health Professions, Richmond, Virginia.

## Estimated impact:

A. Regulated entities: Approximately 50 counselor trainees are currently working under the supervision of board-approved, nonlicensed supervisors and, as a result, are affected by an amendment to § 2.2 B 2. Nonlicensed supervisors were approved under the board's previous regulations but under the current regulations are no longer allowed to provide supervision. These potential applicants intend to request that the board accept the supervision that they have received under nonlicensed supervisors at the time that they apply for licensure.

In addition, one third of the approximately 250 applicants for licensure have nonregistered counseling experience that they received prior to July 31, 1988, that they wish to submit to the board for the purposes of licensure. These applicants would be affected by the implementation of the board's proposed regulation, § 2.2 B 4, regarding documentation of supervision. The amendment to § 2.2 B 4 allows nonregistered supervision prior to July 31, 1988, to be considered as applicable towards licensure.

B. Projected costs to regulated entities: The amendments to § 2.2 B 2 and 2.2 B 4 do not require the payment of additional fees to the board nor the extension of a current supervisory arrangement which the trainee may have to contract with a supervisor to complete.

# Calendar of Events

**C. Projected costs to the agency for implementation and enforcement:** There are no additional projected costs to the agency for the implementation of these regulations such as additional data administration costs, fees to process, or additional staff required.

**D. Source of funds:** All funds of the Board of Professional Counselors are derived from the fees paid by licensees and applicants for licensure.

**Explanation of need proposed regulations:** Approximately 50 counselor trainees are currently working under the supervision of board-approved nonlicensed supervisors. The supervisory arrangements were approved under the board's former set of regulations but conflict with the board's existing regulation that requires all supervisors to be licensed. The emergency regulation, now proposed as a permanent regulation, allows trainees to complete their counselor training under the supervision of their original supervisors and not have their supervisory experience discounted because their supervisors are not licensed.

The board's current regulations require all supervised experience in a nonexempt setting to be preregistered with the board. No allowance is made for the retroactive approval of supervision. In the proposed regulation, the board is proposing that individuals who received counseling supervision in conformity with the board's regulations at the time it was rendered prior to July 31, 1988, but did not register that supervision be allowed to apply that supervised experience towards licensure. Supervision obtained after July 31, 1988, must be registered with the board.

**Assurance of clarity and simplicity:** Clarity and simplicity have been assured in the drafting of the regulations through an editing process involving the board, its staff and the Office of the Attorney General.

**Impact on small business:** The proposed regulations do not impact professional practice organizations.

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

Written comments may be submitted until May 11, 1989.

**Contact:** Stephanie A. Sivert, Executive Director, Department of Professional Counselors, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9912

## REAL ESTATE BOARD

**April 14, 1989 - 10 a.m. – Open Meeting**  
Old Board Chambers, 9250 Lee Avenue, Manassas, Virginia

The Real Estate Board will meet to conduct a formal administrative hearing: Real Estate Board v. Michael B. Dispennett.

**Contact:** Gayle Eubank, Hearings Coordinator, Department

of Commerce, 3600 W. Broad St., Richmond, VA 23220, telephone (804) 367-8524

## STATE BOARD OF SOCIAL SERVICES

**March 15, 1989 - 2 p.m. – Open Meeting**  
Tysons Westpark Hotel, 8401 Westpark Drive, McLean, Virginia. ☒

A work session and formal business.

If necessary, the board will also meet March 16, 1989, at 9 a.m.

**Contact:** Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9236 or SCATS 622-9236

## COMMONWEALTH TRANSPORTATION BOARD

**March 16, 1989 - 10 a.m. – Open Meeting**  
† **April 20, 1989 - 10 a.m. – Open Meeting**  
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

**Contact:** Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-9950

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

**March 21, 1989 - 7:30 p.m. – Public Hearing**  
Department of Transportation, 1221 East Broad Street, Main Hall, Auditorium, Richmond, Virginia. ☒

A public hearing on 1988 update of the State Rail Plan.

**Contact:** Billy D. Ketron, Department of Transportation, 1221 E. Broad St., Richmond, VA 23219, telephone (804) 786-1065

† **March 27, 1989 - 10 a.m. – Public Hearing**  
Tappahannock/Essex Fire Department, Route 627 (Airport Road) approximately 0.4 mile west of Route 17 in Tappahannock, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 3, 1989 - 10 a.m. – Public Hearing**  
Virginia Highlands Community College, Route 372, which

# Calendar of Events

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intersects with Route 140, 0.5 mile north of I-81 at Exit 7 in Abingdon, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 5, 1989 - 10 a.m.** - Public Hearing  
Salem District Office, Harrison Avenue north of Main Street and east of VA 311 in Salem, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 7, 1989 - 10 a.m.** - Public Hearing  
Richmond District Office, Pine Forest Drive off Route 1, one mile north of Colonial Heights, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 10, 1989 - 10 a.m.** - Open Meeting  
Suffolk District Office, 1700 North Main Street (Route 460) City of Suffolk, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 11, 1989 - 10 a.m.** - Public Hearing  
Lynchburg District Office, Route 501, 0.26 mile south of intersection Routes 460 and 501 south of Lynchburg, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 12, 1989 - 10 a.m.** - Public Hearing  
Culpeper District Office, Route 15, 0.5 mile south of Route 3 in Culpeper, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 14, 1989 - 10 a.m.** - Public Hearing  
Staunton District Office, Commerce Road (Route 11 Bypass) just north of Staunton, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 21, 1989 - 10 a.m.** - Public Hearing  
Fairfax City Hall, City of Fairfax, Virginia. ☒ (Interpreter for deaf provided if requested)

A public hearing to receive comments on highway allocations for the coming year and on updating the six-year improvement program for the interstate, primary, and urban systems.

**Contact:** Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-9950

\* \* \* \* \*

**April 20, 1989 - 2:00 p.m.** - Public Hearing  
Virginia Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to amend regulations entitled: **VR 385-01-12. Hauling Permit Travel Regulations.** The proposed regulation establishes guidelines relating to the operation of vehicles over the highways of Virginia with loads that, when reduced to their smallest dimensions, exceed the

maximum legal size and weight established by the Code of Virginia.

**Statutory Authority:** §§ 33.1-12(3) and 46.1-343 of the Code of Virginia.

Written comments may be submitted until April 20, 1989, to C. O. Leigh, Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219.

**Contact:** R. M. Ketner, III, Permit and Truck Weight Manager, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2810 or SCATS 786-2810

## State Rail Advisory Committee

**March 21, 1989 - 1:30 p.m.** - Open Meeting  
Department of Transportation, 1221 East Broad Street, Auditorium, East Room, Richmond, Virginia. ☒

Review of draft 1988 update of the State Rail Plan and discussion of proposed work program for 1989 State Rail Planning activities.

**Contact:** Billy D. Ketron, Department of Transportation, 1221 E. Broad St., Richmond, VA 23219, telephone (804) 786-1065

## TRANSPORTATION SAFETY BOARD

† **March 17, 1989 - 9:30 a.m.** - Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☒

A meeting to discuss various subjects which pertain to transportation safety.

**Contact:** John T. Hanna, Deputy Commissioner, 2300 W. Broad St., Richmond, VA 23219-0001, telephone (804) 367-6620 or SCATS 367-6620

## COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

† **June 13, 1989 (tentative) - (time to be announced)** - Public Hearing  
Location to be announced.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commission on Virginia Alcohol Safety Action Program intends to adopt regulations entitled: **VR 647-01-01. Public Participation Guidelines.** Adoption of proposed guidelines which will encourage participation of citizens in the formation and development of regulatory proposals under the Virginia Administrative Process Act.

## STATEMENT

The basis and purpose of the Commission on VASAP public participation guideline development is to have structured procedures for hearing public comments regarding the Commission on VASAP's regulations/policy and procedure manual during the regulations/manuals promulgation period and with any future substantial changes.

The estimated impact statewide of the successful implementation of these guidelines will be based on the public's views, concerns, and opinion of the procedural operations of the statewide ASAP system.

Statutory Authority: § 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until March 20, 1989.

**Contact:** Kim Morris, Executive Assistant, Commission on Virginia Alcohol Safety Action Program, 1001 E. Broad St., Box 28, Old City Hall Bldg., Richmond, VA 23219, telephone (804) 786-5895 or SCATS 786-5895

## VIRGINIA RESOURCES AUTHORITY

† **March 14, 1989 - 10 a.m.** – Open Meeting  
Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia

The board will meet (i) to approve minutes of the meeting of February 4, 1989; (ii) to review the authority's operations for the prior months; and (iii) to consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the office of the authority one week prior to the date of the meeting.

**Contact:** Shockley D. Gardner, Jr., P.O. Box 1300, Richmond, VA 23210, telephone (804) 644-3100

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Advisory Committee on Services

**April 22, 1989 - 11 a.m.** – Open Meeting  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee meets quarterly to advise the Virginia 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, SCATS 371-3145 or 371-3140/TDD ☎

## Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

**March 28, 1989 - 1:30 p.m.** – Open Meeting  
**April 25, 1989 - 1:30 p.m.** – Open Meeting  
**May 23, 1989 - 1:30 p.m.** – Open Meeting  
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒

A regular monthly meeting to facilitate the timely delivery of appropriate services to handicapped children and youth in Virginia.

**Contact:** Glen R. Slonneger, Jr., Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140

## VIRGINIA VOLUNTARY FORMULARY BOARD

**March 24, 1989 - 10 a.m.** – Public Hearing  
James Madison Building, Main Floor Conference Room, 109 Governor Street, Richmond, Virginia

The Virginia Voluntary Formulary Board will hold a public hearing on this date. The purpose of this hearing is to consider the proposed adoption and issuance of a revised Virginia Voluntary Formulary. The proposed revision to the Formulary adds and deletes drugs and drug products to the Formulary that became effective on November 15, 1988.

Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia. Written comments sent to the above address and received prior to 5 p.m. on March 24 will be made a part of the hearing record and considered by the board.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-4326 or SCATS 786-3596

## VIRGINIA WASTE MANAGEMENT BOARD

† **March 20, 1989 - 10 a.m.** – Open Meeting  
† **March 21, 1989 - 8:30 a.m.** – Open Meeting  
Charlottesville Sheraton, 2350 Seminole Trail, Charlottesville, Virginia. ☒

A general business meeting and also a work session will be held. The department will seek preliminary approval to amend the Hazardous Waste Management Regulations.

**Contact:** Loraine Williams, Executive Secretary, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667, toll-free 1-800-552-2075,



# Calendar of Events

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SCATS 225-2667 or 225-3753/TDD ☎

## STATE WATER CONTROL BOARD

**March 13, 1989 - 7 p.m. - Public Hearing**  
Town of Ashland Council Chambers, Municipal Building,  
Hanover and Thompson Streets, Ashland, Virginia

A public hearing to receive comments on the proposed issuance of a Virginia Pollutant Discharge Elimination Discharge (VPDES) Permit issued for the Town of Ashland's STP.

**March 14, 1989 - 7 p.m. - Public Hearing**  
Airfield 4-H Center Auditorium, Route 1, Box 484,  
Wakefield, Virginia

A public hearing to receive comments on the issuance or denial of the following proposed VPA permit for Smithfield-Carrots Farms:

VPA00504 Farm Nos. 16, 17 Surry Co.  
VPA00505 Farm Nos. 13, 14 Sussex Co.  
VPA00507 Farm Nos. 18, 19 & 20 Sussex Co.  
VPA00508 Farm Nos. 9, 10 & 21 Surry Co.

**March 20, 1989 - 9 a.m. - Open Meeting**  
**March 21, 1989 - 9 a.m. - Open Meeting**  
General Assembly Building, Senate Room B, Ninth and  
Broad Streets, Richmond, Virginia. ☒

A regular quarterly meeting.

**Contact:** Doneva A. Dalton, State Water Control Board,  
Office of Policy Analysis, P.O. Box 11143, 2111 N.  
Hamilton St., Richmond, VA 23230, telephone (804)  
367-6829

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**March 22, 1989 - 9 a.m. - Open Meeting**  
Howard Johnson Motor Lodge, 3207 North Boulevard,  
Richmond, Virginia. ☒

An open meeting to discuss written comments received prior to the scheduled public hearing and to conduct routine board business.

**Contact:** Geralde W. Morgan, Administrator, Department of  
Commerce, 3600 W. Broad St., Richmond, VA 23230-4917,  
telephone (804) 367-8534 or toll-free 1-800-552-3016

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**March 22, 1989 - 1 p.m. - Public Hearing**  
Howard Johnson Motor Lodge, 3207 North Boulevard,  
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled: **VR 675-01-01. Public Participation Guidelines.** The purpose of these guidelines is to solicit input of interested parties in the formation and development of regulations for the Board for Waterworks and Wastewater Works Operators.

Statutory Authority: §§ 54.1-103 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until March 6, 1989.

**Contact:** Geralde W. Morgan, Administrator, Department of  
Commerce, 3600 W. Broad St., Richmond, VA 23230-4917,  
telephone (804) 367-8534 or toll-free 1-800-552-3016

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**March 22, 1989 - 1 p.m. - Public Hearing**  
Howard Johnson Motor Lodge, 3207 North Boulevard,  
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.** The proposed regulations of the Board for Waterworks and Wastewater Works Operators provide general information, entry requirements and standards of practice for licensure as waterworks and wastewater works operators in this Commonwealth. These regulations supersede all previous regulations of the board.

Statutory Authority: §§ 54.1-103 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until March 6, 1989.

**Contact:** Geralde W. Morgan, Administrator, Department of  
Commerce, 3600 W. Broad St., Richmond, VA 23230-4917,  
telephone (804) 367-8534 or toll-free 1-800-552-3016

## COUNCIL ON THE STATUS OF WOMEN

**April 4, 1989 - 4 p.m. - Open Meeting**  
Sheraton Charlottesville Hotel, 2350 Seminole Trail (Route  
29N), Charlottesville, Virginia

**April 26, 1989 - 6:30 p.m. - Open Meeting**  
James City County Human Services Center, Auditorium,  
5249 Olde Towne Road, Williamsburg, Virginia

**May 23, 1989 - 7 p.m. - Open Meeting**  
Roanoke Airport Marriott, 2801 Hershberger Road,  
Roanoke, Virginia

A public meeting to receive information on the most important issues that affect women in Virginia, innovative ways communities have addressed specific issues, and suggestions of strategies to address specific issues in the future. The Council has identified many issues which affect Virginia's women including Aging, Child Abuse, Child Care, Divorce/Child Support, Employment, Estates, Family Life Education, Health, Housing, Leadership Development, Media/Pornography, Minority Women, Nontraditional Careers, Sexual Assault, Sex Equity in Insurance, Spouse Abuse, Reproductive Health, Teen Pregnancy, Welfare Reform and Women in Prison.

For more information on the public meeting or to register to speak contact the Council office. Written comments should be submitted to the Council Office by May 15, 1989.

**May 24, 1989 - 9 a.m. - Open Meeting**  
Roanoke Airport Marriott, 2801 Hershberger Road, Roanoke, Virginia

A regular meeting of the Council on the Status of Women 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

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### March 13

- † Conservation and Historic Resources, Department of
  - North Landing and Tributaries Scenic River Advisory Board
- Labor and Industry, Department of
  - Safety and Health Codes Board

#### March 14

- † Conservation and Historic Resources, Department of
  - Moormans Scenic River Advisory Board
- Medical Assistance Services, Board of
- † Mines, Minerals and Energy, Department of
  - Virginia Oil and Gas Conservation Board
- Montgomery/Town of Blacksburg Local Emergency Planning Committee, County of
- † Virginia Resources Authority

#### March 15

- † Contractors, Board for
  - Regulatory Review committee
- † Corrections, Board of
- Game and Inland Fisheries, Board of

- † Indians, Council on
- Longwood College
  - Board of Visitors
- Marine Products Board, Virginia
- Medical Assistance Services, Board of
- Social Services, State Board of

#### March 16

- † Conservation and Historic Resources, Department of
  - Virginia Soil and Water Conservation Board
- Criminal Justice Services Board
  - Committee on Criminal Justice Information Systems
- Danville Local Emergency Planning Committee
- Medicine, Board of
- Mental Health, Mental Retardation and Substance Abuse Services Board, State
  - Prevention and Promotion Advisory Council
- Mental Health, Mental Retardation, and Substance Abuse Services; University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education, Office of Continuing Legal Education and Office of Continuing Medical Education, Department of
- † Peanut Board, Virginia
- Polygraph Examiners Advisory Board
- Transportation Board, Commonwealth

#### March 17

- Health, State Board of
- Medicine, Board of
- Mental Health, Mental Retardation and Substance Abuse Services; University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education, Office of Continuing Legal Education and Office of Continuing Medical Education, Department of
- † Museum of Fine Arts, Virginia
  - Accessions Committee
- † Pork Industry Board, Virginia
- Prince William County, Manassas City, and Manassas Park City Local Emergency Planning Committee
- † Transportation Safety Board

#### March 18

- Medicine, Board of
  - Advisory Board on Physical Therapy
- † Museum of Fine Arts, Virginia
  - Finance Committee
  - Full Board of Trustees

#### March 19

- † Medicine, Board of

#### March 20

- Cosmetology, Board for
- Local Government, Commission on
- † Waste Management Board, Virginia
- Water Control Board, State

#### March 21

- † Housing Development Authority, Virginia
- Transportation, Department of
  - State Rail Advisory Committee

# Calendar of Events

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† Waste Management Board, Virginia  
Water Control Board, State

## March 22

† Community Colleges, State Board for  
Dentistry, Board of  
† Information Management, Council on  
† Lottery Board, State  
Mental Health, Mental Retardation and Substance  
Abuse Services Board, State  
† Mental Health, Mental Retardation and Substance  
Abuse Services, Department of  
- State Human Rights Committee  
† Pharmacy, Board of  
Waterworks and Wastewater Works Operators, Board  
for

## March 23

Commerce, Board of  
† Community Colleges, State Board for  
† Health Professions, Department of  
- Compliance and Disciplinary Committee  
† Pharmacy, Board of

## March 24

† Building Code Technical Review Board, State  
† Professional Counselors, Board of

## March 27

† Air Pollution Control, Department of  
Land Evaluation Advisory Council, State  
Nursing, Board of

## March 28

† Geology, Board for  
† Health Professions, Department of  
- Regulatory Evaluation and Research Committee  
† Health Services Cost Review Council, Virginia  
Nursing, Board of  
Visually Handicapped, Department for the  
- Interagency Coordinating Council on Delivery of  
Related Services to Handicapped Children

## March 29

† Conservation and Historic Resources, Department of  
- Goose Creek Scenic River Advisory Board  
Nursing, Board of

## March 30

† Education, State Board of

## March 31

† Architects, Board for  
† Education, State Board of  
Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee

## April 1

Military Institute, Virginia  
- Board of Visitors

## April 3

† Conservation and Historic Resources, Department of  
- Division of Soil and Water Conservation

## April 4

† Hopewell Industrial Safety Council  
Women, Council on the Status of

## April 5

† Children, Department for  
- Consortium on Child Mental Health  
† Funeral Directors and Embalmers, Board of

## April 6

Chesterfield County, Local Emergency Planning  
Committee of  
† Conservation and Historic Resources, Department of  
- Division of Soil and Water Conservation

## April 10

† Conservation and Historic Resources, Department of  
- Division of Soil and Water Conservation

## April 12

† Contractors, Board for

## April 13

Boating Advisory Board, Virginia  
† Contractors, Board for

## April 14

† Housing and Community Development, Department  
of  
Nursing and Medicine, Committee of the Joint Boards  
of  
Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee  
Real Estate Board

## April 17

† Housing and Community Development, Department  
of

## April 18

† Housing and Community Development, Department  
of

## April 19

† Housing and Community Development, Department  
of

## April 20

† Transportation Board, Commonwealth

## April 22

Visually Handicapped, Department for the  
- Advisory Committee on Services

## April 24

Funeral Directors and Embalmers, Board of

# Calendar of Events

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**April 25**

Visually Handicapped, Department for the  
- Interagency Coordinating Council on Delivery of  
Related Services to Handicapped Children

**April 26**

† Education, State Board of  
Women, Council on the Status of

**April 27**

† Education, State Board of

**April 28**

Air Pollution Control, Department of  
† Education, State Board of  
Prince William County, Manassas City, and Manassas  
Park City Local Emergency Planning Committee

**May 2**

† Hopewell Industrial Safety, Council

**May 3**

† Children, Department for  
- Consortium on Child Mental Health

**May 15**

† Agricultural Council, Virginia

**May 19**

† Correctional Education, Board of

**May 22**

Health, State Board of

**May 23**

Visually Handicapped, Department for the  
- Interagency Coordinating Council on Delivery of  
Related Services to Handicapped Children  
Women, Council on the Status of

**May 24**

Women, Council on the Status of

**May 25**

† Education, State Board of

**May 26**

† Education, State Board of

**June 7**

† Children, Virginia Department for  
- Consortium on Child Mental Health

## PUBLIC HEARINGS

**March 13**

Water Control Board, State

**March 14**

† Mines, Minerals and Energy, Department of

- Virginia Oil and Gas Conservation Board  
Water Control Board, State

**March 16**

Game and Inland Fisheries, Board of

**March 17**

Game and Inland Fisheries, Board of

**March 21**

† Transportation, Department of

**March 22**

Air Pollution Control, Department of  
Waterworks and Wastewater Works Operators, Board  
for

**March 24**

Voluntary Formulary Board, Virginia

**March 27**

† Transportation, Department of

**March 30**

Education, State Board of

**March 31**

† Education, State Board of

**April 3**

† Transportation, Department of

**April 5**

† Transportation, Department of

**April 7**

† Transportation, Department of

**April 10**

† Transportation, Department of

**April 11**

† Transportation, Department of

**April 12**

† Transportation, Department of

**April 14**

† Transportation, Department of

**April 20**

Transportation, Department of

**April 21**

† Transportation, Department of

**April 28**

Mines, Minerals and Energy, Department of

**May 3**

Criminal Justice Services Board

# Calendar of Events

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**May 17**

Agriculture and Consumer Services, Department of

**June 13**

† Virginia Alcohol Safety Action Program, Commission  
on