

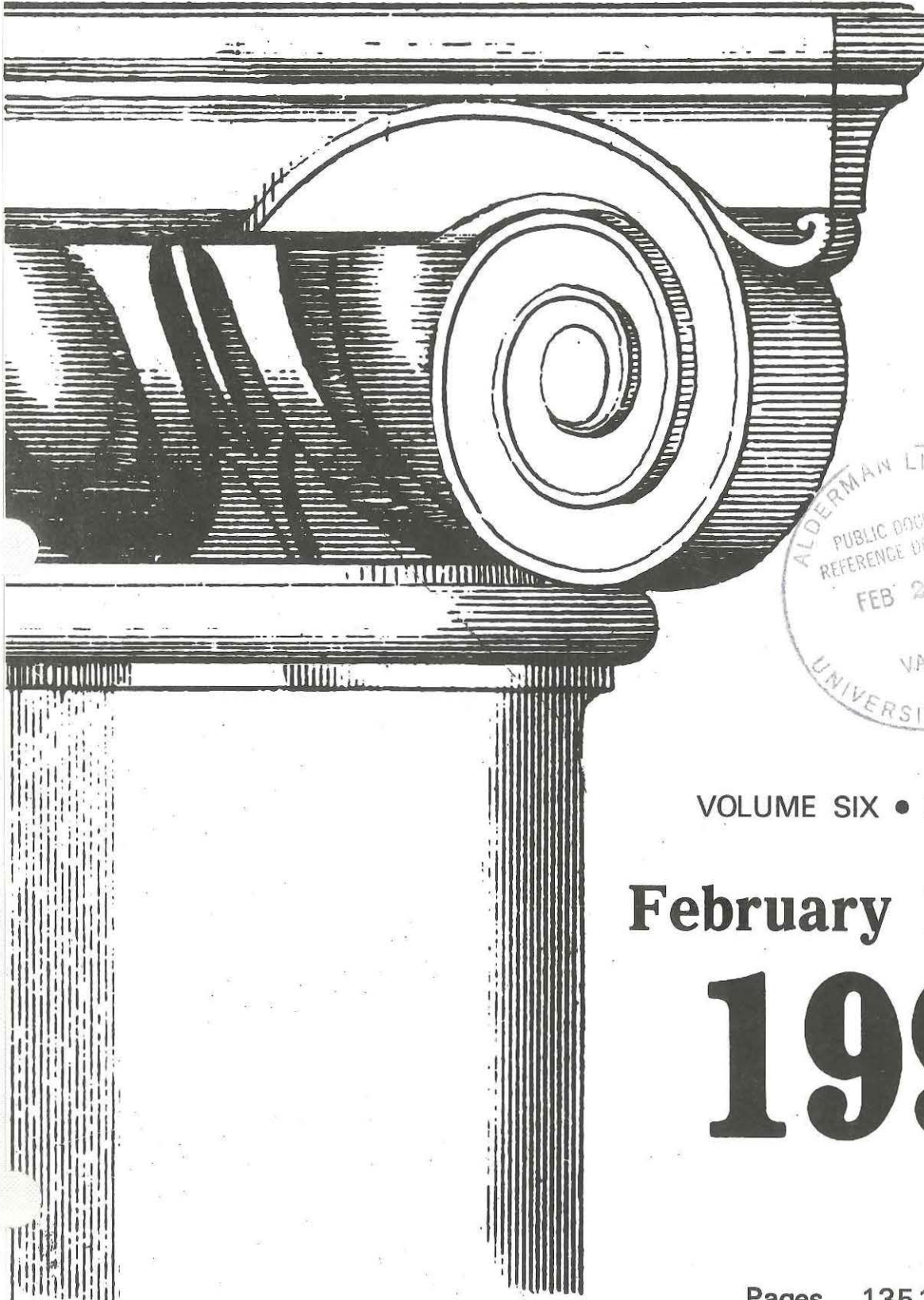
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# THE VIRGINIA REGISTER

OF REGULATIONS

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February 12, 1990

# 1990

Pages 1351 Through 1494

## 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.

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# PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

## Symbol Key

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

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: VR 271-01-0012. Standards for Accrediting Public Schools in Virginia.

Publication Date: 6:8 VA.R. 1109-1129 January 15, 1990

**NOTICE:** The Department of Education is requesting that the proposed amendments to the regulations entitled Standards for Accrediting Public Schools in Virginia (VR 271-01-0012) be **WITHDRAWN**.

The department wishes to withdraw the proposed amendments because new programmatic initiatives (such as the Educational Performance Recognition Program) being implemented by the Board of Education at this point will require major changes to the accreditation standards within the near future and the department staff wishes to propose all amendments at one time. We believe this will present the public with a cohesive package of amendments and will, thus, make public comment easier and more effective.

## VIRGINIA EMPLOYMENT COMMISSION

Title of Regulation: VR 300-01-3. Benefits.

Publication: 6:2 VA.R. 121-127 October 28, 1989,

After conducting a public hearing on January 3, 1990, regarding the proposed amendments which were published in Volume 6, Issue 2 of the Virginia Register, the Virginia Employment Commission has chosen to **WITHDRAW** them in accordance with the procedure outlined in the Virginia Register Form, Style, and Procedure Manual.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-17-01. Commonwealth of Virginia Sanitary Regulations for Marinas and Boat Moorings.

Statutory Authority: § 32.1-246 of the Code of Virginia.

### Public Hearing Dates:

April 17, 1990 - 10 a.m.

April 19, 1990 - 10 a.m.

April 20, 1990 - 10 a.m.

(See Calendar of Events section for additional information)

### Summary:

*The regulations require all marinas and boat moorings to provide onshore toilet facilities, sewage dump stations and boat sewage holding tank pump-out facilities for the use of boaters. The amendments to the regulations consist of the following changes: (i) add a definition for dry storage in relation to requirements for sanitary facilities, (ii) establish the amount of sewage flow from boat dry storage facilities, (iii) allow flexibility in the amount of sewage flow from marina establishments where water saving devices are being installed, (iv) exempt marinas from providing boat sewage holding tank pump-out service if they arrange for an agreement with another marina to provide that service to their customers; also, minimum specifications are established for inclusion in the agreement, and (v) require placarding of pump-out facilities indicating any fees, restrictions and other operating instructions as necessary.*

*These amendments will be less burdensome on those regulated, as flexibility for sewage flows are allowed and procedures to be exempt from pump-out requirements are set forth.*

VR 355-17-01. Commonwealth of Virginia Sanitary Regulations for Marinas and Boat Moorings.

## PART I. INTRODUCTION.

### Article 1. Definitions.

§ 1.1. As used in these regulations, the words and terms hereinafter set forth shall have the following meanings respectively, unless the context clearly requires a different meaning.

*"Board"* means the State Board of Health.

*"Boat"* means any vessel or other watercraft, privately owned or owned by the Commonwealth or any political subdivision thereof, whether moved by oars, paddles, sails or other power mechanism, inboard or outboard, or any other vessel or structure floating on water in the Commonwealth of Virginia, whether or not capable of self-locomotion, including but not limited to cruisers, cabin cruisers, runabouts, houseboats and barges. Excluded from this definition are commercial, passenger and cargo carrying vessels subject to the Quarantine Regulation of the United States Public Health Service adopted pursuant to Title 42 of the United States Code and ships or vessels

# Proposed Regulations

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of the U.S. Government and boats which are tenders to larger boats moored or stored at the same facility .

**"Bureau"** means the Bureau of Wastewater Engineering, Department of Health.

**"Certificate"** means a written approval from the Commissioner of Health or his designated representative indicating that plans for sanitary facilities and sewage facilities meet or satisfy the minimum requirements of these regulations and § 32.1-246 of the Code of Virginia.

**"Commissioner"** means the State Health Commissioner whose duties are prescribed in § 32.1-19 of the Code of Virginia.

**"Division"** means the Division of Wastewater Engineering, Department of Health.

**"Dry storage"** means a boat storage or parking space, whether covered or uncovered, at a marina or other place where boats are moored for the purpose of storing boats on land between use.

**"Marina"** means any installation, operating under public or private ownership, which provides dockage or moorage for boats (exclusive of paddle or rowboats) and provides, through sale, rental or fee basis, any equipment, supply or service (fuel, electricity or water) for the convenience of the public or its leasee, renters or users of its facilities.

**"Marine sanitation device"** means any equipment, piping and appurtenances such as holding tanks for installation on board a boat which is designed to receive, retain, treat or discharge sewage and any process to treat such sewage.

**"Other places where boats are moored"** means any installation operating under public or private ownership, which provides dockage, moorage or mooring for boats (exclusive of paddle or rowboats) either on a free, rental or fee basis or for the convenience of the public.

**"Owner"** means the Commonwealth or any of its political subdivisions and any public or private institution, corporation, association, firm or company organized or existing under the laws of this or any other state or county, or any person or group of persons acting individually or as a group who owns a marina or other place where boats are moored.

**"Pump-out facilities"** means any device, equipment or method of removing sewage from a marine sanitation device. Also, it shall include any holding tanks either portable, movable or permanently installed, and any sewage treatment method or disposable equipment used to treat, or ultimately dispose of, sewage removed from boats.

**"Sanitary facilities"** means bathrooms, toilets, closets and other enclosures where commodes, stools, water closets, lavatories, showers, urinals, sinks or other such plumbing

fixtures are installed.

**"Sanitary or domestic sewage"** means the spent water or wastewater containing human excrement coming from the toilets, bathrooms, commodes and holding tanks.

**"Seasonal slips"** means any slip which is used, rented, leased or otherwise made available for mooring or docking of boats during the normal boating season, usually from April through September, or for any period greater than 30 days.

**"Sewage from boats"** includes the wastewater removed from holding tanks.

**"Sewage"** means the spent water or wastewater containing human excrement coming from toilets, bathrooms, commodes and holding tanks.

**"Sewage treatment or disposal systems"** means device, process or plant designed to treat sewage and remove solids and other objectionable constituents which will permit the discharge to another approved system, or an approved discharge to state waters or disposal through an approved subsurface drainfield or other acceptable method, such as incineration.

**"Sewerage facilities"** means entire sewage collection and disposal system including commodes, toilets, lavatories, showers, sinks and all other plumbing fixtures which are connected to a collection system consisting of sewer pipe, conduit, holding tanks, pumps and all appurtenances, including the sewage treatment or disposal system.

**"Transient slips"** means temporary docking or mooring space which may be used for short periods of time, including overnight, days, or weeks, but less than 30 days.

## Article 2. General Information.

### § 1.2. Authority for regulations.

Section 32.1-246 of the Code of Virginia provides that the State Board of Health is empowered and directed to promulgate all necessary rules and regulations establishing minimum requirements as to adequacy of sewerage facilities at marinas and other places where boats are moored. These facilities should be sufficient to serve the number of boat slips or persons such marinas and places are designed to accommodate, regardless of whether such establishments serve food.

### § 1.3. Purpose of regulations.

These regulations have been promulgated by the State Board of Health to:

1. Insure *Ensure* adequate sanitary facilities and pump-out facilities, as defined in § 1.1 and required by § 2.2 of this regulation, are provided at all marinas

and other places where boats are moored;

2. Establish minimum requirements as to the adequacy of sewerage facilities at marinas and other places where boats are moored;

3. Guide the State Board of Health in its determination of the adequacy of the sewerage facilities to serve marinas and places where boats are moored;

4. Guide the State Board of Health in its approval of plans and other data and the issuance of a certificate as to the adequacy of sanitary and sewerage facilities.

5. Notify the Marine Resources Commission that a certificate has been issued; and

6. Assist the owner or his authorized engineer in the preparation of an application and supporting data, as may be required. (See § 1.7)

## § 1.4. Administration of regulations.

These regulations are administered by the following parties:

1. The State Board of Health has responsibility for promulgating, amending and repealing regulations which ~~insure~~ ensure minimum requirements as to adequacy of sewerage facilities at marinas and other places where boats are moored.

2. The State Health Commissioner.

3. The ~~Bureau~~ Division of Wastewater Engineering is designated as the primary reviewing agent of the board for the purpose of administering these regulations. It examines and passes upon the technical aspects of all applications, plans and specifications for sewerage facilities to serve marinas and other places where boats are moored. It issues all certificates attesting to the adequacy of the sewerage facilities and notifies the Marine Resources Commission when a certificate is issued or denied.

4. The ~~Office of Management~~ Deputy Commissioner for Community Health Services directs and supervises the activities of the local health departments in the administration of assigned duties and responsibilities under the regulations.

5. The local health department in each jurisdiction, city, town or county in which there exists, or is proposed, a marina or other place where boats are moored shall (i) be responsible for the processing of all applications submitted by owners, (ii) inspect sites and facilities provided, (iii) issue such permits as required by law, rules or regulations for sewerage facilities and, (iv) lacking in authority to issue a permit, will process such applications in accordance

with the policies and procedures of the department. The local health department shall conduct a surveillance program and enforce the provisions of these regulations to ~~insure~~ ensure proper sanitation and cleanliness of the facilities provided.

6. The ~~Division~~ Office of Water Programs of the Department of Health of the Commonwealth of Virginia is responsible for the review and approval of sewage treatment works where there is a discharge to state waters, in accordance with the regulations, policies and procedures of the Health Department and the State Water Control Law, §§ 62.1-44.2 through 62.1-44.34 of the Code of Virginia.

## § 1.5. Application of regulations to marinas and other places where boats are moored.

A. Marinas or other places where boats are moored which are not in compliance with the Rules and Regulations of the Board of Health Governing Sanitary and Sewerage Facilities at Marinas and Other Places Where Boats Are Moored which became effective November 15, 1975, shall comply with these regulations.

B. All planned or new marinas or other places where boats are moored which do not exist on the effective date of this regulation shall comply with all provisions of this regulation prior to commencing operation.

C. All sanitary or sewerage facilities shall conform to the requirements of this regulation when the marina or other place where boats are moored are either expanded, altered or modified.

## Article 3. Procedure.

## § 1.6. Certification general.

No owner shall operate a marina or other place where boats are moored unless he complies with the provisions of § 32.1-246 of the Code of Virginia and these regulations. Owners shall have in their possession a permit from the Marine Resources Commission to operate a marina or place where boats are moored when so required by § 62.1-3 of the Code of Virginia. Where state-owned bottom lands are involved, a plan approved by the department shall be issued prior to construction and the issuance of a certificate to operate.

## § 1.7. Application for certificate.

Any owner, or his duly authorized representative, may make application for a certificate of approval of sanitary or sewerage facilities by applying to the local health department in the jurisdiction where the proposed marina or other place where boats are moored is to be located. The application shall be made on a form supplied by the local health department. The application shall consist of the following:



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1. A completed application form which shall set forth the essential data to determine the sewerage facilities necessary to serve the proposed installation;

2. Maps, plans and specifications of the sanitary and sewerage facilities describing how and what facilities will be provided. The plans shall establish the location of the sanitary facilities in relation to other facilities;

3. A description of the proposed method of sewage treatment or disposal. Approval of the treatment works or disposal system must be applied for and obtained under other sections of the Code of Virginia and other regulations; and

4. Any other data as may be pertinent to show the adequacy of sanitary or sewerage facilities to be provided.

## § 1.8. Receipt of data.

Upon receipt of the data set forth in § 1.7 of these regulations in sufficient detail and clarity so as to show that the sewerage facilities meet requirements of these regulations, a plan approval or disapproval will be issued by the Department of Health.

### A. Construction.

Upon completion of construction of the sanitary and sewerage facilities at marinas and other places where boats are moored, the owner of the facility, or his duly authorized representative, shall notify the local health department. A certificate to operate shall be issued by the Health Department when it has been determined that construction is in compliance with the approved plan.

### B. Operation.

All marinas and other places where boats are moored shall hold a valid certificate to operate in the Commonwealth of Virginia.

## § 1.9. Variances.

The commissioner may grant a variance to any requirement of this regulation if, after investigation, it is determined that the hardship imposed upon the owner or the public by compliance with these regulations outweigh the benefits that the regulations confer, or that there is no potential or actual public health hazard.

### A. Effect of variance.

A variance is a conditional waiver of a specific regulation which is granted to a particular or designated marina or other place where boats are moored. It is nontransferable and it shall be attached to the certificate of the marina or other place where boats are moored to which it was granted. The variance is a condition of the certificate which is revoked if the certificate is revoked.

### B. Application for a variance.

Any owner of a marina or other place where boats are moored may apply in writing for a variance. This application shall be submitted to the local health department in the jurisdiction in which the marina or other place where boats are moored is located. This application shall include:

1. A citation to the regulation from which a variance is requested;

2. A statement of reasons why the public health and environment would not be detrimentally affected if a variance is granted, and a list of suggested measures that would be implemented to prevent any potential detrimental impacts; and

3. Facts supporting the need and justification for the variance.

## § 1.10. Suspension or revocation of a certificate.

The board may revoke or suspend a certificate for failure to construct and operate the sewerage facilities in accordance with the conditions of the application and certificate issued or for any violation of this regulation.

## § 1.11. Administration appeals.

Any applicant or certificate holder who is aggrieved by an adverse decision of the commissioner may appeal in writing within 30 days after the notification of the adverse decision and request a fair hearing. Within 30 days of receipt of notification of appeal, the commissioner shall set a date and place for such hearing. Not later than 30 days following the hearing, the commissioner shall issue a final order with respect to the disposition of the appeal. Such hearing, notice and proceedings shall be conducted pursuant to the Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

## PART II. REQUIRED FACILITIES FOR MARINAS AND OTHER PLACES WHERE BOATS ARE MOORED AND THEIR OPERATION.

## § 2.1. General.

A. All marinas or other places where boats are moored shall provide the minimum number of sanitary facilities for their patrons. These facilities shall be maintained in a clean and sanitary condition. They shall be equipped with toilet tissue, lights *where electricity is available* and soap *and towels* where handwashing facilities are required; ~~soap and towels~~. These facilities shall be available to patrons and users of these facilities at all times during the normal boating season.

B. Marinas which are operated as part of residential developments, overnight lodging facilities, restaurants or

# Proposed Regulations

commercial establishments, which are located within 1,000 feet of the shore end of the pier, are exempted from providing separate sanitary facilities, as long as the sanitary facilities at the residence, lodging establishment, restaurant or commercial establishment are available to all users of the marina. This exception does not apply to (i) marinas associated with restaurants or commercial establishments which allow overnight occupancy of boats and (ii) marinas associated with overnight lodging establishments where overnight occupancy of boats is permitted by persons not registered at the overnight lodging establishment.

C. Exempt from the requirements of subsection A are other places where boats are moored which serve residents of homes (houses, condominiums, apartments or mobile homes), their bonafide house guests, or registered guests of tourist establishments which provide adequate sanitary facilities that are located within 1,000 feet of the shore end of the pier.

D. In order to qualify for an exemption under subsections B or C, the owner of such marinas or other places where boats are moored shall provide to the department a signed, notarized statement that all conditions set forth in the aforementioned sections will be complied with by users of the facilities.

## § 2.2. Location.

Adequate sanitary facilities shall be conveniently located within 500 feet walking distance from the shore end of any dock they are intended to serve or within a reasonable distance under unusual circumstances as determined by the *bureau division*. It may be necessary to provide sanitary facilities in more than one location in order to meet the needs of the particular site developed.

## § 2.3. Availability and marking of sanitary facilities.

The sanitary facilities shall be available and readily accessible to users. They shall be appropriately marked with signs readily identifiable to all personnel who might desire to use the facilities.

## § 2.4. Marinas.

A. Minimum number of fixtures to be provided in sanitary facilities.

It shall be understood that in many instances the site layout and the use of the marina may require more fixtures than are shown in the table below. If the board, after observation and study, determines that additional fixtures or buildings housing sanitary facilities are necessary, the owner shall provide the additional fixtures so determined. ~~The Table No. 1 below shows the minimum number of fixtures to be provided~~ *Where dry storage space is provided, each dry storage space is equivalent to one-third of a seasonal slip. The minimum number of fixtures required is contained in Table No. 1 and is based*

*upon the total number of seasonal slips or their equivalent. Separate facilities for male and female personnel shall be provided in a structure or structures.*

Table No. 1

Number of Seasonal Slips	Commodes		Urinals	Lavatories		Showers	
	Male	Female	Male	Male	Female	Male	Female
0-49	1	1	0	1	1	0	0
50-99	1	2	1	1	1	0	0
100-149	2	3	1	2	2	1	1
150-199	2	4	2	3	3	2	2
200-249	3	5	2	4	4	2	2

When the number of seasonal slips exceeds those above on Table No. 1 additional fixtures shall be provided. One commode, lavatory and shower will be provided for each sex for each 100 additional seasonal slips. A urinal may be substituted for a commode when the number of seasonal slips exceeds 100 of the Table No. 1 values. Showers are not required for dry storage boat usage.

## B. Transient slip.

When transient slips are available additional sanitary facilities shall be provided. Table No. 2 below shows the minimum number of additional fixtures required. These fixtures may be included in a structure or structures with those fixtures provided for the seasonal slip, provided the accessibility and convenience standards of §§ 2.2 and 2.3 of these regulations are met.

Table No. 2

Number of Transient Slips	Commodes		Urinals	Lavatories		Showers	
	Male	Female	Male	Male	Female	Male	Female
0-24	1	1	1	1	1	1	1
25-49	1	2	1	2	2	2	2
50-74	2	3	1	2	2	2	2
75-100	2	4	2	3	3	3	3

For each 24 or fraction thereof of transient slips or moorings in excess of those shown in Table No. 2 above, one commode, lavatory and shower shall be provided for each sex. In addition, one urinal shall be provided for each 50 or ~~fractions~~ *fraction* thereof transient slips in excess of the number shown in Table No. 2.

## § 2.5. Sanitary facilities at other places where boats are moored.

Where piped water is available, sanitary facilities shall consist of a minimum of one commode and one lavatory for females and one commode and one lavatory for males *for each 100 seasonal slips or fraction thereof and each 50 transient slips or fraction thereof. Requirements for dry storage boat usage shall be identical to those specified in § 2.4 for marinas.* Sanitary facilities may consist of pit privies where piped water is not available. Walking distance to these facilities shall comply with § 2.2.

## § 2.6. Sewage treatment.

Public or municipal sewage treatment facilities shall be used if there is reasonable access to sewers. When such municipal means of disposal is not available, the owner shall have designed and installed an approved method of

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sewage treatment. Approved methods of sewage treatment are set forth in the Sewerage Regulations (1977) or the Sewage Handling and Disposal Regulations (1982, as amended). *If permanent water conservation devices are provided, the sewage flow requirements specified in subsections A and B of this section may be reduced upon written approval of the division.*

A. The following shall be used to determine the amount of sewage flow.

It is assumed that each slip or dry storage space represents two persons. At marinas providing toilet facilities only, the flow figure shall be 10 gallons per person per day. At marinas providing toilet and shower facilities, the flow figure shall be 16 gallons per person per day except at marinas with only seasonal slips, where the flow figure shall be 10 gallons per person per day for the first 99 slips, regardless of whether showers are available, and 16 gallons per person per day for all slips above the 99 slips. For both wet and dry storage facilities it is assumed that each boat trailer parking space represents two persons. The sewage flow will be five gallons per person per day. *the sewage flow shall be calculated using one-third the number of dry storage spaces. In addition, for marinas or other places where boats are moored which have a boat launching ramp and provide boat trailer parking spaces only while the boat is in use, the design sewage flow shall be increased by 10 gallons per day per boat trailer parking space.*

B. Where restaurants or motels are operated in connection with a marina or place where boats are moored the following shall be used as a basis for determining the amount of sewage flow:

Motels - 65 gallons per person per day or a minimum of 130 gallons per room per day.

Restaurant - 50 to 180 gallons per seat per day. Each installation will be evaluated according to conditions.

C. The occupancy level of boats used for design of sewage treatment or disposal facilities will be those levels listed in § 2.6 A of these regulations. It is recognized that the type of activity and utilization of marina or places where boats are moored varies and, therefore, additional facilities to provide capacity up to maximum may be required if the need arises. The local health director serving the area in which the marina is located shall make such determination.

§ 2.7. All marinas and other places where boats are moored which allow overnight docking or mooring of boats and all marinas, regardless of size or number of boat moorings, shall have means or provide pump-out facilities for pumping or removing sewage from boats. These pump-out facilities shall include all the equipment, structures and treatment or disposal facilities necessary to ultimately discharge or dispose of this boat sewage in an efficient and sanitary manner without causing an actual or

potential public health hazard. Exempt from this requirement are marinas and other places where boats are moored which do not allow boats with an installed toilet with a discharge overboard or sewage holding tank to use any of the services provided, including moorage, except in an emergency. In order to qualify for this exemption, the owner of such marina or other place where boats are moored shall provide the department with a signed notarized statement that boats with installed toilets with overboard discharges or sewage holding tanks shall not be permitted to use the marina or other places facilities.

A. Availability and operation.

Where pump-out facilities are required, the owner shall install, maintain in good operating condition and provide pump-out during normal working hours to users of the marina or other places where boats are moored *except in those cases where adequate facilities are provided in accordance with subsection B of this section, then, the normal working hours requirement will apply to the facility using the agreement, as well as the facility with the alternate pump-out service.*

B. Alternate pump-out service.

*Marinas and other places where boats are moored which provide less than 25 seasonal (or transient) slips for boats of 26 feet or more in length and less than 10 seasonal (or transient) slips for boats of 40 feet or more in length may be exempted from the requirement to install pump-out facilities. Such exemption will be granted by the director of the division whenever alternate pump-out service is provided at a nearby marina or other place where boats are moored, and is evidenced by an agreement signed and notarized by both parties in accordance with the requirements of this section, and filed with the division. Such alternate pump-out service will only be approved by the division when the following criteria are met:*

1. *That the alternate pump-out service will not require more than 20 minutes to complete from the time a boater requests to have his sewage holding tank pumped and has his boat in place ready to receive the service. The pump-out service for holding tanks of 50-gallon capacity or more (sewage holding) may exceed twenty minutes;*

2. *That the alternate pump-out service shall be located within three miles, as measured along the water route, of the facility using the agreement unless the alternate pump-out service is located along the normal travel route to open water, in which case the facility using the agreement shall be within five miles of the alternate pump-out service;*

3. *That the alternate pump-out service capacity is sufficient to handle the demand for pump-out service, in accordance with subsection C of this section, that is expected for all of the marinas or other places*

where boats are moored entering into the above-mentioned agreement;

4. That a notice shall be posted in a conspicuous location, at the marina or other place where boats are moored not installing pump-out service, that specifies the location of the alternate pump-out service; and

5. The terms of the agreement provide:

a. That the alternate pump-out service will be available to all boats moored at each facility and it will state that the alternate pump-out facility will furnish pump-out services to anybody referred to it by the establishment using the agreement to provide pump-out service, as specified by these regulations; and

b. That the agreement will be valid for one year and will be automatically renewable on the anniversary date, unless either party gives at least a 60-day termination notice to the other and to the director of the division prior to the renewal date.

6. If a termination notice is issued to a facility using an agreement to provide alternate pump-out service, in accordance with § 2.7 B, then that facility shall either provide pump-out service or obtain a new written agreement, in accordance with § 2.7 B, by the effective date of the termination of alternate pump-out service.

## B. C. Minimum design criteria for pump-out facilities.

The purpose of these minimum design criteria is to provide the owner and the Department of Health with acceptable methods for pumping, storing, conveying and treatment of the contents from boat holding tanks. The owner shall furnish the following information for each proposed pump-out facility:

1. Pumping equipment - pump equipment may be fixed or portable ; however, this equipment shall be conveniently located for usage and clearly identified or placarded by signs or other notices, indicating any fees, restrictions or other operating instructions, as necessary . A minimum pump capacity of 10 gpm ~~will be permitted~~ is acceptable at the operating head required to transport the flow to the proper collection or treatment location with such residual head as may be required ; however, at marinas with 51 or more slips, greater pumping capacity may be required. Pumps shall be of a macerator type or have sufficient size suction and discharge openings to prevent clogging. Manually operated pumps are not permitted. Pump data from the manufacturer shall include:

a. The type of pump (diaphragm or centrifugal, and power);

b. Rated capacity (gpm, hp. and head);

c. Motor type (electric or gas) ; if power operated ; and

d. Suction and discharge opening size.

2. Location schematic - if fixed pump-out equipment is proposed, a schematic of the location with elevations for items a, b, c, d and e, as described below, shall be included, or if portable pump-out equipment is proposed, a schematic shall indicate elevations for items a, c, f and g, as described below:

a. Mean low water level;

b. Elevation of dock;

c. Greatest elevation of suction center line of pump;

d. Elevation of discharge point;

e. Highest point in discharge line;

f. Type of dock (floating or stationary); and

g. Greatest elevation of any dock.

All elevations shall be measured with respect to mean low water. If the elevation of mean low water is not known, assume it to be zero.

3. Fittings and hose (piping) - fittings and hoses (piping) which are used in operation of a pump-out facility shall meet the following:

a. Suction hose.

(1) A friction nozzle (right angle preferred) or wand-type attachment is to be provided on the end of the suction hose. Adapters shall be provided to fit any discharge connection from 1.5 to 4 inches in diameter.

(2) A check valve shall be provided on the suction hose at the nozzle.

(3) The hose shall be made of flexible, heavy-duty material that will be noncollapsing and nonkinking. The length of this line shall be determined on an individual case basis.

(4) If the suction line is to be installed in such a manner that sewage would discharge from the line when the pump is removed for service, a gate valve shall be provided on the pump end of the suction line.

b. Discharge hose and piping.

(1) The discharge hose or piping shall be equipped

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with watertight, permanent or positive locking type fittings and connections.

(2) Where flexible discharge hose is used, the hose shall be made of heavy-duty material and be nonkinking and noncollapsing.

c. Discharge line.

(1) A gate valve shall be provided on the discharge line at the pump;

(2) Suitable connections on the end of the discharge line shall be provided to prevent it from coming loose during discharge; all nozzles and fittings are to be positive locking, male and female.

(3) The discharge line must not be subject to freezing or leaking into the water course.

(4) Sewer lines on piers shall be located below water distribution lines. Water and sewer line separation and sewer line, water source separation requirements are set forth in the Waterworks Regulations and the Sewage Handling and Disposal Regulations.

(5) The discharge line connection to the pump-out receiving facility shall be fixed in place in such a manner as to prevent it from coming loose during discharge.

d. Pump-out facilities shall include equipment for rinsing the boats' holding tanks. Where potable water will be used for rinsing the holding tank, a backflow prevention device shall be installed on the water service line. A minimum of a hose bib type vacuum breaker shall be provided.

4. Other devices or methods of removal. Other devices or methods of removal of contents from boat holding tanks may be approved by the Commissioner on an individual case basis.

5. Onshore facilities. Contents from boat holding tanks shall be discharged to (i) a public wastewater collection system in which sewage is conveyed to an approved treatment facility; (ii) a holding tank whereby sewage may be stored until it is taken in an approved manner to an approved treatment facility; or (iii) directly to an approved sewage treatment facility.

a. For discharge to a public wastewater collection system, the following will be required: The owner of the marina or other place where boats are moored shall submit evidence, in writing, (i) of consent from the owner of the system, (ii) from the owner of any conveyance systems located downstream, which may be affected, and (iii) from the owner of the ultimate treatment facility. Verification shall be given that there are satisfactory provisions for

emptying the contents from portable toilets in a sanitary manner.

b. If sewage is to be stored in a holding tank, the holding tanks shall be sized, constructed and located to meet the criteria.

(1) Size of holding tank.

Marinas or other places where boats are moored shall size the holding tanks based upon the following tabulations:

Total Number of Boats Serviced with Holding Tanks	Required Onshore Holding Tank - Volume (gallons) Minimum
1 - 20	250
21 - 40	500
41 - 60	725
61 - 80	1000
81 - 100	1200
100+	2000

(2) Construction of holding tank.

(a) The holding tank shall be designed so that it is watertight and not subject to any infiltration or any leakage.

(b) When holding tanks are made of material other than concrete, the internal surface of the holding tank shall be protected from corrosion. Materials used in the manufacture and installation of holding tanks shall be resistant to deterioration by prolonged or frequent contact with deodorizing chemicals, sewage decomposing chemicals, sewage, freshwater and saltwater.

(c) When holding tanks are made of material other than concrete, the outside surface of the holding tank shall be protected from corrosion.

(d) The holding tank shall be constructed of materials capable of withstanding the forces exerted on its walls.

(e) The holding tank shall be fixed in place unless it is part of an approved mobile pump-out unit.

(f) Provisions shall be made to assure that the holding tank can be completely emptied. The tank shall be essentially emptied when pumped out.

(g) The holding tank shall be adequately vented. Screened, elbowed down vents installed at the top of the tank will serve this requirement.

(h) The inlet/outlet of the holding tank shall be compatible with the proposed method of removal.

(i) There shall be satisfactory provisions for emptying the contents from portable toilets in a sanitary manner.

(3) Holding tank location.

Separate distance between holding tank and various structures and features are contained in Table 4.4 of the Sewage Handling and Disposal Regulations.

(4) Any person who removes, or contracts to remove, and transport by vehicle, the contents of a holding tank shall have a written sewage handling permit issued by the Commissioner (see the Sewage Handling and Disposal Regulations).

c. Sewage treatment plant. Disposal of holding tank wastes shall not be allowed at small sewage treatment plants where shock loading may result or disinfectants and odor inhibitors will affect the operation of the treatment facility. Whenever feasible, the collected sewage shall be discharged directly to the sewer system of a large sewage treatment facility or transported for eventual treatment at a large plant.

## § 2.8. Sewage dump station.

A. All marinas and other places where boats are moored, regardless of size or number of boat moorings, shall have an acceptable receiving station for sewage from portable toilets used on boats. The owner shall install, maintain in good operating condition and provide a sewage dump station to users of the marina or other places where boats are moored. Exempt from this provision are marinas or other places where boats are moored, which also qualify for the § 2.1 B or § 2.1 C exemption, provided the owner of the sanitary facility will allow the dumping of the contents of portable toilets into the sanitary facilities.

B. Availability and operation.

Where a sewage dump station is required, the owner shall install, maintain in good operating condition and provide the facilities to users of the marina or other places where boats are moored.

C. Minimum design criteria for a sewage dump station.

The purpose of these minimum design criteria is to provide the owner and the Department of Health with acceptable methods of discharging sewage from a portable container into a sewage holding tank or a sewage treatment system. The same criteria as set forth in § 2.7 B5 for contents from boat holding tanks will apply for sewage dump stations. The sewage dump station receiving unit shall be a minimum of 12 inches in diameter and be equipped with a cover that has a lip of sufficient size to prevent it from accidentally being removed. If the unit is designed to drain, the drain shall be a minimum of four inches in diameter and equipped with a fly tight cover.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-3.1100. Amount, Duration and Scope of Services (Prosthetics Services and Dental Services).

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

Public Hearing Date: N/A  
(See Calendar of Events section for additional information)

### Summary:

*The 1989 General Assembly directed the department, through the appropriations act, to provide coverage for limited prosthetics services and to expand dental services through the Early and Periodic Screening, Diagnosis and Treatment program. DMAS is currently providing these services under the authority of emergency regulations. This proposed regulation does not vary substantially from the emergency regulations. DMAS is accepting public comments on this proposed rule.*

VR 460-03-3.1100. Amount, Duration and Scope of Services (Prosthetics Services and Dental Services).

### General.

The provision of the following services cannot be reimbursed except when they are ordered or prescribed, and directed or performed within the scope of the license of a practitioner of the healing arts: laboratory and x-ray services, family planning services, and home health services. Physical therapy services will be reimbursed only when prescribed by a physician.

§ 1. Inpatient hospital services other than those provided in an institution for mental diseases.

A. Medicaid inpatient hospital admissions (lengths-of-stay) are limited to the 75th percentile of PAS (Professional Activity Study of the Commission on Professional and Hospital Activities) diagnostic/procedure limits. For admissions under 15 days that exceed the 75th percentile, the hospital must attach medical justification records to the billing invoice to be considered for additional coverage when medically justified. For all admissions that exceed 14 days up to a maximum of 21 days, the hospital must attach medical justification records to the billing invoice. (See the exception to subsection F of this section.)

B. Medicaid does not pay the medicare (Title XVIII) coinsurance for hospital care after 21 days regardless of the length-of-stay covered by the other insurance. (See exception to subsection F of this section.)

C. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial

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endangerment to health or life of the mother if the fetus were carried to term.

D. Reimbursement for covered hospital days is limited to one day prior to surgery, unless medically justified. Hospital claims with an admission date more than one day prior to the first surgical date will pend for review by medical staff to determine appropriate medical justification. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement for additional preoperative days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

E. Reimbursement will not be provided for weekend (Friday/Saturday) admissions, unless medically justified. Hospital claims with admission dates on Friday or Saturday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admission will be denied.

F. Coverage of inpatient hospitalization will be limited to a total of 21 days for all admissions within a fixed period, which would begin with the first day inpatient hospital services are furnished to an eligible recipient and end 60 days from the day of the first admission. There may be multiple admissions during this 60-day period; however, when total days exceed 21, all subsequent claims will be reviewed. Claims which exceed 21 days within 60 days with a different diagnosis and medical justification will be paid. Any claim which has the same or similar diagnosis will be denied.

**EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE:** Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

G. Reimbursement will not be provided for inpatient hospitalization for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the hospital invoice

for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in the retroactive eligibility period.

H. Reimbursement will not be provided for inpatient hospitalization for those surgical and diagnostic procedures listed on the mandatory outpatient surgery list unless the inpatient stay is medically justified or meets one of the exceptions. The requirements for mandatory outpatient surgery do not apply to recipients in the retroactive eligibility period.

I. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

J. The department may waive portions or all of the utilization review documentation requirements of subsections A, D, E, G, or H in writing for specific hospitals from time to time as part of its ongoing hospital utilization review performance evaluation.

## § 2. Outpatient hospital and rural health clinic services.

### 2a. Outpatient hospital services.

1. Outpatient hospital services means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that:

- a. Are furnished to outpatients;
- b. Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist; and
- c. Are furnished by an institution that:

(1) Is licensed or formally approved as a hospital by an officially designated authority for state standard-setting; and

(2) Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in Medicare.

2. Reimbursement for induced abortions is provided in only those cases in which there would be substantial

endangerment of health or life to the mother if the fetus were carried to term.

3. Reimbursement will not be provided for outpatient hospital services for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the invoice for payment, or is a justified emergency or exemption.

2b. Rural health clinic services and other ambulatory services furnished by a rural health clinic.

No limitations on this service.

### § 3. Other laboratory and x-ray services.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

### § 4. Skilled nursing facility services, EPSDT and family planning.

4a. Skilled nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

4b. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

1. Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

2. Routine physicals and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

3. Orthoptics services shall only be reimbursed if medically necessary to correct a visual defect identified by an EPSDT examination or evaluation. The department shall place appropriate utilization controls upon this service.

4c. Family planning services and supplies for individuals

of child-bearing age.

Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

§ 5. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

A. Elective surgery as defined by the Program is surgery that is not medically necessary to restore or materially improve a body function.

B. Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

C. Routine physicals and immunizations are not covered except when the services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and when a well-child examination is performed in a private physician's office for a foster child of the local social services department on specific referral from those departments.

D. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension (subject to the approval of the Psychiatric Review Board) of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period. These limitations also apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine.

E. Any procedure considered experimental is not covered.

F. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus were carried to term.

G. Physician visits to inpatient hospital patients are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses and is further restricted to medically necessary inpatient hospital days as determined by the Program.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Payments for



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physician visits for inpatient days determined to be medically unjustified will be adjusted.

H. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

I. Reimbursement will not be provided for physician services for those selected elective surgical procedures requiring a second surgical opinion unless a properly executed second surgical opinion form has been submitted with the invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in a retroactive eligibility period.

J. Reimbursement will not be provided for physician services performed in the inpatient setting for those surgical or diagnostic procedures listed on the mandatory outpatient surgery list unless the service is medically justified or meets one of the exceptions. The requirements of mandatory outpatient surgery do not apply to recipients in a retroactive eligibility period.

K. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

§ 6. Medical care by other licensed practitioners within the scope of their practice as defined by state law.

## A. Podiatrists' services.

1. Covered podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by state law.

2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting or removal of corns, warts, or calluses; experimental procedures; acupuncture.

3. The Program may place appropriate limits on a service based on medical necessity or for utilization control, or both.

## B. Optometric services.

1. Diagnostic examination and optometric treatment procedures and services by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine and Optometry, are covered for all recipients. Routine refractions are limited to once in 24 months except as may be authorized by the agency.

## C. Chiropractors' services.

Not provided.

## D. Other practitioners' services.

### 1. Clinical psychologists' services.

a. These limitations apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

b. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

## § 7. Home health services.

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts.

B. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

C. Home health aide services provided by a home health agency.

Home health aides must function under the supervision of a professional nurse.

D. Medical supplies, equipment, and appliances suitable for use in the home.

1. All medical supplies, equipment, and appliances are available to patients of the home health agency.

2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, and respiratory equipment and oxygen, and ostomy supplies, as preauthorized by the local health department.

E. Physical therapy, occupational therapy, or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility.

Service covered only as part of a physician's plan of care.

## § 8. Private duty nursing services.

Not provided.

## § 9. Clinic services.

A. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus was carried to term.

B. Clinic services means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that:

1. Are provided to outpatients;
2. Are provided by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients; and
3. Except in the case of nurse-midwife services, as specified in 42 CFR § 440.165, are furnished by or under the direction of a physician or dentist.

## § 10. Dental services.

A. Dental services are limited to recipients under 21 years of age in fulfillment of the treatment requirements under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and defined as routine diagnostic, preventive, or restorative procedures necessary for oral health provided by or under the direct supervision of a dentist in accordance with the State Dental Practice Act.

B. Initial, periodic, and emergency examinations; required radiography necessary to develop a treatment plan; patient education; dental prophylaxis; fluoride treatments; routine amalgam and composite restorations; crown recementation; pulpotomies; emergency endodontics for temporary relief of pain; pulp capping; sedative fillings; therapeutic apical closure; topical palliative treatment for dental pain; removal of foreign body; simple extractions; root recovery; incision and drainage of abscess; surgical exposure of the tooth to aid eruption; sequestrectomy for osteomyelitis; and oral antral fistula closure are dental services covered without preauthorization by the state agency.

C. All covered dental services not referenced above require preauthorization by the state agency. *The following services are also covered through preauthorization: medically necessary full banded orthodontics, tooth*

*guidance appliances, complete and partial dentures, surgical preparation (alveoloplasty) for prosthetics, single permanent crowns, and bridges. The following services are service is not covered: full banded orthodontics; permanent crowns and all bridges; removable complete and partial dentures; routine bases under restorations; and inhalation analgesia.*

D. The state agency may place appropriate limits on a service based on dental medical necessity, for utilization control, or both. Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray - two films (once/12 months); routine amalgam and composite restorations (once/three years); *dentures (once per 5 years); and extractions, orthodontics, tooth guidance appliances, permanent crowns, and bridges, endodontics, patient education (once).*

E. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare), are covered for all recipients, and also require preauthorization by the state agency.

## § 11. Physical therapy and related services.

### 11a. Physical therapy.

Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

### 11b. Occupational therapy.

Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see General section and subsections 11a and 11b of this section.)

These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

§ 12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

### 12a. Prescribed drugs.

# Proposed Regulations

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1. Nonlegend drugs, except insulin, syringes, needles, diabetic test strips for clients under 21 years of age, and family planning supplies are not covered by Medicaid. This limitation does not apply to Medicaid recipients who are in skilled and intermediate care facilities.

2. Legend drugs, with the exception of anorexiants drugs prescribed for weight loss and transdermal drug delivery systems, are covered. Coverage of anorexiants for other than weight loss requires preauthorization.

3. The Program will not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.

4. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia, prescriptions for Medicaid recipients for specific multiple source drugs shall be filled with generic drug products listed in the Virginia Voluntary Formulary unless the physician or other practitioners so licensed and certified to prescribe drugs certifies in his own handwriting "brand necessary" for the prescription to be dispensed as written.

5. New drugs, except for Treatment Investigational New Drugs (Treatment IND), are not covered until approved by the board, unless a physician obtains prior approval. The new drugs listed in Supplement 1 to the New Drug Review Program regulations (VR 460-05-2000.1000) are not covered.

## 12b. Dentures.

*Provided only as a result of EPSDT and subject to medical necessity and preauthorization requirements specified under Dental Services.*

## 12c. Prosthetic devices.

*A. Not provided. Prosthetics services shall mean the replacement of missing arms and legs. Nothing in this regulation shall be construed to refer to orthotic services or devices.*

*B. Prosthetic devices (artificial arms and legs, and their necessary supportive attachments) are provided when prescribed by a physician or other licensed practitioner of the healing arts within the scope of their professional licenses as defined by state law. This service, when provided by an authorized vendor, must be medically necessary, and preauthorized for the minimum applicable component necessary for the activities of daily living.*

## 12d. Eyeglasses.

Eyeglasses shall be reimbursed for all recipients younger than 21 years of age according to medical necessity when provided by practitioners as licensed under the Code of Virginia.

§ 13. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

### 13a. Diagnostic services.

Not provided.

### 13b. Screening services.

Not provided.

### 13c. Preventive services.

Not provided.

### 13d. Rehabilitative services.

1. Medicaid covers intensive inpatient rehabilitation services as defined in § 2.1 in facilities certified as rehabilitation hospitals or rehabilitation units in acute care hospitals which have been certified by the Department of Health to meet the requirements to be excluded from the Medicare Prospective Payment System.

2. Medicaid covers intensive outpatient rehabilitation services as defined in § 2.1 in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs), or when the outpatient program is administered by a rehabilitation hospital or an exempted rehabilitation unit of an acute care hospital certified and participating in Medicaid.

3. These facilities are excluded from the 21-day limit otherwise applicable to inpatient hospital services. Cost reimbursement principles are defined in Attachment 4.19-A.

4. An intensive rehabilitation program provides intensive skilled rehabilitation nursing, physical therapy, occupational therapy, and, if needed, speech therapy, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation. The nursing staff must support the other disciplines in carrying out the activities of daily living, utilizing correctly the training received in therapy and furnishing other needed nursing services. The day-to-day activities must be carried out under the continuing direct supervision of a physician with special training or experience in the field of rehabilitation.

§ 14. Services for individuals age 65 or older in institutions for mental diseases.

### 14a. Inpatient hospital services.

Provided, no limitations.

### 14b. Skilled nursing facility services.

Provided, no limitations.

14c. Intermediate care facility.

Provided, no limitations.

§ 15. Intermediate care services and intermediate care services for institutions for mental disease and mental retardation.

15a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined, in accordance with § 1902 (a)(31)(A) of the Act, to be in need of such care.

Provided, no limitations.

15b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

Provided, no limitations.

§ 16. Inpatient psychiatric facility services for individuals under 22 years of age.

Not provided.

§ 17. Nurse-midwife services.

Covered services for the nurse midwife are defined as those services allowed under the licensure requirements of the state statute and as specified in the Code of Federal Regulations, i.e., maternity cycle.

§ 18. Hospice care (in accordance with § 1905 (o) of the Act).

Not provided.

§ 19. Extended services to pregnant women.

19a. Pregnancy-related and postpartum services for 60 days after the pregnancy ends.

The same limitations on all covered services apply to this group as to all other recipient groups.

19b. Services for any other medical conditions that may complicate pregnancy.

The same limitations on all covered services apply to this group as to all other recipient groups.

§ 20. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary of Health and Human Services.

20a. Transportation.

Nonemergency transportation is administered by local

health department jurisdictions in accordance with reimbursement procedures established by the Program.

20b. Services of Christian Science nurses.

Not provided.

20c. Care and services provided in Christian Science sanatoria.

Provided, no limitations.

20d. Skilled nursing facility services for patients under 21 years of age.

Provided, no limitations.

20e. Emergency hospital services.

Provided, no limitations.

20f. Personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.

Not provided.

# Proposed Regulations

## VIRGINIA MEDICAL ASSISTANCE PROGRAM PROSTHETIC DEVICE PREAUTHORIZATION REQUEST FORM

1. DATE \_\_\_\_\_
2. PATIENT'S NAME \_\_\_\_\_
3. PATIENT'S MEDICAID NUMBER \_\_\_\_\_
4. PATIENT'S MEDICARE NUMBER \_\_\_\_\_
5. NAME OF PRESCRIBING PHYSICIAN \_\_\_\_\_
6. DOCTOR \_\_\_\_\_ PRESCRIPTION INCLUDES THESE ITEMS:  

HCPCS CODE(S)	DESCRIPTION
a. _____	_____
b. _____	_____
c. _____	_____
d. _____	_____
e. _____	_____
f. _____	_____
g. _____	_____
h. _____	_____
7. DIAGNOSIS \_\_\_\_\_
8. FUNCTIONAL LIMITATIONS \_\_\_\_\_
9. DEVICE ACCEPTANCE \_\_\_\_\_
10. PSYCHOLOGICAL/THERAPEUTIC VALUE \_\_\_\_\_
11. EMPLOYMENT POSSIBILITY \_\_\_\_\_
12. PROSTHETIC DEVICE HISTORY \_\_\_\_\_

### PROVIDERS STATEMENT

This is to certify that the foregoing information is true, accurate, and complete. I understand that payment and satisfaction of this request will be from federal and state funds, and that any false statements or documents or concealment of a material fact, may be prosecuted under applicable federal and state laws.

13. SUBMITTED BY \_\_\_\_\_
14. PROVIDER NUMBER \_\_\_\_\_  
PROVIDER ADDRESS \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
15. SIGNATURE OF PROVIDER/AGENT \_\_\_\_\_
16. DATE \_\_\_\_\_
17. TELEPHONE ( ) \_\_\_\_\_

### FOR OFFICE USE ONLY

APPROVED \_\_\_\_\_  
DENIED \_\_\_\_\_  
PENDING \_\_\_\_\_

COMMENTS:

REVIEWER SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

## BOARD OF NURSING

**NOTICE:** The following proposed regulation was published as a final regulation in 6:9 VA.R. 1284-1299 January 29, 1990, to become effective March 1, 1990. The final version of this regulation is being reprinted with corrections in the Final Regulations section of this issue of the Virginia Register. The Board of Nursing is proposing additional amendments to this regulation as indicated below. Although the final regulation published January 29, 1990, has not yet become effective, that language is shown in roman type, which normally indicates an existing, finalized regulation, and the new proposed amendments are stricken or italicized to set out the new amendments in an effort to assist the reader in locating the new amendments.

**Title of Regulation:** VR 495-01-01. Board of Nursing Regulations.

**Statutory Authority:** §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

**Public Hearing Date:** March 26, 1990 - 1:30 p.m.  
(See Calendar of Events section for additional information)

### Summary:

*The proposed Board of Nursing Regulations state the criteria for the establishment of and continuing approval of nursing and nurse aide education programs; requirements for licensure, certification and registration of registered nurses, licensed practical nurse aides; and practice requirements, disciplinary provisions and fees applicable to licensees and registrants under the jurisdiction of the board. The proposed regulations are the result of the biennial review of the existing regulations as required by law and by the Public Participation Guidelines found at § 1.4 of the regulations. The proposed Part V of the regulations are to replace emergency regulations that became effective on May 11, 1989.*

*The proposed regulations delete some existing regulations, amend or relocate others and add some new regulations. These changes are outlined in the Index to the Existing and Proposed Regulations which is incorporated by reference for the purpose of this summary. All relevant documents are available for inspection at the office of the Board of Nursing, 1601 Rolling Hills Drive, Richmond, Virginia 23229, Telephone (804) 662-9909.*

VR 495-01-01. Board of Nursing Regulations.

### PART I. GENERAL PROVISIONS.

#### § 1.1. Definitions.

The following words and terms, when used in these

regulations, shall have the following meanings, unless the context clearly indicates otherwise:

*"Approval"*; as used in these regulations, is synonymous with accreditation and means the process by which the board or a governmental agency in another state or foreign country evaluates and grants official recognition to nursing education programs that meet established standards not inconsistent with Virginia law.

*"Associate degree nursing program"* means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or other institution and designed to lead to an associate degree in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, State Council of Higher Education or an Act of the General Assembly.

*"Baccalaureate degree nursing program"* means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or university and designed to lead to a baccalaureate degree with a major in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, the State Council of Higher Education or an Act of the General Assembly.

*"Board"* means the State Board of Nursing.

*"Clinical nurse specialist"* means a licensed registered nurse who holds:

1. A master's degree from a board approved program which prepares the nurse to provide advanced clinical nursing services; and
2. Specialty certification from a national certifying organization acceptable to the board or registration with the board pursuant to § 3.10 A 5 of these regulations.

*"Conditional approval"* means a time-limited status which results when an approved nursing education program has failed to maintain requirements as set forth in § 2.2 of these regulations.

*"Cooperating agency"* means an agency or institution that enters into a written agreement to provide learning experiences for a nursing education program.

*"Diploma nursing program"* means a nursing education program preparing for registered nurse licensure, offered by a hospital and designed to lead to a diploma in nursing, provided the hospital is licensed in this state.

*"National certifying organization"* means an organization that has as one of its purposes the certification of a specialty in nursing based on an examination attesting to the knowledge of the nurse for practice in the specialty area.

# Proposed Regulations

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"Nursing education program" means an entity offering a basic course of study preparing persons for licensure as registered nurses or as licensed practical nurses. A basic course of study shall include all courses required for the degree, diploma or certificate.

"Practical nursing program" means a nursing education program preparing for practical nurse licensure, offered by a Virginia school, that leads to a diploma or certificate in practical nursing, provided the school is authorized by the appropriate governmental agency.

"Program director" means a registered nurse who has been designated by the controlling authority to administer the nursing education program.

"Provisional approval" means the initial status granted to a nursing education program which shall continue until the first class has graduated and the board has taken final action on the application for approval.

"Recommendation" means a guide to actions that will assist an institution to improve and develop its nursing education program.

"Requirement" means a mandatory condition that a nursing education program must meet to be approved.

## § 1.2. Delegation of authority.

A. The executive director of the board shall issue a certificate of registration to each person who meets the requirements for initial licensure under §§ 54.1-3017, 54.1-3018, 54.1-3020 and 54.1-3021 of the Code of Virginia. Such certificates of registration shall bear the signature of the president of the board, the executive director and the director of the Department of Health Regulatory Boards.

B. The executive director shall issue license to each applicant who qualifies for such license under § 54.1-3011 of the Code of Virginia. Such licenses shall bear the name of the executive director.

C. The executive director shall be delegated the authority to execute all notices, orders and official documents of the board unless the board directs otherwise.

## § 1.3. Fees.

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

1. Application for R.N. Licensure .....\$45
2. Application for L.P.N. Licensure .....\$35
3. Biennial Licensure Renewal .....\$28
4. Reinstatement Lapsed License .....\$50
5. Duplicate License .....\$10

6. Verification of License .....\$10
7. Transcript of Examination Scores .....\$5
8. Transcript of Applicant/Licensee Records .....\$10
9. Returned Check Charge .....\$15
10. Application for C.N.S. registration .....\$50
11. Biennial renewal of C.N.S. registration .....\$30
12. Reinstatement of lapsed C.N.S. registration .....\$25
13. Verification of C.N.S. registration .....\$25

## § 1.4. Public participation guidelines.

### A. Mailing list.

The Virginia State Board of Nursing (board) will maintain a list of persons and organizations who will be mailed the following documents as they become available:

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

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all above-listed information. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.

### B. Notice of intent.

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

### C. Public comment period.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing

regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceedings may be held separately or in conjunction with other informational proceedings.

#### D. Petitions to the board.

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

#### E. Publication in the Virginia Register of Regulations.

At any meeting of the board or any subcommittee or advisory committee, where the formulation or adoption of regulation occurs, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

#### F. Advisory committee.

The board, in cooperation with the Council on Health Regulatory Boards, may appoint advisory committees as they deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and review of regulations.

## PART II. NURSING EDUCATION PROGRAMS.

### § 2.1. Establishing a nursing education program.

#### Phase I.

A. An institution wishing to establish a nursing education program shall:

1. Submit to the board, at least 15 months in advance of expected opening date, a statement of intent to establish a nursing education program;
2. Submit to the board, along with the statement of intent, a feasibility study to include the following information:
  - a. Studies documenting the need for the program;
  - b. Purpose and type of program;
  - c. Availability of qualified faculty;
  - d. Budgeted faculty positions;
  - e. Availability of clinical facilities for the program;
  - f. Availability of academic facilities for the program;

g. Evidence of financial resources for the planning, implementation and continuation of the program;

h. Anticipated student population;

i. Tentative time schedule for planning and initiating the program; and

j. Current catalog, if applicable.

3. Respond to the board's request for additional information.

B. A site visit shall be conducted by a representative of the board.

C. The board, after review and consideration, shall either approve or disapprove Phase I.

1. If Phase I is approved, the institution may apply for provisional approval of the nursing education program as set forth in these regulations.

2. If Phase I is disapproved, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

#### Phase II.

D. The application for provisional approval shall be complete when the following conditions are met:

1. A program director has been appointed and there are sufficient faculty to initiate the program (§ 2.2.C of these regulations);

2. A tentative written curriculum plan developed in accordance with § 2.2.F of these regulations has been submitted; and

E. The board, after review and consideration, shall either grant or deny provisional approval.

1. If provisional approval is granted :

a. The admission of students is authorized; and

b. The program director shall submit quarterly progress reports to the board which shall include evidence of progress toward application for approval and other information as required by the board.

2. If provisional approval is denied, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

F. Following graduation of the first class, the institution shall apply for approval of the nursing education program.



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## Phase III.

G. The application for approval shall be complete when a self-evaluation report of compliance with § 2.2 of these regulations has been submitted and a survey visit has been made by a representative of the board.

H. The board will review and consider the self-evaluation and the survey reports at the next regularly scheduled meeting.

I. The board shall either grant or deny approval. If denied, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

## § 2.2. Requirements for approval.

### A. Organization and administration.

1. The institution shall be authorized to conduct a nursing education program by charter or articles of incorporation of the controlling institution; by resolution of its board of control; or by the institution's own charter or articles of incorporation.

2. Universities, colleges, community or junior colleges, proprietary schools and public schools offering nursing education programs shall be accredited by the appropriate state agencies and the Southern Association of Colleges and Schools.

3. Hospitals conducting a nursing education program shall be accredited by the Joint Commission on Accreditation of Hospitals *Healthcare Organizations*.

4. Any agency or institution that is utilized by a nursing education program shall be one that is authorized to conduct business in the Commonwealth of Virginia, or in the state in which the agency or institution is located.

5. The authority and responsibility for the operation of the nursing education program shall be vested in a program director who is duly licensed to practice professional nursing in Virginia and who is responsible to the controlling board, either directly or through appropriate administrative channels.

6. A written organizational plan shall indicate the lines of authority and communication of the nursing education program to the controlling body; to other departments within the controlling institution; to the cooperating agencies; and to the advisory committee, if one exists.

7. Funds shall be allocated by the controlling agency to carry out the stated purposes of the program. The program director of the nursing education program shall be responsible for the budget recommendations and administration, consistent with the established

policies of the controlling agency.

### B. Philosophy and objectives.

Clearly Written statements of philosophy and objectives shall be:

1. Formulated and accepted by the faculty;
2. Directed toward achieving realistic goals;
3. Directed toward the meaning of education, nursing and the learning process;
4. Descriptive of the practitioner to be prepared; and
5. The basis for planning, implementing and evaluating the total program.

### C. Faculty.

#### 1. Qualifications.

a. Every member of a nursing faculty, including the program director, shall hold a current license to practice as a registered nurse in Virginia.

b. Every member of a nursing faculty responsible for teaching students in a cooperating agency located outside the jurisdictional limits of Virginia ~~should hold a current license to practice nursing in~~ shall meet the licensure requirements of that jurisdiction as well.

c. The program director and each member of the nursing faculty shall maintain professional competence through such activities as nursing practice, continuing education programs, conferences, workshops, seminars, academic courses, research projects and professional writing.

d. For baccalaureate degree programs:

(1) The program director shall hold a doctoral degree.

(2) Every member of the nursing faculty shall hold a graduate degree. Faculty members without a graduate degree with a major in nursing shall have a baccalaureate degree with a major in nursing.

(3) At least one faculty member in each clinical area shall have master's preparation in specialty.

e. For associate degree and diploma programs:

(1) The program director shall hold a graduate degree, preferably with a major in nursing.

(2) ~~The majority of the members~~ Every member of the nursing faculty shall hold a graduate degree,

preferably with a major in nursing.

~~(3) Other members of the nursing faculty shall hold a baccalaureate degree, preferably with a major in nursing.~~

f. For practical nursing programs.

(1) The program director shall hold a baccalaureate degree, preferably with a major in nursing.

(2) ~~The majority of the members~~ *Every member of the nursing faculty shall hold a baccalaureate degree, preferably with a major in nursing.*

*g. Subdivisions e(2) and f(2) above shall not apply to those individuals who hold nursing faculty positions in a board approved nursing education program on the effective date of these regulations.*

~~g. h.~~ Exceptions to provisions of subparagraphs d, e, and f of this subsection shall be by board approval.

(1) Initial request for exception.

(a) The program director shall submit a request for initial exception in writing for considerations at a regular board meeting prior to the term during which the nursing faculty member is scheduled to teach.

(b) A description of teaching assignment, a curriculum vitae and a statement of intent, from the prospective faculty member, to pursue the required degree shall accompany each request.

(2) Request for continuing exception.

(a) Continuing exception will be based on the progress of the nursing faculty member toward meeting the degree required by these regulations during each year for which the exception is requested.

(b) The program director shall submit the request for continuing exception in writing for consideration at a regular board meeting prior to the next term during which the nursing faculty member is scheduled to teach.

(c) A list of courses required for the degree being pursued and college transcripts showing successful completion of a minimum of two of the courses during the past academic year shall accompany each request.

*(3) Initial decision on requests for exception shall be delegated to the executive director of the board. Any appeal of that decision shall be in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).*

2. Number.

a. The number of faculty shall be sufficient to prepare the students to achieve the objectives of the educational program and such number shall be reasonably proportionate to:

- (1) Number of students enrolled;
- (2) Frequency of admissions;
- (3) Education and experience of faculty members;
- (4) Number and location of clinical facilities; and
- (5) Total responsibilities of the faculty.

b. When students are giving direct care to patients, *the faculty member shall be on site and the maximum ratio of students to faculty in clinical areas shall be not exceed 10 students to one faculty member.*

3. Conditions of employment.

a. Qualifications and responsibilities for faculty positions shall be defined in writing.

b. Faculty assignments shall allow time for class and laboratory preparation; teaching; program revision; improvement of teaching methods; academic advisement and counseling of students; participation in faculty organizations and committees; attendance at professional meetings; and participation in continuing education activities.

4. Functions.

The principal functions of the faculty shall be to:

- a. Develop, implement and evaluate the philosophy and objectives of the nursing education program;
- b. Participate in designing, implementing, teaching, and evaluating and revising the curriculum;
- c. Develop and evaluate student admission, progression, retention and graduation policies within the framework of the controlling institution;
- d. Participate in academic advisement and counseling of students; and
- e. Provide opportunities for student *and graduate* evaluation of curriculum and teaching and program effectiveness.

5. Organization.

a. The nursing faculty shall hold regular meetings for the purpose of developing, implementing and

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evaluating the nursing education program. Written rules shall govern the conduct of meetings.

b. All members of the faculty shall participate in the regular faculty meetings.

c. Committees shall be established to implement the functions of the faculty.

d. Minutes of faculty and committee meetings, including actions taken, shall be recorded and available for reference.

e. There shall be provision for student participation.

## D. Students.

### 1. Admission, promotion and graduation.

a. Requirements for admission to the nursing education program shall not be less than the statutory requirements that will permit the graduate to be admitted to the appropriate licensing examination.

(EXPLANATORY NOTE: Reference subdivision 1 of subsection A of § 54.1-3017 of the Code of Virginia: The equivalent of a four-year high school course of study is considered to be:

(1) A General Educational Development (GED) certificate for high school equivalence; or

(2) Satisfactory completion of the college courses required by the nursing education program.)

b. Students shall be selected on the basis of established criteria and without regard to age, race, creed, sex or national origin.

c. Requirements for admission, readmission, advanced standing, progression, retention, dismissal and graduation shall be available to the students in written form.

## E. Records.

### 1. School records.

A system of records shall be maintained and be made available to the board representative and shall include:

a. Data relating to accreditation by any agency or body,

b. Course outlines,

c. Minutes of faculty and committee meetings,

d. Reports of standardized tests,

e. Survey reports.

## 2. Student records.

a. A file shall be maintained for each student. Each file shall be available to the board representative and shall include:

(1) The student's application,

(2) High school transcript or copy of high school equivalence certificate,

(3) Current record of achievement.

b. A final transcript shall be retained in the permanent file of the institution.

c. Provision shall be made for the protection of student and graduate records against loss, destruction and unauthorized use.

## 3. School bulletin or catalogue.

Current information about the nursing education program shall be published periodically and distributed to students, applicants for admission and the board. Such information shall include:

a. Description of the program.

b. Philosophy and objectives of the controlling institution and of the nursing program.

c. Admission and graduation requirements.

d. Fees.

e. Expenses.

f. Financial aid.

g. Tuition refund policy.

h. Education facilities.

i. Living accommodations.

j. Student activities and services.

k. Curriculum plan.

l. Course descriptions.

m. Faculty-staff roster.

n. School calendar.

## F. Curriculum.

1. Curriculum shall reflect the philosophy and

objectives of the nursing education program, and shall be consistent with the law governing the practice of nursing.

2. The ratio between nursing and nonnursing credit shall be based on a rationale to ensure sufficient preparation for the safe and effective practice of nursing.

3. Learning experiences shall be selected to fulfill curriculum objectives.

4. Nursing education programs preparing for practical nursing licensure shall include:

a. Principles and practice in nursing encompassing the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life cycle;

b. Basic concepts of the nursing process;

c. Basic concepts of anatomy, physiology, chemistry, physics and microbiology;

d. Basic concepts of communication, growth and development, interpersonal relations, patient education and cultural diversity;

e. Ethics, nursing history and trends, vocational and legal aspects of nursing, *including the Virginia nurse practice act and regulations*; and

f. Basic concepts of pharmacology, nutrition and diet therapy.

5. Nursing education programs preparing for registered nurse licensure shall include:

a. Theory and practice in nursing, encompassing the attainment and maintenance of physical and mental health and the prevention of illness throughout the life cycle for individuals, groups and communities;

b. Concepts of the nursing process;

c. Concepts of anatomy, physiology, chemistry, microbiology and physics;

d. Sociology, psychology, communications, growth and development, interpersonal relations, group dynamics, cultural diversity and humanities;

e. Concepts of pharmacology, nutrition and diet therapy, and pathophysiology;

f. Concepts of ethics, nursing history and trends, and the professional and legal aspects of nursing, *including the Virginia nurse practice act and regulations*; and

g. Concepts of leadership, management and patient education.

G. Resources, facilities and services.

1. Periodic evaluations of resources, facilities and services shall be conducted by the administration, faculty, students and graduates of the nursing education program.

2. Secretarial and other support services shall be provided.

3. Classrooms, conference rooms, laboratories, clinical facilities and offices shall be available to meet the objectives of the nursing education program and the needs of the students, faculty, administration and staff.

4. The library shall have holdings that are current, pertinent and accessible to students and faculty, and sufficient in number to meet the needs of the students and faculty.

5. Written agreements with cooperating agencies shall be developed, maintained and periodically reviewed. The agreement shall:

a. Ensure full control of student education by the faculty of the nursing education program, including the selection and supervision of learning experiences.

b. Provide that an instructor shall be present on the clinical unit(s) to which students are assigned for direct patient care.

c. Provide for cooperative planning with designated agency personnel.

6. Any observational experiences shall be planned in cooperation with the agency involved to meet stated course objectives.

7. Cooperating agencies shall be approved by the appropriate accreditation, evaluation or licensing bodies, if such exist.

H. Program changes requiring board of nursing approval.

The following proposed changes require board approval prior to their implementation:

1. Proposed changes in the nursing education program's philosophy and objectives that result in program revision.

2. Proposed changes in the curriculum that result in alteration of the length of the nursing education program.

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3. Proposed additions, deletions or major revisions of courses.

## I. Procedure for approval of program change.

1. When a program change is contemplated, the program director shall inform the board or board representative.

2. When a program change is requested, a plan shall be submitted to the board including:

- a. Proposed change,
- b. Rationale for the change,
- c. Relationship of the proposed change to the present program.

3. Twelve copies of these materials shall be submitted to the board at least three weeks prior to the board meeting at which the request will be considered.

## § 2.3. Procedure for maintaining approval.

A. The program director of each nursing education program shall submit an annual report to the board.

B. Each nursing education program shall be reevaluated at least every eight years and shall require:

1. A comprehensive self-evaluation report based on § 2.2 of these regulations, and
2. A survey visit by a representative(s) of the board on dates mutually acceptable to the institution and the board.

C. The self-evaluation and survey visit reports shall be presented to the board for consideration and action at a regularly scheduled board meeting. The reports and the action taken by the board shall be sent to the appropriate administrative officers of the institution. In addition, a copy shall be forwarded to the executive officer of the state agency or agencies having program approval authority or coordinating responsibilities for the governing institutions.

D. Interim visits shall be made to the institution by board representatives at any time within the eight-year period either by request or as deemed necessary by the board.

E. A nursing education program shall continue to be approved provided the requirements set forth in § 2.2 of these regulations are attained and maintained.

F. If the board determines that a nursing education program is not maintaining the requirements of § 2.2 of these regulations, the program shall be placed on conditional approval and the governing institution shall be

given a reasonable period of time to correct the identified deficiencies. The institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

G. If the governing institution fails to correct the identified deficiencies within the time specified by the board, the board shall withdraw the approval following a hearing held pursuant to the provisions of the Administrative Process Act. (§ 9-6.14:1 et seq.) Sections 2.4. B and C of these regulations shall apply to any nursing education program whose approval has been withdrawn.

## § 2.4. Closing of an approved nursing education program.

### A. Voluntary closing.

When the governing institution anticipates the closing of a nursing education program, it shall notify the board in writing, stating the reason, plan and date of intended closing. The governing institution shall choose one of the following closing procedures:

1. The program shall continue until the last class enrolled is graduated.

a. The program shall continue to meet the standards for approval until all of the enrolled students have graduated.

b. The date of closure is the date on the degree, diploma or certificate of the last graduate.

c. The governing institution shall notify the board of the closing date.

2. The program shall close after the governing institution has assisted in the transfer of students to other approved programs.

a. The program shall continue to meet the standards required for approval until all students are transferred.

b. A list of the names of students who have been transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

c. The date on which the last student was transferred shall be the closing date of the program.

B. Closing as a result of denial or withdrawal or approval.

When the board denies or withdraws approval of a program, the governing institution shall comply with the following procedures:

1. The program shall close after the institution has made a reasonable effort to assist in the transfer of

students to other approved programs. A time frame for the transfer process shall be established by the board.

2. A list of the names of students who have transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

3. The date on which the last student was transferred shall be the closing date of the program.

### C. Custody of records.

Provision shall be made for custody of records as follows:

1. If the governing institution continues to function, it shall assume responsibility for the records of the students and the graduates. The institution shall inform the board of the arrangements made to safeguard the records.

2. If the governing institution ceases to exist, the academic transcript of each student and graduate shall be transferred by the institution to the board for safekeeping.

### § 2.5. Clinical nurse specialist education program.

An approved program shall be offered by:

1. A nationally accredited school of nursing within a college or university that offers a master's degree in nursing designed to prepare a registered nurse for advanced practice in a clinical specialty in nursing; or

2. A college or university that offers a master's degree consistent with the requirements of a national certifying organization as defined in § 1.1 of these regulations.

## PART III. LICENSURE AND PRACTICE.

### § 3.1. Licensure by examination.

A. The board shall administer examinations for registered nurse licensure and examinations for practical nurse licensure no less than twice a year.

B. The minimum passing score on the examination for registered nurse licensure shall be determined by the board.

C. If a candidate does not take the examination when scheduled, the application shall be retained on file as required for audit *and the candidate must file a new application and fee to be rescheduled.*

D. Any applicant suspected of giving or receiving

unauthorized assistance during the writing of the examination shall be noticed for a hearing before the board to determine whether the license shall be issued.

E. The board shall not release examination ~~scores~~ *results of a candidate* to any individual or agency without written authorization from the applicant or licensee.

F. An applicant for the licensing examination shall:

1. File the required application and fee no less than 60 days prior to the scheduled date of the examination.

2. Arrange for the board to receive the final certified transcript from the nursing education program at least 15 days prior to the examination date or as soon thereafter as possible. The transcript must be received prior to the reporting of the examination results to candidates.

G. Fifteen days prior to an examination date, all program directors shall submit a list of the names of those students who have completed or are expected to complete the requirements for graduation since the last examination. Any change in the status of a candidate within the above specified 15-day period shall be reported to the board immediately.

H. Practice of nursing pending receipt of examination results.

1. Graduates of approved nursing education programs may practice nursing in Virginia pending the results of the first licensing examination given by a board of nursing following their graduation, provided they have filed an application for licensure in Virginia. Candidates taking the examination in Virginia shall file the application for licensure by examination. Candidates taking the examination in other jurisdictions shall file the application for licensure by endorsement.

2. Candidates who practice nursing as provided in § 3.1 I 1 of these regulations shall use the designation "R.N. Applicant" or "L.P.N. Applicant" when signing official records.

3. The designations "R.N. Applicant" and "L.P.N. Applicant" shall not be used by applicants who do not take or who have failed the first examination for which they are eligible.

I. Applicants who fail the examination.

1. An applicant who fails the licensing examination shall not be licensed or be authorized to practice nursing in Virginia.

2. An applicant for reexamination shall file the required application and fee no less than 60 days

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prior to the scheduled date of the examination.

3. Applicants who have failed the licensing examination in another U.S. jurisdiction and who meet the qualifications for licensure in this jurisdiction may apply for licensure by examination in Virginia. Such applicants shall submit the required application and fee. Such applicants shall not, however, be permitted to practice nursing in Virginia until the requisite license has been issued.

## § 3.2. Licensure by endorsement.

A. A graduate of an approved nursing education program who has been licensed by examination in another U.S. jurisdiction and whose license is in good standing, *or is eligible for reinstatement, if lapsed*, shall be eligible for licensure by endorsement in Virginia, provided the qualifications for licensure were equivalent to those in effect in Virginia at the time the applicant was initially licensed.

B. An applicant for licensure by endorsement shall submit the required application and fee and submit the required form to the appropriate credentialing agency in the state of original licensure for verification of licensure. Applicants will be notified by the board after 30 days, if the completed verification form has not been received.

C. If the application is not completed within one year of the initial filing date, the application shall be retained on file by the board as required for audit.

## § 3.3. Licensure of applicants from other countries.

A. Applicants whose basic nursing education was received in, and who are duly licensed under the laws of another country, shall be scheduled to take the licensing examination provided they meet the statutory qualifications for licensure. Verification of qualification shall be based on documents submitted as required in § 3.3 B and C of these regulations.

B. Such applicants for registered nurse licensure shall:

1. Submit evidence of a passing score on the Commission on Graduates of Foreign Nursing Schools Qualifying Examination; and
2. Submit the required application and fee for licensure by examination.

C. Such applicants for practical nurse licensure shall:

1. Request a transcript from the nursing education program to be submitted directly to the board office;
2. Provide evidence of secondary education to meet the statutory requirements;
3. Request that the credentialing agency, in the

country where licensed, submit the verification of licensure; and

4. Submit the required application and fee for licensure by examination.

## § 3.4. Renewal of licenses.

A. Licensees born in even-numbered years shall renew their licenses by the last day of the birth month in even-numbered years. Licensees born in odd-numbered years shall renew their licenses by the last day of the birth month in odd-numbered years.

B. No less than 30 days prior to the last day of the licensee's birth month, an application for renewal of license shall be mailed by the board to the last known address of each licensee, who is currently licensed.

C. The licensee shall complete the application and return it with the required fee.

D. Failure to receive the application for renewal shall not relieve the licensee of the responsibility for renewing the license by the expiration date.

E. The license shall automatically lapse if the licensee fails to renew by the last day of the birth month.

F. Any person practicing nursing during the time a license has lapsed shall be considered an illegal practitioner and shall be subject to prosecution under the provisions of § 54.1-3008 of the Code of Virginia.

## § 3.5. Reinstatement of lapsed licenses.

A. A nurse whose license has lapsed shall file a reinstatement application and pay the current renewal fee and the reinstatement fee.

B. The board may request evidence that the nurse is prepared to resume practice in a competent manner.

## § 3.6. Replacement of lost license.

A. The licensee shall report in writing the loss of the original certificate of registration or the current license.

B. A duplicate license for the current renewal period shall be issued by the board upon receipt of the required form and fee.

## § 3.7. Evidence of change of name.

A licensee who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order evidencing the change. A duplicate license shall be issued by the board upon receipt of such evidence and the required fee.

## § 3.8. Requirements for current mailing address.

A. All notices, required by law and by these regulations to be mailed by the board to any licensee, shall be validly given when mailed to the latest address on file with the board.

B. Each licensee shall maintain a record of his current mailing address with the board.

C. Any change of address by a licensee shall be submitted in writing to the board within 30 days of such change.

§ 3.9. Licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a registered nurse or a licensed dentist within the context of § 54.1-3408 of the Code of Virginia.

§ 3.10. Clinical nurse specialist registration.

A. Initial registration.

An applicant for initial registration as a clinical nurse specialist shall:

1. Be currently licensed as a registered nurse in Virginia;
  2. Submit evidence of graduation from an approved program as defined in § 2.5 of these regulations;
  3. Submit evidence of current specialty certification from a national certifying organization as defined in § 1.1 of these regulations; and
  4. Submit the required application and fee.
5. EXCEPTION: An individual who has practiced as a clinical nurse specialist in Virginia within the 12 months immediately preceding the effective date of these regulations shall:

- a. Be currently licensed as a registered nurse in Virginia;
- b. File the required application and fee within 120 days of the effective date of these regulations;
- c. Submit evidence of a master's degree acceptable to the board; and
- d. Submit evidence of employment as a clinical nurse specialist in Virginia within the 12 months immediately preceding the effective date of these regulations.

B. Renewal of registration.

1. Registration as a clinical nurse specialist shall be renewed biennially at the same time the registered nurse license is renewed.

2. The clinical nurse specialist shall complete the renewal application and return it with the required fee and evidence of current specialty certification unless registered in accordance with § 3.10 A 5 of these regulations.

3. Registration as a clinical nurse specialist shall lapse if the registered nurse license is not renewed and may be reinstated as follows:

- a. Reinstatement of R.N. license;
- b. Payment of reinstatement and current renewal fees; and
- c. Submission of evidence of continued specialty certification unless registered in accordance with § 3.10 A 5 of these regulations.

§ 3.11. Clinical nurse specialist practice.

A. The practice of clinical nurse specialists shall be consistent with the

1. Education required in § 2.5. of these regulations, and
2. Experience required for specialist certification.

B. The clinical nurse specialist shall provide those advanced nursing services that are consistent with the standards of specialist practice as established by a national certifying organization for the designated specialty and in accordance with the provisions of Title 54.1 of the Code of Virginia.

C. Advanced practice as a clinical nurse specialist shall include but shall not be limited to performance as an expert clinician to:

1. Provide direct care and counsel to individuals and groups;
2. Plan, evaluate and direct care given by others; and
3. Improve care by consultation, collaboration, teaching and the conduct of research.

## PART IV. DISCIPLINARY PROVISIONS.

§ 4.1. The board has the authority to deny, revoke or suspend a license issued, or to otherwise discipline a licensee upon proof that the licensee has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

A. Fraud or deceit shall mean, but shall not be limited to:



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1. Filing false credentials;
2. Falsely representing facts on an application for initial license, reinstatement or renewal of a license; or
3. Giving or receiving assistance in writing the licensing examination.

B. Unprofessional conduct shall mean, but shall not be limited to:

1. Performing acts beyond the limits of the practice of professional or practical nursing as defined in Chapter 30 of Title 54.1, or as provided by §§ 54.1-2901 and 54.1-2957 of the Code of Virginia;
2. Assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained;
3. Obtaining supplies, equipment or drugs for personal or other unauthorized use;
4. Employing or assigning unqualified persons to perform functions that require a licensed practitioner of nursing;
5. Falsifying or otherwise altering patient or employer records;
6. Abusing, neglecting or abandoning patients or clients; or
7. Practice of a clinical nurse specialist beyond that defined in § 3.11. of these regulations.
8. Holding self out as or performing acts constituting the practice of a clinical nurse specialist unless so registered by the Board.

§ 4.2. Any sanction imposed on the registered nurse license of a clinical nurse specialist shall have the same effect on the clinical nurse specialist registration.

## PART V. CERTIFIED NURSE AIDES.

### § 5.1. Definitions.

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

"Nurse aide education program" means a program designed to prepare nurse aides for certification.

"Nursing facility" means a licensed nursing home or a Medicare or Medicaid certified skilled or intermediate care facility or unit.

"Primary instructor" means a registered nurse who is responsible for teaching and evaluating the students enrolled in a nurse aide education program.

"Program coordinator" means a registered nurse who is administratively responsible and accountable for a nurse aide education program.

"Program provider" means an entity which conducts a nurse aide education program.

### § 5.2. Delegation of authority.

The executive director of the board shall issue a certificate as a certified nurse aide to each applicant who qualifies for such a certificate under §§ 54.1-3025, 54.1-3026 and 54.1-3028 of the Code of Virginia.

### § 5.3. Fees.

1. Application for nurse aide certification .....\$15
2. Biennial certificate renewal .....\$15
3. Duplicate license fee .....\$10
4. Return check charge .....\$15

### § 5.4. Nurse aide education programs.

#### A. Establishing a nurse aide education program.

1. A program provider wishing to establish a nurse aide education program shall submit an application to the board at least 90 days in advance of the expected opening date.

2. The application shall provide evidence of the ability of the institution to comply with § 5.4 B of these regulations.

3. The application shall be considered at a meeting of the board. The board shall, after review and consideration, either grant or deny approval.

4. If approval is denied the program provider may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

#### B. Maintaining an approved nurse aide education program.

To maintain approval, the nurse aide education program shall demonstrate evidence of compliance with the following essential elements:

1. Curriculum content and length as set forth in §§ 5.4 D and 5.4 G of these regulations.
2. Maintenance of qualified instructional personnel as

set forth in § 5.4 C of these regulations.

3. Classroom facilities that meet requirements set forth in § 5.4 H of these regulations.

4. Maintenance of records as set forth in § 5.4 E of these regulations.

5. Skills training experience in a nursing facility which was not terminated from the Medicare or Medicaid programs during the past two years.

## C. Instructional personnel.

### 1. Program coordinator/primary instructor.

#### a. Nursing facility based programs.

(1) The program coordinator in a nursing facility based program may be the director of nursing services. The director of nursing may assume the administrative responsibility and accountability for the nurse aide education program.\*

(2) The primary instructor shall hold a current Virginia license as a registered nurse and shall have at least one year of experience, within the preceding five years, in a nursing facility.

#### b. Programs other than those based in nursing facilities.

The program coordinator/primary instructor, who does the actual teaching of the students, shall hold a current Virginia license as a registered nurse and shall have two years of experience, within the preceding five years, in caring for the elderly or chronically ill of any age. Such experience may include, but not be limited to, employment in a nurse aide education program or employment in or supervision of nursing students in a nursing facility or unit, geriatrics department, chronic care hospital, home care or other long-term care setting. Experience should include varied responsibilities, such as direct resident care, supervision and education.

c. Prior to being assigned to teach the nurse aide education program, the program coordinator/primary instructor shall demonstrate competence to teach adults by one of the following:

(1) Complete satisfactorily a "train-the-trainer" program approved by the board; or

(2) Complete satisfactorily a credit or noncredit course or courses approved by the board, the content of which must include:

(a) Basic principles of adult learning;

(b) Teaching methods and tools for adult learners; and

(c) Evaluation strategies and measurement tools for assessing the learning outcomes; or

(3) Provide evidence acceptable to the board of experience in teaching adult learners within the preceding five years.

2. Each of the other instructional personnel responsible for clinical instruction shall hold a current Virginia license as a registered nurse and have had at least two years of direct patient care experience as a registered nurse.

3. The program may utilize resource personnel to meet the planned program objectives for specific topics.

4. When students are giving direct care to clients in clinical areas, instructional personnel must be on site and the ratio of students to each instructor shall not exceed ten students to one instructor.

## D. Curriculum.

1. The objective of the nurse aide education program shall be to prepare a nurse aide to provide quality services to clients under the supervision of licensed personnel. The graduate of the nurse aide education program shall be prepared to:

a. Communicate and interact competency on a one-to-one basis with the clients;

b. Demonstrate sensitivity to clients' emotional, social, and mental health needs through skillful directed interactions;

c. Assist clients in attaining and maintaining functional independence;

d. Exhibit behavior in support and promotion of clients' rights; and

e. Demonstrate skills in observation and documentation needed to participate in the assessment of clients' health, physical condition and well-being.

### 2. Content.

The curriculum shall include, but shall not be limited to, classroom and clinical instruction in the following:

a. Initial core curriculum (minimum 16 hours). The classroom instruction prior to the direct involvement of a student with a nursing facility client must include, at a minimum, the topics listed below:

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(1) *Communication and interpersonal skills,*

(2) *Infection control,*

(3) *Safety and emergency procedures,*

(4) *Promoting client independence, and*

(5) *Respecting clients' rights.*

*b. Basic skills.*

(1) *Recognizing abnormal signs and symptoms of common diseases and conditions (e.g., shortness of breath, rapid respirations, fever, coughs, chills, pains in chest, blue color to lips, pain in abdomen, nausea, vomiting, drowsiness, sweating, excessive thirst, pus, blood or sediment in urine, difficulty urinating, urinating in frequent small amounts, pain or burning on urination, urine with dark color or strong odor) which indicate that the licensed nurse should be notified.*

(2) *Measuring and recording routine vital signs.*

(3) *Measuring and recording height and weight.*

(4) *Caring for the clients' environment.*

(5) *Measuring and recording fluid and food intake and output.*

(6) *Performing basic emergency measures.*

(7) *Caring for client when death is imminent.*

*c. Personal care skills.*

(1) *Bathing and oral hygiene.*

(2) *Grooming.*

(3) *Dressing.*

(4) *Toileting.*

(5) *Assisting with eating and hydration including proper feeding techniques.*

(6) *Caring for skin.*

*d. Individual client's needs including mental health and social service needs and care of cognitively impaired clients.*

(1) *Identifying the psychosocial characteristics of the populations who reside in nursing homes.*

(2) *Modifying behavior in response to behavior of clients.*

(3) *Identifying developmental tasks associated with the aging process.*

(4) *Providing training in and the opportunity for self care according to clients' capabilities.*

(5) *Demonstrating principles of behavior management by reinforcing appropriate behavior and causing inappropriate behavior to be reduced or eliminated.*

(6) *Demonstrating skills supporting age-appropriate behavior by allowing the client to make personal choices, providing and reinforcing other behavior consistent with clients' dignity.*

(7) *Utilizing client's family or concerned others as a source of emotional support.*

*e. Skills for basic restorative services.*

(1) *Using assistive devices in ambulation, eating and dressing.*

(2) *Maintaining range of motion.*

(3) *Turning and positioning, both in bed and chair.*

(4) *Transferring.*

(5) *Bowel and bladder training.*

(6) *Caring for and using prosthetic devices.*

(7) *Positioning of therapeutic devices.*

*f. Clients' rights.*

(1) *Providing privacy and maintaining confidentiality.*

(2) *Promoting the client's right to make personal choices to accommodate individual needs.*

(3) *Giving assistance in resolving grievances.*

(4) *Providing assistance necessary to participate in client and family groups and other activities.*

(5) *Maintaining care and security of the client's personal possessions.*

(6) *Providing care that maintains the client free from abuse, mistreatment or neglect and reporting improper care to appropriate persons.*

(7) *Maintaining the client's environment and care to minimize the need for physical and chemical restraints.*

*3. Unit objectives.*

a. Objectives for each unit of instruction shall be stated in behavioral terms including measurable performance criteria.

b. Objectives shall be reviewed with the students at the beginning of each unit.

## E. Records.

1. Each nurse aide education program shall develop an individual performance record of major duties and skills taught. This record will consist of, at a minimum, a listing of the duties and skills expected to be learned in the program, space to record when the nurse aide student performs this duty or skill, spaces to note satisfactory or unsatisfactory performance, the date of performance, and the instructor supervising the performance. At the completion of the nurse aide education program, the nurse aide and his employer must receive a copy of this record.

2. A record of the reports of graduates' performance on the approved competency evaluation program shall be maintained.

3. A record that documents the disposition of complaints against the program shall be maintained.

## F. Student identification.

The nurse aide students shall wear identification that is clearly recognizable to clients, visitors and staff.

## G. Length of program.

1. The program shall be at least 80 hours in length.

2. The program shall provide for at least 16 hours of instruction prior to direct involvement of a student with a nursing facility client.

3. Skills training in clinical settings shall be at least 40 hours. Five of the clinical hours may be in a setting other than a nursing home.

4. Employment orientation to facilities used in the education program must not be included in the 80 hours allotted for the program.

## H. Classroom facilities.

The nurse aide education program shall provide facilities that meet federal and state requirements including

1. Comfortable temperatures.

2. Clean and safe conditions.

3. Adequate lighting.

4. Adequate space to accommodate all students.

5. All equipment needed, including audio-visual equipment and that needed for simulating resident care.

## I. Program review.

1. Each nurse aide education program shall be reviewed on site by an agent of the board at least every two years following initial review.

2. The report of the site visit shall be presented to the board for consideration and action. The report and the action taken by the board shall be sent to the appropriate administrative officer of the program.

3. The program coordinator shall prepare and submit a program evaluation report on a form provided by the board in the intervening year that an on site review is not conducted.

4. A nurse aide education program shall continue to be approved provided the requirements set forth in subsections B through H of § 5.4 of these regulations are maintained.

5. If the board determines that a nurse aide education program is not maintaining the requirements of § 5.4 B-H of these regulations, the program shall be placed on conditional approval and be given a reasonable period of time to correct the identified deficiencies. The program provider may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

6. If the program fails to correct the identified deficiencies within the time specified by the board, the board shall withdraw the approval following a hearing held pursuant to the provisions of the Administrative Process Act. (§ 9-6.14:1 et seq.)

## J. Curriculum changes.

Changes in curriculum must be approved by the board prior to implementation and shall be submitted for approval at the time of a report of a site visit or the report submitted by the program coordinator in the intervening years.

## K. Closing of a nurse education program.

When a nurse aide education program closes, the program provider shall:

1. Notify the board of the date of closing.

2. Submit to the board a list of all graduates with the date of graduation of each.

## § 5.5. Nurse aide competency evaluation.

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A. The board may contract with a test service for the development and administration of a competency evaluation.

B. All individuals completing a nurse aide education program in Virginia shall successfully complete the competency evaluation required by the board prior to making application for certification and to using the title Certified Nurse Aide.

C. The board shall determine the minimum passing score on the competency evaluation.

## § 5.6. Nurse aide registry.

### A. Initial certification by examination.

1. To be placed on the registry and certified, the nurse aide must:

a. Satisfactorily complete a nurse aide education program approved by the board; or

b. Be enrolled in a nursing education program preparing for registered nurse or practical nurse licensure, have completed at least one nursing course which includes clinical experience involving client care; or

c. Have completed a nursing education program preparing for registered nurse licensure or practical nurse licensure; and

d. Pass the competency evaluation required by the board; and

e. Submit the required application and fee to the board.

### 2. Initial certification by endorsement.

a. A graduate of a state approved nurse aide education program who has satisfactorily completed a competency evaluation program and been registered in another state may apply for certification in Virginia by endorsement.

b. An applicant for certification by endorsement shall submit the required application and fee and submit the required verification form to the credentialing agency in the state where registered, certified or licensed within the last two years.

### 3. Initial certification shall be for two years.

### B. Renewal of certification.

1. No less than 30 days prior to the expiration date of the current certification, an application for renewal shall be mailed by the board to the last known address of each currently registered certified nurse

aide.

2. The certified nurse aide shall return the completed application with the required fee and verification of performance of nursing-related activities for compensation within the preceding two years.

3. Failure to receive the application for renewal shall not relieve the certificate holder of the responsibility for renewing the certification by the expiration date.

4. A certified nurse aide who has not performed nursing-related activities for compensation during the two years preceding the expiration date of the certification shall repeat an approved nurse aide education program and the nurse aide competency evaluation prior to applying for recertification.

### C. Reinstatement of lapsed certification.

An individual whose certification has lapsed shall file the required application and renewal fee and

1. Verification of performance of nursing-related activities for compensation within the preceding two years; or

2. When nursing activities have not been performed during the preceding two years, evidence of having repeated an approved nurse aide education program and the nurse aide competency evaluation.

### D. Evidence of change of name.

A certificate holder who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order authorizing the change. A duplicate certificate shall be issued by the board upon receipt of such evidence and the required fee.

### E. Requirements for current mailing address.

1. All notices required by law and by these regulations to be mailed by the board to any certificate holder shall be validly given when mailed to the latest address on file with the board.

2. Each certificate holder shall maintain a record of his current mailing address with the board.

3. Any change of address by a certificate holder shall be submitted in writing to the board within 30 days of such change.

§ 5.7. The board has the authority to deny, revoke or suspend a certificate issued, or to otherwise discipline a certificate holder upon proof that he has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

1. *Fraud or deceit shall mean, but shall not be limited to:*

- a. *Filing false credentials;*
- b. *Falsely representing facts on an application for initial certification, reinstatement or renewal of a certificate; or*
- c. *Giving or receiving assistance in taking the competency evaluation.*

2. *Unprofessional conduct shall mean, but shall not be limited to:*

- a. *Performing acts beyond those authorized for practice as a nurse aide as defined in Chapter 30 of Title 54.1;*
- b. *Assuming duties and responsibilities within the practice of a nurse aide without adequate training or when competency has not been maintained;*
- c. *Obtaining supplies, equipment or drugs for personal or other unauthorized use;*
- d. *Falsifying or otherwise altering client or employer records;*
- e. *Abusing, neglecting or abandoning clients; or*
- f. *Having been denied a license or having had a license issued by the board revoked or suspended.*

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*\* Implementing instructions, dated April 1989, from the Health Care Financing Administration, of the U.S. Department of Health and Human Services, state that, "When the program coordinator is the director of nursing, qualified assistance must be available so that the nursing service responsibilities of the director of nursing are covered."*

.....

**DEPARTMENT OF SOCIAL SERVICES (BOARD OF)**

**Title of Regulation:** VR 615-01-90. Degree Requirements for Social Work/Social Work Supervision Classification Series.

**Statutory Authority:** § 63.1-26 of the Code of Virginia.

**Public Hearing Date:** N/A - Written comments may be submitted until April 15, 1990.

(See Calendar of Events section for additional information)

**Summary:**

*This regulation establishes the requirement of*

*possession of a degree in the Human Services field from an accredited college/university for applicants for position vacancies in the Service Program/Service Program Supervision classification series.*

VR 615-01-90. Degree Requirements for Social Work/Social Work Supervision Classification Series.

**§ 1. Definitions.**

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

*"Human Services field" means the field of social work and related degrees, including counseling, gerontology, guidance and counseling, family and child development, psychology, sociology, or other related degrees based upon curriculum and course content similar to degrees listed above.*

*"Service Program/Service Program Supervision series" means the following classifications:*

- Senior Social Work Supervisor*
- Social Work Supervisor*
- Principle Social Worker*
- Child Protective Services Worker II*
- Senior Social Worker*
- Child Protective Services Worker I*
- Social Worker*

**§ 2. Policy.**

*Section 63.1-26 of the Code of Virginia requires the board to establish minimum entrance and performance standards,*

*Effective (date) applicants for the Service Program/Service Program Supervision classification series vacancies must possess a minimum of a baccalaureate degree in the Human Services field in order to be evaluated for the position vacancy.*

*If an individual does not indicate possession of a baccalaureate degree in the Human Services field on the application, he will not be qualified for the position.*

*Once the applicant has noted the possession of a baccalaureate degree in the Human Services field on the application or resume, the evaluation process will continue using knowledge, skill, and ability criteria.*

*Individuals employed in the classification series prior to the adoption of this regulation who do not possess a*

# Proposed Regulations

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*baccalaureate degree in the Human Services field will be retained in their current classification or any lesser classification without having to meet the degree in the Human Services field requirement. This includes the same classification in another local agency. These individuals will be required to meet the degree requirement in the Human Services field for application to any higher classification other than their current classification.*

\* \* \* \* \*

**Title of Regulation:** VR 615-48-02. Employment Services Program Policy.

**Statutory Authority:** § 63.1-25 of the Code of Virginia and Titles IVA and IVF of the Social Security Act.

**Public Hearing Date:** March 26, 1990 - 10 a.m.  
(See Calendar of Events section for additional information)

**Summary:**

*These amendments include provisions of the Jobs Opportunities and Basic Skills (JOBS) Training Program of the Family Support Act of 1988. The purpose of JOBS is to assure that needy families with children obtain the education, training and employment that will help them avoid long-term welfare dependency. These amendments address provisions presented to the Department of Social Services as both optional and mandatory regulations.*

VR 615-48-02. Employment Services Program Policy.

**PART I  
INTRODUCTION.**

§ 1.1. Definitions.

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

*"Aid to Dependent Children"* means a program established by Title IV-A of the Social Security Act and authorized in Virginia by Chapter 6 (§ 63.1-86 et seq.) of Title 63.1 of the Code of Virginia. This program provides benefits to needy children who are deprived of parental support or care.

*"ADC"* means Aid to Dependent Children Program.

*"Aid to Dependent children-Unemployed Parent"* means the program authorized in § 407 of the Social Security Act which provides aid to dependent children who are deprived of parental support or care by reason of the unemployment of the parent who is the principal wage earner.

*"ADC-UP"* means Aid to Dependent

*Children-Unemployment Parent.*

*"Annual plan"* means Employment Services Plan. It is prepared annually by each local agency and submitted to the department for approval. It contains a brief description of, among other things, the components offered by the local agency.

*"Applicant"* means a person who has applied for ADC , ADC-UP or GR and the disposition of the case has not yet been determined.

*"Basic literacy level"* means a literacy level that allows a person to function at a level equivalent to at least grade 8.9.

*"Caretaker-relative"* means a relative, other than the natural or adoptive parent, who is responsible for supervision and care of the needy child.

*"Component"* means one of several activities in which a person may participate while in the Employment Services Program.

*"Custodial parent"* means the parent with whom the child lives.

*"Department"* means the Department of Social Services.

*"Employment Services Program"* means a program operated by the Department of Social Services which helps ADC , ADC-UP and GR recipients in securing employment or the training or education needed to secure employment as required by Chapter 6.2 (§ 63.1-133.12:1) of Title 63.1 of the Code of Virginia.

*"ESP"* means the Employment Services Program.

*"Exempt"* means that an ADC , ADC-UP or GR applicant or recipient meets one of the exemption criteria and therefore is not required to register with participate in the Employment Services Program in order to be eligible for public assistance.

*"General relief"* means public assistance for individuals ineligible in a federal category but eligible for state assistance as established by § 63.1-106 of the Code of Virginia.

*"GR"* means general relief.

*"JOBS"* means the Job Opportunities and Basic Skills Training Program.

*"JTPA"* means the Job Training Partnership Act.

*"Limited English proficiency"* means limited ability in the English language by a person whose native language is a language other than English or by a person who lives in a family or community environment where a language other than English is the dominant language.

"Local agency" means any one of the local social services or welfare agencies which administer the Employment Services Program.

"Making good progress" and "making satisfactory progress" means that the participant in any educational or training activity is meeting on a periodically measured basis of less than one year, such as a term or quarter, a consistent standard of progress based on written policy as developed by the educational institution or training agency.

"Nonexempt" means that an ADC, ADC-UP or GR applicant or recipient does not meet one of the exemption criteria and therefore is required to register with participate in the Employment Services Program in order to be eligible for public assistance.

"Participant" means an ADC, ADC-UP or GR recipient who is registered with the Employment Services Program and its participating in any one of the Employment Services Program components.

"Pending status" means a component to which registrants inactive participants are assigned when they cannot move immediately into one of the components identified in Part II, Policy, of these regulations.

"Persons essential-to-well-being (EWB)" means needy individuals living in the home who can be determined essential to the well-being of the ADC, ADC-UP or GR child(ren). Such individuals must be ineligible for assistance in a federal category in their own right.

"Postsecondary education" means a program of postsecondary instruction offered by an institution of higher education or a vocational school as determined by the Secretary of Education to meet the Higher Education Act of 1965.

"Recipient" means a person whose application for ADC or GR has been approved and the person has not been removed from assistance.

"Registrant" means an ADC or GR applicant or recipient who has registered with the Employment Services Program either because he was required to do so or because he volunteered.

"Supplemental job" means a job provided by the state or local agency or any other employer for which all or part of the wages are paid by the state or local agency.

## PART II. POLICY.

### § 2.1. Statewideness.

All local agencies shall offer to employable Aid to Dependent Children (ADC, Aid to Dependent Children-Unemployed Parent (ADC-UP) and General Relief

(GR) applicants and recipients an Employment Services Program which will assist those individuals in attaining the goal of self-support.

### § 2.2. Employment Services Annual Plan.

A. Each local agency shall submit annually for approval to the department a local Employment Services Plan. This annual plan shall include the following:

1. Individual community's needs and resources;
2. The agency's methodology for providing employment opportunities to its ADC, ADC-UP and GR population;
3. A description of the registration process, the assessment process, the job search component, the work experience group component programs and services offered by the agency; and
4. The agency's efforts to coordinate with other providers of employment and training services.

B. All annual plans shall be submitted in the format prescribed by the department.

### § 2.3. Program focus.

The focus of each local Employment Services Program shall be the placement of to provide ESP registrants into unsubsidized jobs participants with appropriate education or training programs necessary for placement into unsubsidized jobs to the extent that such jobs or programs are available.

### § 2.4. Registration and Participation.

A. All ADC (except EWB), ADC-UP and GR applicants and recipients must register with participate in the Employment Service Services Program offered by the local agency unless they meet one of the exemption criteria in the category of assistance for which they are eligible as defined in § 2.5 below.

B. All nonexempt recipients must participate in the program.

C. B. Recipients of ADC, ADC-UP and GR shall be exempt from registering with and participating in any locally operated food stamp workfare or employment program.

C. A custodial parent who is not yet 20 years old must attend education activities if the individual has not finished high school or the equivalent and child care is provided by the agency. This policy may be waived for 18 or 19 year olds as specified in § 2.4 D of these regulations.

D. A custodial parent 18 or 19 may be required to participate in training or work experience in lieu of



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educational activities if one of the following is met:

1. The individual fails to make good progress in successfully completing education activities.
2. Prior to assignment it is determined that participation in education activities is not appropriate.

E. An individual 20 to 24 years old, who has not earned a high school diploma, or its equivalent, shall participate in educational activities consistent with their employment goals, unless the individual demonstrates a basic literacy level or the individual's long-term employment goal does not require a high school diploma or its equivalent.

## § 2.5. Exemption criteria.

An applicant/recipient of ADC (including persons essential-to-well-being) (except EWB), ADC-UP or GR must be registered with a participant in the Employment Services Program unless the individual is exempt from registration participation.

A. The exemption criteria for ADC and ADC-UP are as follows:

1. A child under age 16.
2. An eligible child or caretaker 16 or over enrolled full time in elementary, secondary or vocational or technical school and age 16 but not yet 18. The vocational or technical school must be the equivalent of secondary school. An individual who leaves school and later reenters school through a JOBS program shall not qualify for the exemption.
3. An individual who is ill ; as determined by a medical statement provided by a physician or licensed or certified psychologist that the injury or illness temporarily prevents entry into employment or training.
4. An individual who is incapacitated ; as determined by receipt of Social Security disability benefits or a medical statement provided by a physician or licensed or certified psychologist that the injury or illness by itself or in conjunction with age, prevents the individual from engaging in employment or training under the Employment Services Program. This may include a period of recuperation after childbirth if prescribed by a woman's physician.
5. 65 An individual 60 years of age or older.
6. A parent ; or caretaker-relative ; or person essential-to-well-being whose presence in the home is required because of illness or incapacity of another member of the household (not necessarily a member of the assistance unit) and no other appropriate adult member of the household is available. This exemption

is determined by a medical statement provided by a physician or licensed or certified psychologist that the injury or illness of another member of the household requires the individual's presence in the home on a substantially continuous basis.

7. A parent or caretaker-relative of a child under age ~~six~~ three who personally provides care for the child with only very brief and infrequent absences from the child , except for the under 20-year-old custodial parent who does not have a high school degree or its equivalent. This individual must participate regardless of the age of the child .

8. A parent or other caretaker of a child, when the other nonexempt adult relative in the home is registered and has not refused to participate in the program or to accept employment, without good cause.

8. A parent who is performing unpaid public or community services to fulfill a court imposed sentence and, therefore, is precluded from paid employment or participation in the Employment Services Program.

~~10.~~ 8. An individual who is employed to work 30 hours or more per week at minimum wage or higher. Employment as a result of ESP participation does not place the participant in an exempt status until a 90-day period has elapsed .

~~11.~~ 9. A female who is in her ~~sixth~~ fourth through ninth month of pregnancy as determined by a written medical statement provided by a physician.

~~12.~~ 10. A VISTA Volunteer under Title I of Public Law 93-113, The Domestic Volunteer Services Act of 1973 ; provided he became a VISTA volunteer after applying for assistance .

B. The exemption criteria for GR are as follows:

1. All persons (including the spouse) who are determined to be unemployable.
2. All individuals designated as persons essential-to-well-being (EWB) (including the spouse) who have been medically verified as essential to the care of any other member of the assistance unit.
3. All persons who are designated as caretaker for any children in the home (not necessarily members of the assistance unit) under ~~six~~ three years of age.
4. All persons under the age of 16.
5. All persons 16 or 17, if enrolled in school full-time.
6. A VISTA Volunteer under Title I of Public Law 93-113, the Domestic Volunteer Service Act of 1973, provided he became a Vista volunteer after applying

for assistance.

## § 2.6. Applicant job search.

Applicant job search shall not be a condition of eligibility for ADC , *ADC-UP* and GR. Each local agency must provide job search assistance to all exempt and nonexempt applicants for ADC , *ADC-UP* and GR who volunteer to participate in a job search component during their application period.

## § 2.7. ~~Plan of participation~~ *Employability plan* .

Each exempt and nonexempt ADC , *ADC-UP* and GR recipient shall participate in an employability assessment process which shall result in the development of a ~~participation~~ *an employability plan*.

## § 2.8. Recipient job search component.

*A. No participant shall be required to participate in job search for more than three weeks before the assessment is completed. If the assessment determines that another JOBS activity is more appropriate, the job search activity will be terminated.*

~~A. B.~~ Each ESP ~~registrant~~ *participant so required* shall engage in up to eight weeks of job searching during every 12-month period.

~~B. C.~~ Up to four weeks of job search shall take place every six months and shall be verified during the eligibility redetermination process.

## § 2.9. Education and training ~~component~~ *components* .

Each Employment Services Program shall include an education and training ~~component~~ *components* for exempt and nonexempt ADC and GR recipients who need such assistance to gain unsubsidized employment.

*A. The education component shall include:*

- 1. High school education or education designed to prepare an individual for a high school equivalency certificate;*
- 2. Basic and remedial education that will provide an individual with a basic literacy level equivalent to at least grade 8.9;*
- 3. Education in English proficiency for an individual who is not sufficiently competent to understand, speak, read or write the English language; and*
- 4. Postsecondary education for those individuals whose goals are directly related to obtaining employment in a recognized occupational area.*

*B. Jobs skills training shall provide vocational training in technical job skills and equivalent knowledge and*

*abilities in a specific occupational area.*

## § 2.10. Work experience component.

A. Each Employment Services Program shall include a work experience component for exempt and nonexempt ADC , *ADC-UP* and GR recipients who need appropriate work experience of a developmental nature to assist them in moving into unsubsidized employment.

B. All participants in the work experience component shall be insured by Worker's Compensation.

C. Participants in the work experience component shall not displace persons currently employed or be placed in established, unfilled positions. Participants shall not perform tasks which have been undertaken by employees or which would have the effect of reducing the work of employees.

## § 2.11. Job readiness component.

*Each Employment Services Program shall include a job readiness component to help prepare participants for work by assuring that participants are familiar with general workplace expectations and work behavior.*

## § 2.12. Job development and job placement component.

*Each Employment Services Program shall include a job development and job placement component to solicit public and private unsubsidized jobs and to market participants and secure job interviews for participants.*

## § 2.13. On-the-job training.

*An eligible individual may participate in a JTPA on-the-job training activity through a JOBS referral as long as no JOBS funds are expended on subsidized wages.*

## § 2.14. Work supplementation program.

*Each Employment Services Program may operate a work supplementation program to develop and subsidize jobs for ADC recipients as an alternative to aid.*

## § ~~2.11.~~ § 2.15. Employability reassessment.

A. Each ESP participant who does not find employment during the job search component shall participate in an employability reassessment within 30 days.

B. This assessment shall determine the recipient's future course of involvement in the agency's Employment Services Program including participation in work experience and other training/education components.

C. ESP participants who complete or leave any work experience, training, or education component shall be reassessed within 30 days of their leaving active participation.

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D. Recipients in a pending status shall be reassessed every 90 days.

~~§ 2.12.~~ § 2.16. Day care and transportation.

A. Applicants and recipients shall not be required to pay for day care, transportation, or other supportive services which may be necessary for them to participate in the Employment Services Program.

B. Each annual plan shall ensure that reasonable and affordable transportation and day care services are available for ADC, ADC-UP and GR applicants and recipients and their children in order for them to participate in any ESP component.

C. Only approved or licensed day care facilities shall be utilized when day care is purchased or provided by the local agency.

D. When the applicant or recipient elects to have day care provided by relatives or others without cost to the local agency, approval of the day care provider is not required.

§ 2.17. Conciliation.

*Each participant shall be provided a conciliation period in which to resolve disputes related to their participation in the Employment Services Program prior to any sanctions being imposed.*

~~§ 2.13.~~ § 2.18. Sanctions.

A. The refusal of a nonexempt ADC applicant or recipient to register with the Employment Services Program or of a nonexempt, ADC-UP or GR recipient to accept the employment services offered by the local agency shall result in that person's ineligibility for assistance.

B. The refusal of a nonexempt GR applicant or recipient to register with the Employment Services Program or of a nonexempt recipient to accept the employment services offered by the local agency shall result in the entire household's ineligibility for assistance. *The action of a nonexempt recipient to terminate employment or reduce their earnings without good cause shall result in that person's ineligibility for assistance.*

~~§ 2.14.~~ § 2.19. Appeals.

ESP registrants have the right to appeal. The appeal process currently in place in the department's Division of Benefit Programs *Each participant shall be provided the opportunity for an appeal if a dispute is not resolved through conciliation. The current appeal process of the department shall be utilized to assure fair hearings for all applicants and recipients who feel adverse action has been taken as a result of their participation or lack of participation in the Employment Services Program.*

~~§ 2.15.~~ § 2.20. Fiscal and statistical reports.

Local agencies shall maintain and submit fiscal and statistical data required by the department.

~~§ 2.16.~~ § 2.21. Program monitoring.

The local agency's program performance shall be monitored by the department for compliance with the approved annual plan.

# FINAL REGULATIONS

For information concerning Final Regulations, see information page.

## Symbol Key

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

## DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

**NOTICE:** Refer to the Department of Youth Services in the Final Regulations section of this issue of The Virginia Register of Regulations to view the printed text of Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.

**Title of Regulation:** VR 230-40-005. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.

**Statutory Authority:** §§ 53.1-5 and 53.1-253 of the Code of Virginia.

**Effective Date:** July 1, 1990

### Summary:

*These standards are for the operation of programs developed and implemented under Virginia Delinquency Prevention and Youth Development (DP&YD) Act grants. State law creating this Act requires that a city or county have a youth services citizen board. The standards give guidance to these youth services citizen boards, their staff (i.e., an Office on Youth), and their programs and services. The standards outline the powers, appointment and qualifications, and responsibilities of the youth services citizen boards. Office on Youth administration is addressed and includes such items as goals and objectives, personnel, staff training, fiscal management, and monitoring and evaluation. The standards conclude with requirements concerning programs and services (i.e., comprehensive community youth needs planning, community involvement, and direct service programs).*

*The only substantial change is the deletion of a requirement for a second equivalent full-time paid position for each office on youth. Concerns were expressed by the Department of Planning and Budget regarding lack of funding for this requirement. The Department of Corrections does not wish to have such a mandate without providing the necessary funding. Therefore, the proposed standard was withdrawn from the final regulations.*

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

**NOTE:** The Board of Game and Inland Fisheries is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 to publish all proposed and final regulations.

### Title of Regulations:

VR 325-02. GAME.

VR 325-02-1. In General.

VR 325-03. FISH.

VR 325-03-2. Trout Fishing.

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

**Effective Date:** March 15, 1990

### Summary:

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

VR 325-02. GAME.

VR 325-02-1. In General.

§ 2. Hunting with crossbows, arrows to which any drug, chemical or toxic substance has been added or explosive-head arrows prohibited.

*It shall be unlawful to use a crossbow, arrows to which any drug, chemical or toxic substance has been added or arrows with explosive heads at any time for the purpose of hunting wild birds or wild animals. A crossbow is defined as any bow that can be mechanically held in the drawn or cocked position.*

VR 325-03. FISH.

VR 325-03-2. Trout Fishing.

§ 14-2. Special provisions applicable to certain portion of Jackson River.

*It shall be unlawful to creel or possess trout on that portion of the Jackson River from Gathright Dam downstream to the Westvaco Dam at Covington. Such closure shall end when special regulations pertaining to trout fishing on such portion of the Jackson River are enacted by the Board of Game and Inland Fisheries.*

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**Title of Regulation:** VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

# Final Regulations

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

Effective Date: January 16, 1990

**NOTE:** Documents and forms referred to herein as exhibits have not been adopted by the authority as a part of the Rules and Regulations 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 the foregoing Rules and Regulations 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.

## Summary:

*The amendments to the authority's rules and regulations applicable to its single family mortgage loan program will eliminate certain outdated sales prices and income limits, redesignate the PDS agents as originating agents and servicing agents, describe the authority's loan buydown programs, clarify that certain changes in loan reservations are prohibited, explain that private mortgage insurance companies may have additional underwriting requirements, specify that applicants must be U.S. citizens or possess a "green card," list additional documents required to be included in FHA and VA loan packages, clarify the requirement for the submission of tax records by applicants seeking to finance a home in certain targeted areas and make certain typographical and stylistic revisions.*

VR 400-02-003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

## PART I. GENERAL.

### § 1.1. General.

The following rules and regulations 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 a "gross family income" (as determined in accordance with the authority's rules and regulations) as applicable, which does not exceed the applicable income limitation set forth in Part II hereof. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit set forth in Part II hereof. The term "sales price," with

respect to a mortgage loan for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds as set forth in Part II hereof.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

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 rules and regulations where deemed appropriate by him for good cause, to the extent not inconsistent with the Act.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations 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 rules and regulations 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, originating and administration of mortgage loans under the authority's single family housing program. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

### § 1.2. PDS Originating and servicing agents.

#### A. Approval /definitions .

The originating of mortgage loans and 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 thereof in accordance herewith shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as Processing/Disbursing/Service Agents ("PDS agents") originating agents ("originating agents") of the authority. The servicing of mortgage loans shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as servicing agents ("servicing agents") of the authority.

To be initially approved as PDS agents an originating

agent or as a servicing agent, 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 processing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant); and
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. 5. 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 Each originating agent approved by the authority shall enter into Processing/Disbursing/Service Agreements ("PDS agreements") an originating agreement ("originating agreement"), with the authority containing such terms and conditions as the executive director shall require with respect to the origination and processing; disbursing and servicing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into an originating and servicing agreement ("originating and servicing agreement") with the authority containing such terms and conditions as the executive director shall require with respect to the originating and servicing of mortgage loans hereunder.

For the purposes of these rules and regulations, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent," unless

otherwise noted. Similarly, the term "originating agreement" shall hereinafter be deemed to include the term "originating and servicing agreement," unless otherwise noted. The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans. The term "servicing agreement" shall continue to mean only the agreement between the authority and a servicing agent.

The PDS Originating agents and servicing agents shall maintain adequate books and records with respect to such mortgage loans which they originate and process or service, as applicable, 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 originating agents and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the PDS originating agreements and servicing agreements applicable to such originating agents and servicing agents.

## 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 originating 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 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 originating 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.

# Final Regulations

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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 *Originating* guide and servicing guide.

The ~~processing and disbursing~~ *originating* guide attached hereto as Part II is incorporated into and made a part of these rules and regulations. All exhibits and other documents referenced in the ~~processing and disbursing~~ *originating* guide are not included in, and shall not be deemed to be a part of, these rules and regulations. 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 all originating agents and servicing agents~~ *responsible* for the servicing of the mortgage loans under the ~~PDS applicable originating agreements and servicing 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 originating~~ *originating* 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 originating~~ agents and (ii) agree to purchase individual mortgage loans from its ~~PDS originating agents or servicing~~ 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 to such mortgage loans shall be governed by and shall comply with the provisions of the ~~PDS applicable originating agreement or servicing~~ *originating agreement or servicing* agreement, the ~~processing and disbursing originating~~ *originating* guide, the servicing guide, the Act and these rules and regulations.

If the applicant and the application for a mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

## 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 originating agents and servicing~~ *originating agents and servicing* 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 sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. 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 originating agents and servicing~~ *originating agents and servicing* 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 selected originating agents and servicing 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 applicable originating agreement or servicing agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

#### F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more PDS originating 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 originating agents may qualify for such delegation. If such delegation has been made, the PDS originating 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 applicable originating agreement, the Act or these rules and regulations, he may require the PDS originating 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.

#### C. Citizenship.

Each applicant for an authority mortgage loan must either be a United States citizen or have a valid and current alien registration card (U.S. Department of Immigration Form 1-551 or U.S. Department of Immigration Form 1-151).

#### § 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 originating 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 originating agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing and signing the "PDS Originating Agent's Checklist for Certain Requirements of the Tax Code" (Exhibit [ A ] (H) 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);



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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"); *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" *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 *originating* 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 *originating* 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 *originating* agent. The PDS *originating* agent must, with due diligence, verify the representations in the ~~borrower~~ affidavit of borrower (Exhibit E) 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 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 *at the time of closing* 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 (*to be updated by the verification and update of information form*) 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 originating agent. The affidavit of borrower (*Exhibit E*) must be reviewed by the PDS

originating 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 originating agent shall review the appraiser report (*Exhibit H*) 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 originating agent shall certify to ~~its~~ *the authority its findings and certain opinions in the checklist for certain requirements of the tax code (Exhibit A(1))* at the time the loan application is submitted to the authority for approval.

6. Post-closing procedures. The PDS originating 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 originating 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

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been satisfactorily completed.

3. Review by PDS *originating* agent. Prior to closing the mortgage loan, the PDS *originating* agent must examine the affidavit of borrower (*Exhibit E*), the affidavit of seller (*Exhibit F*), 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 *originating* 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 *originating* 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 *originating* agent or, if applicable, the *servicing* agent must in all cases contact the authority see § 2.10 below.

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 descendants) in constructing or completing the residence.

4. Acquisition cost worksheet (Exhibit G) and Appraiser Report (Exhibit H). The PDS *originating* 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 *originating* agent shall assist the eligible borrower in the correct completion of the worksheet. The PDS *originating* 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 *originating* agent. The PDS *originating* 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 *originating* agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the PDS *originating* agent or, if applicable, the servicing agent must contact the authority for this determination in all cases - see section 2.10 below ). Also, as part of its review, the PDS *originating* 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 *originating* 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 *originating* 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 *originating* agent exclusively for targeted areas will be specified in a forward commitment agreement between the PDS *originating* agent and the authority.

### B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in this § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement described in § 2.2.1.B. *Notwithstanding this exception, the applicant must still submit certain federal income tax records. However, they will be used to verify income and to verify that previously owned residences have not been used in a trade or business (and not to verify nonhomeownership), and only those records for the most recent year preceding execution of the mortgage documents (rather than the three most recent years) are required. See that section for the specific type of records to be submitted.*

#### 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

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(Virginia Portion)

1/	
Norfolk-Virginia Beach- Newport News MSA	\$ 81,500
2/	
Richmond-Petersburg MSA	\$ 79,500
3/	
Charlottesville MSA	\$ 77,000
4/	
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 Part)			
8/	\$ 64,000	\$ 56,500	\$ 56,500
Balance of State	\$ 64,000	\$ 56,500	\$ 56,500

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: 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. B. Effect of solar grant.

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.

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.

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 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 *automatically met as long as the requirements of this subsection are met if an applicant's gross family income does not exceed the applicable limits set forth in this subsection.*

*For the purposes hereof, the term "gross family income" means the annualized gross income of a person or all members of a family residing or intending to reside in a dwelling unit from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. "Gross monthly income" is, in turn, the sum of monthly gross pay plus any additional dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).*

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 *an originating agent or a servicing agent* on or after March 1, 1989.

The maximum allowable gross *family* 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 *family* 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 *its originating agents and servicing 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	\$ 35,000
Richmond-Petersburg MSA			
3+	\$ 36,400	\$ 34,400	\$ 33,300

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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 Part)			
8/	\$ 32,700	\$ 32,700	\$ 31,500
Balance of State	\$ 32,200	\$ 32,200	\$ 30,000

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: 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, Frederiek County, Winchester City.

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

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 *authority's* minimum income requirement for ~~authority~~ financing if the monthly principal and interest, tax, insurance (~~PITI~~) ("*PITI*") and other additional monthly fees such as condominium assessments[ ( ) 60% of the *monthly condominium assessment shall be added to the PITI figure*], 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 (see Exhibit B) . *However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements. For units in condominiums, 60% of the monthly condominium assessment shall be used in the foregoing 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 *each loan the amount of which exceeds 80%* of the lesser of

sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The PDS originating 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 originating agent's name and purchased by the authority once the FHA Certificate of Insurance or VA Guaranty has been obtained. In the event that the authority purchases an FHA or VA loan, the PDS originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. (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.

*The following requirements must be met in order to satisfy the authority's underwriting requirements. However, additional or more stringent requirements may be imposed by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required.*

#### 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



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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 *provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, 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.

## D. FHA and VA buydown program.

*With respect to FHA and VA loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V)*

*executed at closing (see § 2.15 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain FHA requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on FHA guidelines then in effect (see also subsection B or C above, as applicable).*

## E. Interest rate buydown program.

*Unlike the program described in subsection D above which permits a direct buydown of the borrower's monthly payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.*

## § 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 provided that certain requirements are met. The requirements for each of the ~~four~~ two different categories of mortgage loans listed below (and the subcategories within each) are as follows:

#### 1. Assumptions of conventional loans.

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 Authorization to process assumptions/requirement that the authority be contacted.

*Although the requirements listed in subsection A above are generally those that only originating agents are responsible for determining compliance with, in the case of assumptions, servicing agents are also authorized to make such determinations. More generally, for the purposes of this § 2.10, servicing agents may process*

*assumption requests provided that they do so in accordance with all the requirements hereof, including those otherwise the exclusive responsibility of originating agents. Accordingly, references are made within this section to "originating agents or servicing agents" in order to reflect this additional role of servicing agents.*

The PDS originating agent or servicing 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 originating agent or servicing 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 originating agent or servicing 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 originating agent or servicing 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 Originating agent's checklist (Exhibit A(1)).
- (7) 4506 form (Exhibit Q).
- (8) PDS Originating 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.

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(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 *Originating agent's* checklist (Exhibit A(1)).

(7) 4506 form (Exhibit Q).

(8) PDS *Originating agent's* loan submission cover letter (Exhibit 0(2) or (3)).

(9) Authority's completed application (Exhibit D).

(10) *Sales contract.*

(11) *Copy of the executed FHA mortgage credit analysis worksheet if the original borrowers are to be released from liability.*

~~(10)~~ (12) 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 from an *originating*★[ *agency agent* ] or *servicing agent* of an application package for an 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 *originating agent or servicing agent* of such determination in writing. The authority will further advise the PDS *agent originating agent or servicing 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 *serve* basis. *Reservations are made by specific originating agents with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates (see subdivision 5 below) are also nontransferable.* In order to make a reservation of funds for a loan, the PDS *originating 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 E- C(1)).

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~~ the interest rate which shall be locked in for the reserved funds and an expiration date for the reservation, all of which will be assigned after the PDS originating 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
- 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 originating agent may sign the reservation card) and, in addition, complete a lock-in disclosure (Exhibit C(2)) and have the applicant execute it prior to submitting it with the application package.

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 originating 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 originating 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 originating 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 fees.

1. Commitment fee. The PDS originating 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 originating 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 originating agent retains the full such 1.0% fee 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 collected commitment fee less 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 [ origination originating ] 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 originating 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 original documents :

1. Reservation sheet (Exhibit E- C(1)) and lock-in disclosure (Exhibit C(2)).

2. Application - the application must be made on the

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- 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 *Originating* 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: *(Please note that items 13 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies):*

1. Reservation sheet (Exhibit  $\ominus$  C(1)) and lock-in disclosure (Exhibit C(2)).
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 *and current pay stubs*.
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 § 2.2.1.B.3 hereof, such letter must be enclosed instead).

20. PDS *Originating* 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)

## C. VA loans.

The application package submitted to the authority for approval of a VA loan must contain the following items (please note that items 15 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies :

1. Reservation sheet (Exhibit C) C(1) and lock-in disclosure (Exhibit C(2)) .
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 VA certificate of eligibility.
6. Copy of VA benefits and related indebtedness letter.

- ~~6~~ 7. Copy of the credit report.
- ~~6~~ 8. Copy of verification of employment (if active duty, include current LES form) .
7. 9. Copy of verification of other income.
8. 10. Copy of verification of deposits.
9. 11. Copy of gift letters (and verification).
- ~~10~~ 12. Copy of sales contract.
- ~~11~~ 13. Copy of appraisal - this must be on a form acceptable to VA and must contain all supporting documentation necessary for valuation.
- ~~12~~ 14. Loan submission cover letter. (Exhibit O(3))
- ~~13~~ 15. Appraiser's report. (Exhibit H)
14. 16. Acquisition cost worksheet. (Exhibit G)
- ~~15~~ 17. Affidavit of seller. (Exhibit F)
- ~~16~~ 18. Affidavit of borrower. (Exhibit E)
- ~~17~~ 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.B.3 hereof, such letter must be enclosed instead).

- ~~18~~ PDS 20. *Originating* agent's checklist for certain requirements of the tax code. (Exhibit A(1))
- ~~19~~ 21. Signed request for copy of tax returns (Exhibit Q)
20. 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.
- ~~21~~ 23. Equal Credit Opportunity Act ("ECOA") notice statement to borrower of provisions of ECOA, with borrower's acknowledgement of receipt. (Exhibit I)
- ~~22~~ 24. Truth-in-lending disclosure. (Exhibit K)

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## D. Delivery of package to authority.

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

Single Family ~~Originations~~ Division  
Originations Department  
Virginia Housing Development Authority  
13 South 13th Street 601 South Belvidere Street  
Post Office Box 5206  
Richmond, VA. ~~23210~~ 23220-8206

## § 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 *originating* agent. Also enclosed in this package will be other documents necessary for closing. The PDS *originating* agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the PDS *originating* agent, along with the 1.0% commitment fee, within 15 days after the date of the commitment. If the borrower does so indicate his acceptance of the commitment, the originating agent shall retain the fee in accordance with § 2.1.2.D.1. above. If the borrower fails to so indicate his acceptance of the commitment, either by failing to return an executed original thereof or by failing to submit the fee, or both, the originating agent shall, within 20 days after the date of the commitment, notify the authority in writing of such failure. If the originating agent does not do so, the authority shall deem that commitment to have been duly accepted, and the originating agent shall be liable to the authority for the uncollected commitment fee based on the loan's failure to close as described in § 2.1.2.D.1. above.

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 *originating* 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 *originating* 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 *originating* agent with the documents which the closing attorney is required to complete.

Once the attorney completes the preclosing package, it should be mailed to:

Single Family Division  
Pre-Closing Section  
Virginia Housing Development Authority  
601 South Belvidere Street  
Post Office Box 4593  
Richmond, VA 23220-8593

After the authority reviews the closing attorney's preliminary work and has been advised by the PDS *originating* 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 *title insurance* 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 *originating* agent. It is the PDS *originating* 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 checks for buy-down points (*this applies to both the monthly payment*

*buydown program described in § 2.8.D above and the interest rate buydown program described in § 2.8.E*. 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 debt service* 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 *funds* 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 601 South Belvidere Street  
 Post Office Box 5427  
 Richmond, VA ~~23210~~ 23220-8427

Within five days after the closing of the loan, the PDS *originating* 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 *originating* 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 *originating* agent shall forward to the authority the original hazard insurance policy.

During the 120-day period following the loan closing the PDS *originating* 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 *originating* agent may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event *that the originating agent receives information at any time otherwise becomes aware of the fact that any*

item noted on the PDS *originating* agent's checklist for certain requirements of the tax code may not be correct or proper, the PDS *originating* 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 (*mobile homes*) may be financed only if it is new construction and insured 100% by FHA (see subsection C). *Existing manufactured housing is not eligible for authority financing.*

### 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 maintained road (easements or [ *right-of-way rights-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; (iii) *property with available water and sewer [ hookup hookups ] must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that and (iii) joint ownership of a well and septic system 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



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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 *originating* agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The PDS *originating* 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.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

**REGISTRAR'S NOTICE:** The following § 1.10 of the Client Appeals Regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(b) of the Code of Virginia, which excludes regulations that are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved. Once effective, this section will replace § 1.10 of the Client Appeals emergency regulation that has been published in the Emergency Regulation section of this issue of The Virginia Register. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 460-04-8.7. Client Appeals.

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

Effective Date: March 14, 1990

Summary:

*The purpose of this final exempt regulatory action is to amend the current emergency regulation concerning Client Appeals to conform to action of the U.S. 4th Circuit Court.*

*The Virginia General Assembly amended the Administrative Process Act effective July 1, 1989, to allow judicial review of public assistance case decisions. While granting recipients the right to judicial review, the General Assembly limited the scope of the review to the application of the law to an individual case; the validity of the law itself is not subject to review.*

*In response to this General Assembly action, DMAS revised its recipient appeals process by expanding the number of hearing officers and replacing the Medicaid*

*Appeals Board with a panel of administrative law judges. DMAS promulgated an emergency regulation for Client Appeals which became effective January 16, 1990. The department has been working toward completing all necessary personnel actions for the expanded appeals process.*

*However, on October 25, 1989, Judge Michael, Western District of Virginia, issued a decision on the case Mowbray v. Kozlowski affecting the client appeals process. The major issue in Mowbray centers on a provision in the Medicare Catastrophic Coverage Act of 1988 which, in part, specified that certain eligibility requirements be no more restrictive than the methodology used in the SSI program. The court ruled invalid the DMAS policy allowing the use of more restrictive methodologies in determining Medicaid eligibility.*

*The court also ruled that DMAS' policy of refusing to hear arguments on issues of state or federal law in the course of administrative appeals is invalid. The Client Appeals regulations are therefore being changed to conform to this ruling.*

VR 460-04-8.7. Client Appeals.

*§ 1.10. If an appellant files a timely Request of Appeal, his services shall not be terminated or reduced until the appeal has been finally decided unless the appeal is invalidated by the hearing officer.*

## REPRINT

### BOARD OF NURSING

**NOTICE:** The following Board of Nursing Regulations were published in 6:9 VA.R. 1284-1299 January 29, 1990, and will become effective March 1, 1990. However, Part V, Certified Nurse Aides, was inadvertently printed, and will not become effective at this time. Part V is being published in the proposed section of this issue of The Virginia Register.

Title of Regulation: VR 495-01-1. Board of Nursing Regulations.

Statutory Authority: § 54.1-2400 and 54.1-3005 of the Code of Virginia.

Effective Date: March 1, 1990

Summary:

*The Virginia General Assembly at its 1989 session adopted a bill that amended §§ 38.2-3031, 38.2-4221, 54.1-3000, and 54.1-3013 of the Code of Virginia. The first two changes provide for reimbursement for certain services by a clinical nurse specialist who renders mental health services. The remaining three amendments define clinical nurse specialist and*

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authorize the Board of Nursing to (i) prescribe minimum standards and approve programs that entitle professional nurses to be registered as clinical nurse specialists; (ii) promulgate regulations governing clinical nurse specialists; and (iii) maintain a registry of clinical nurse specialists.

Changes resulting from the review of public comments were made to §§ 1.1, 2.5, 3.10 and 3.11. The amended regulations in § 1.3 and § 4.1 and the new § 4.2 were adopted as proposed.

VR 495-01-1. Board of Nursing Regulations.

## PART I. GENERAL PROVISIONS.

### § 1.1. Definitions.

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

*“Approval,”* as used in these regulations, is synonymous with accreditation and means the process by which the board or a governmental agency in another state or foreign country evaluates and grants official recognition to nursing education programs that meet established standards not inconsistent with Virginia law.

*“Associate degree nursing program”* means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or other institution and designed to lead to an associate degree in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, State Council of Higher Education or an Act of the General Assembly.

*“Baccalaureate degree nursing program”* means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or university and designed to lead to a baccalaureate degree with a major in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, the State Council of Higher Education or an Act of the General Assembly.

*“Board”* means the State Board of Nursing.

*“Clinical nurse specialist”* means a licensed registered nurse who holds [ : ]

[ 1. ] A master's degree from a board approved program [ and specialist certification from the American Nurses' Association in one of the following categories:

- Gerontological Nursing;
- Medical-Surgical Nursing;
- Adult Psychiatric and Mental Health Nursing; or
- Child and Adolescent Psychiatric and Mental Health

*Nursing,* which prepares the nurse to provide advanced clinical nursing services; and

2. Specialty certification from a national certifying organization acceptable to the board or registration with the board pursuant to § 3.10 A 5 of these regulations. ]

*“Conditional approval”* means a time-limited status which results when an approved nursing education program has failed to maintain requirements as set forth in § 2.2 of these regulations.

*“Cooperating agency”* means an agency or institution that enters into a written agreement to provide learning experiences for a nursing education program.

*“Diploma nursing program”* means a nursing education program preparing for registered nurse licensure, offered by a hospital and designed to lead to a diploma in nursing, provided the hospital is licensed in this state.

[ *“National certifying organization”* means an organization that has as one of its purposes the certification of a specialty in nursing based on an examination attesting to the knowledge of the nurse for practice in the specialty area. ]

*“Nursing education program”* means an entity offering a basic course of study preparing persons for licensure as registered nurses or as licensed practical nurses. A basic course of study shall include all courses required for the degree, diploma or certificate.

*“Practical nursing program”* means a nursing education program preparing for practical nurse licensure, offered by a Virginia school, that leads to a diploma or certificate in practical nursing, provided the school is authorized by the appropriate governmental agency.

*“Program director”* means a registered nurse who has been designated by the controlling authority to administer the nursing education program.

*“Provisional approval”* means the initial status granted to a nursing education program which shall continue until the first class has graduated and the board has taken final action on the application for approval.

*“Recommendation”* means a guide to actions that will assist an institution to improve and develop its nursing education program.

*“Requirement”* means a mandatory condition that a nursing education program must meet to be approved.

### § 1.2. Delegation of authority.

A. The executive director of the board shall issue a certificate of registration to each person who meets the requirements for initial licensure under §§ 54.1-3017,

54.1-3018, 54.1-3020 and 54.1-3021 of the Code of Virginia. Such certificates of registration shall bear the signature of the president of the board, the executive director and the director of the Department of Health Regulatory Boards.

B. The executive director shall issue license to each applicant who qualifies for such license under § 54.1-3011 of the Code of Virginia. Such licenses shall bear the name of the executive director.

C. The executive director shall be delegated the authority to execute all notices, orders and official documents of the board unless the board directs otherwise.

## § 1.3. Fees.

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

1. Application for R.N. Licensure .....	\$45
2. Application for L.P.N. Licensure .....	\$35
3. Biennial Licensure Renewal .....	\$28
4. Reinstatement Lapsed License .....	\$50
5. Duplicate License .....	\$10
6. Verification of License .....	\$10
7. Transcript of Examination Scores .....	\$5
8. Transcript of Applicant/Licensee Records .....	\$10
9. Returned Check Charge .....	\$15
10. Application for C.N.S. registration .....	\$50
11. Biennial renewal of C.N.S. registration .....	\$30
12. Reinstatement of lapsed C.N.S. registration ...	\$25
13. Verification of C.N.S. registration .....	\$25

## § 1.4. Public participation guidelines.

### A. Mailing list.

The Virginia State Board of Nursing (board) will maintain a list of persons and organizations who will be mailed the following documents as they become available:

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

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all above-listed information. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.

### B. Notice of intent.

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

### C. Public comment period.

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

### D. Petitions to the board.

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

### E. Publication in the Virginia Register of Regulations.

At any meeting of the board or any subcommittee or advisory committee, where the formulation or adoption of regulation occurs, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

### F. Advisory committee.

The board, in cooperation with the Council on Health Regulatory Boards, may appoint advisory committees as they deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and review of regulations.

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## PART II. NURSING EDUCATION PROGRAMS.

### § 2.1. Establishing a nursing education program.

#### Phase I.

A. An institution wishing to establish a nursing education program shall:

1. Submit to the board, at least 15 months in advance of expected opening date, a statement of intent to establish a nursing education program;
2. Submit to the board, along with the statement of intent, a feasibility study to include the following information:
  - a. Studies documenting the need for the program;
  - b. Purpose and type of program;
  - c. Availability of qualified faculty;
  - d. Budgeted faculty positions;
  - e. Availability of clinical facilities for the program;
  - f. Availability of academic facilities for the program;
  - g. Evidence of financial resources for the planning, implementation and continuation of the program;
  - h. Anticipated student population;
  - i. Tentative time schedule for planning and initiating the program ; and
  - j. Current catalog, if applicable.
3. Respond to the board's request for additional information.

B. A site visit shall be conducted by a representative of the board.

C. The board, after review and consideration, shall either approve or disapprove Phase I.

1. If Phase I is approved, the institution may apply for provisional approval of the nursing education program as set forth in these regulations.
2. If Phase I is disapproved, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

#### Phase II.

D. The application for provisional approval shall be

complete when the following conditions are met:

1. A program director has been appointed and there are sufficient faculty to initiate the program (§ 2.2.C of these regulations);

2. A tentative written curriculum plan developed in accordance with § 2.2.F of these regulations has been submitted; and

E. The board, after review and consideration, shall either grant or deny provisional approval.

1. If provisional approval is granted :

a. The admission of students is authorized; and

b. The program director shall submit quarterly progress reports to the board which shall include evidence of progress toward application for approval and other information as required by the board.

2. If provisional approval is denied, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

F. Following graduation of the first class, the institution shall apply for approval of the nursing education program.

#### Phase III.

G. The application for approval shall be complete when a self-evaluation report of compliance with § 2.2 of these regulations has been submitted and a survey visit has been made by a representative of the board.

H. The board will review and consider the self-evaluation and the survey reports at the next regularly scheduled meeting.

I. The board shall either grant or deny approval. If denied, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

### § 2.2. Requirements for approval.

#### A. Organization and administration.

1. The institution shall be authorized to conduct a nursing education program by charter or articles of incorporation of the controlling institution; by resolution of its board of control; or by the institution's own charter or articles of incorporation.

2. Universities, colleges, community or junior colleges, proprietary schools and public schools offering nursing education programs shall be accredited by the appropriate state agencies and the Southern Association of Colleges and Schools.

3. Hospitals conducting a nursing education program shall be accredited by the Joint Commission on Accreditation of Hospitals.

4. Any agency or institution that is utilized by a nursing education program shall be one that is authorized to conduct business in the Commonwealth of Virginia, or in the state in which the agency or institution is located.

5. The authority and responsibility for the operation of the nursing education program shall be vested in a program director who is duly licensed to practice professional nursing in Virginia and who is responsible to the controlling board, either directly or through appropriate administrative channels.

6. A written organizational plan shall indicate the lines of authority and communication of the nursing education program to the controlling body; to other departments within the controlling institution; to the cooperating agencies; and to the advisory committee, if one exists.

7. Funds shall be allocated by the controlling agency to carry out the stated purposes of the program. The program director of the nursing education program shall be responsible for the budget recommendations and administration, consistent with the established policies of the controlling agency.

## B. Philosophy and objectives.

Clearly written statements of philosophy and objectives shall be:

1. Formulated and accepted by the faculty;
2. Directed toward achieving realistic goals;
3. Directed toward the meaning of education, nursing and the learning process;
4. Descriptive of the practitioner to be prepared; and
5. The basis for planning, implementing and evaluating the total program.

## C. Faculty.

### 1. Qualifications.

a. Every member of a nursing faculty, including the program director, shall hold a current license to practice as a registered nurse in Virginia.

b. Every member of a nursing faculty responsible for teaching students in a cooperating agency located outside the jurisdictional limits of Virginia should hold a current license to practice nursing in that jurisdiction as well.

c. The program director and each member of the nursing faculty shall maintain professional competence through such activities as nursing practice, continuing education programs, conferences, workshops, seminars, academic courses, research projects and professional writing.

d. For baccalaureate degree programs:

(1) The program director shall hold a doctoral degree.

(2) Every member of the nursing faculty shall hold a graduate degree. Faculty members without a graduate degree with a major in nursing shall have a baccalaureate degree with a major in nursing.

(3) At least one faculty member in each clinical area shall have master's preparation in specialty.

e. For associate degree and diploma programs:

(1) The program director shall hold a graduate degree, preferably with a major in nursing.

(2) The majority of the members of the nursing faculty shall hold a graduate degree, preferably with a major in nursing.

(3) Other members of the nursing faculty shall hold a baccalaureate degree, preferably with a major in nursing.

f. For practical nursing programs.

(1) The program director shall hold a baccalaureate degree, preferably with a major in nursing.

(2) The majority of the members of the nursing faculty shall hold a baccalaureate degree, preferably with a major in nursing.

g. Exceptions to provisions of subparagraphs d, e, and f of this subsection shall be by board approval.

(1) Initial request for exception.

(a) The program director shall submit a request for initial exception in writing for considerations at a regular board meeting prior to the term during which the nursing faculty member is scheduled to teach.

(b) A description of teaching assignment, a curriculum vitae and a statement of intent, from the prospective faculty member, to pursue the required degree shall accompany each request.

(2) Request for continuing exception.

(a) Continuing exception will be based on the

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progress of the nursing faculty member toward meeting the degree required by these regulations during each year for which the exception is requested.

(b) The program director shall submit the request for continuing exception in writing for consideration at a regular board meeting prior to the next term during which the nursing faculty member is scheduled to teach.

(c) A list of courses required for the degree being pursued and college transcripts showing successful completion of a minimum of two of the courses during the past academic year shall accompany each request.

## 2. Number.

a. The number of faculty shall be sufficient to prepare the students to achieve the objectives of the educational program and such number shall be reasonably proportionate to:

- (1) Number of students enrolled;
- (2) Frequency of admissions;
- (3) Education and experience of faculty members;
- (4) Number and location of clinical facilities; and
- (5) Total responsibilities of the faculty.

b. When students are giving direct care to patients, the maximum ratio of students to faculty in clinical areas shall be 10 students to one faculty member.

## 3. Conditions of employment.

a. Qualifications and responsibilities for faculty positions shall be defined in writing.

b. Faculty assignments shall allow time for class and laboratory preparation; teaching; program revision; improvement of teaching methods; academic advisement and counseling of students; participation in faculty organizations and committees; attendance at professional meetings; and participation in continuing education activities.

## 4. Functions.

The principal functions of the faculty shall be to:

- a. Develop, implement and evaluate the philosophy and objectives of the nursing education program;
- b. Participate in designing, implementing, teaching, and evaluating and revising the curriculum;

c. Develop and evaluate student admission, progression, retention and graduation policies within the framework of the controlling institution;

d. Participate in academic advisement and counseling of students; and

e. Provide opportunities for student evaluation of curriculum and teaching and program effectiveness.

## 5. Organization.

a. The nursing faculty shall hold regular meetings for the purpose of developing, implementing and evaluating the nursing education program. Written rules shall govern the conduct of meetings.

b. All members of the faculty shall participate in the regular faculty meetings.

c. Committees shall be established to implement the functions of the faculty.

d. Minutes of faculty and committee meetings, including actions taken, shall be recorded and available for reference.

e. There shall be provision for student participation.

## D. Students.

### 1. Admission, promotion and graduation.

a. Requirements for admission to the nursing education program shall not be less than the statutory requirements that will permit the graduate to be admitted to the appropriate licensing examination.

(EXPLANATORY NOTE: Reference subdivision 1 of subsection A of § 54.1-3017 of the Code of Virginia: The equivalent of a four-year high school course of study is considered to be:

- (1) A General Educational Development (GED) certificate for high school equivalence; or
- (2) Satisfactory completion of the college courses required by the nursing education program.)

b. Students shall be selected on the basis of established criteria and without regard to age, race, creed, sex or national origin.

c. Requirements for admission, readmission, advanced standing, progression, retention, dismissal and graduation shall be available to the students in written form.

## E. Records.

## 1. School records.

A system of records shall be maintained and be made available to the board representative and shall include:

- a. Data relating to accreditation by any agency or body,
- b. Course outlines,
- c. Minutes of faculty and committee meetings,
- d. Reports of standardized tests,
- e. Survey reports.

## 2. Student records.

a. A file shall be maintained for each student. Each file shall be available to the board representative and shall include:

- (1) The student's application,
- (2) High school transcript or copy of high school equivalence certificate,
- (3) Current record of achievement.

b. A final transcript shall be retained in the permanent file of the institution.

c. Provision shall be made for the protection of student and graduate records against loss, destruction and unauthorized use.

## 3. School bulletin or catalogue.

Current information about the nursing education program shall be published periodically and distributed to students, applicants for admission and the board. Such information shall include:

- a. Description of the program.
- b. Philosophy and objectives of the controlling institution and of the nursing program.
- c. Admission and graduation requirements.
- d. Fees.
- e. Expenses.
- f. Financial aid.
- g. Tuition refund policy.
- h. Education facilities.
- i. Living accommodations.

## j. Student activities and services.

k. Curriculum plan.

l. Course descriptions.

m. Faculty-staff roster.

n. School calendar.

## F. Curriculum.

1. Curriculum shall reflect the philosophy and objectives of the nursing education program, and shall be consistent with the law governing the practice of nursing.

2. The ratio between nursing and nonnursing credit shall be based on a rationale to ensure sufficient preparation for the safe and effective practice of nursing.

3. Learning experiences shall be selected to fulfill curriculum objectives.

4. Nursing education programs preparing for practical nursing licensure shall include:

a. Principles and practice in nursing encompassing the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life cycle;

b. Basic concepts of the nursing process;

c. Basic concepts of anatomy, physiology, chemistry, physics and microbiology;

d. Basic concepts of communication, growth and development, interpersonal relations, patient education and cultural diversity;

e. Ethics, nursing history and trends, vocational and legal aspects of nursing; and

f. Basic concepts of pharmacology, nutrition and diet therapy.

5. Nursing education programs preparing for registered nurse licensure shall include:

a. Theory and practice in nursing, encompassing the attainment and maintenance of physical and mental health and the prevention of illness throughout the life cycle for individuals, groups and communities;

b. Concepts of the nursing process;

c. Concepts of anatomy, physiology, chemistry, microbiology and physics;



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d. Sociology, psychology, communications, growth and development, interpersonal relations, group dynamics, cultural diversity and humanities;

e. Concepts of pharmacology, nutrition and diet therapy, and pathophysiology;

f. Concepts of ethics, nursing history and trends, and the professional and legal aspects of nursing; and

g. Concepts of leadership, management and patient education.

## G. Resources, facilities and services.

1. Periodic evaluations of resources, facilities and services shall be conducted by the administration, faculty, students and graduates of the nursing education program.

2. Secretarial and other support services shall be provided.

3. Classrooms, conference rooms, laboratories, clinical facilities and offices shall be available to meet the objectives of the nursing education program and the needs of the students, faculty, administration and staff.

4. The library shall have holdings that are current, pertinent and accessible to students and faculty, and sufficient in number to meet the needs of the students and faculty.

5. Written agreements with cooperating agencies shall be developed, maintained and periodically reviewed. The agreement shall:

a. Ensure full control of student education by the faculty of the nursing education program, including the selection and supervision of learning experiences.

b. Provide that an instructor shall be present on the clinical unit(s) to which students are assigned for direct patient care.

c. Provide for cooperative planning with designated agency personnel.

6. Any observational experiences shall be planned in cooperation with the agency involved to meet stated course objectives.

7. Cooperating agencies shall be approved by the appropriate accreditation, evaluation or licensing bodies, if such exist.

H. Program changes requiring board of nursing approval.

The following proposed changes require board approval

prior to their implementation:

1. Proposed changes in the nursing education program's philosophy and objectives that result in program revision.

2. Proposed changes in the curriculum that result in alteration of the length of the nursing education program.

3. Proposed additions, deletions or major revisions of courses.

## I. Procedure for approval of program change.

1. When a program change is contemplated, the program director shall inform the board or board representative.

2. When a program change is requested, a plan shall be submitted to the board including:

a. Proposed change,

b. Rationale for the change,

c. Relationship of the proposed change to the present program.

3. Twelve copies of these materials shall be submitted to the board at least three weeks prior to the board meeting at which the request will be considered.

## § 2.3. Procedure for maintaining approval.

A. The program director of each nursing education program shall submit an annual report to the board.

B. Each nursing education program shall be reevaluated at least every eight years and shall require:

1. A comprehensive self-evaluation report based on § 2.2 of these regulations, and

2. A survey visit by a representative(s) of the board on dates mutually acceptable to the institution and the board.

C. The self-evaluation and survey visit reports shall be presented to the board for consideration and action at a regularly scheduled board meeting. The reports and the action taken by the board shall be sent to the appropriate administrative officers of the institution. In addition, a copy shall be forwarded to the executive officer of the state agency or agencies having program approval authority or coordinating responsibilities for the governing institutions.

D. Interim visits shall be made to the institution by board representatives at any time within the eight-year period either by request or as deemed necessary by the

board.

E. A nursing education program shall continue to be approved provided the requirements set forth in § 2.2 of these regulations are attained and maintained.

F. If the board determines that a nursing education program is not maintaining the requirements of § 2.2 of these regulations, the program shall be placed on conditional approval and the governing institution shall be given a reasonable period of time to correct the identified deficiencies. The institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

G. If the governing institution fails to correct the identified deficiencies within the time specified by the board, the board shall withdraw the approval following a hearing held pursuant to the provisions of the Administrative Process Act. (§ 9-6.14:1 et seq.) Sections 2.4, B and C of these regulations shall apply to any nursing education program whose approval has been withdrawn.

## § 2.4. Closing of an approved nursing education program.

### A. Voluntary closing.

When the governing institution anticipates the closing of a nursing education program, it shall notify the board in writing, stating the reason, plan and date of intended closing. The governing institution shall choose one of the following closing procedures:

1. The program shall continue until the last class enrolled is graduated.

a. The program shall continue to meet the standards for approval until all of the enrolled students have graduated.

b. The date of closure is the date on the degree, diploma or certificate of the last graduate.

c. The governing institution shall notify the board of the closing date.

2. The program shall close after the governing institution has assisted in the transfer of students to other approved programs.

a. The program shall continue to meet the standards required for approval until all students are transferred.

b. A list of the names of students who have been transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

c. The date on which the last student was transferred shall be the closing date of the program.

B. Closing as a result of denial or withdrawal or approval.

When the board denies or withdraws approval of a program, the governing institution shall comply with the following procedures:

1. The program shall close after the institution has made a reasonable effort to assist in the transfer of students to other approved programs. A time frame for the transfer process shall be established by the board.

2. A list of the names of students who have transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

3. The date on which the last student was transferred shall be the closing date of the program.

### C. Custody of records.

Provision shall be made for custody of records as follows:

1. If the governing institution continues to function, it shall assume responsibility for the records of the students and the graduates. The institution shall inform the board of the arrangements made to safeguard the records.

2. If the governing institution ceases to exist, the academic transcript of each student and graduate shall be transferred by the institution to the board for safekeeping.

## § 2.5. Clinical nurse specialist education program.

*An approved program shall be offered by:*

1. *A nationally accredited school [ of nursing within a college or university ] that offers a master's degree in nursing designed to prepare a [ clinical nurse specialist registered nurse for advanced practice in a clinical specialty in nursing ] ; or*

2. *A college or university that offers a master's degree [ in a field accepted by the American Nurses' Association for specialty certification consistent with the requirements of a national certifying organization as defined in § 1.1 of these regulations ] .*

## PART III.

### LICENSURE AND PRACTICE.

## § 3.1. Licensure by examination.

A. The board shall administer examinations for registered nurse licensure and examinations for practical nurse licensure no less than twice a year.

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B. The minimum passing score on the examination for registered nurse licensure shall be determined by the board.

C. If a candidate does not take the examination when scheduled, the application shall be retained on file as required for audit.

D. Any applicant suspected of giving or receiving unauthorized assistance during the writing of the examination shall be noticed for a hearing before the board to determine whether the license shall be issued.

E. The board shall not release examination scores to any individual or agency without written authorization from the applicant or licensee.

F. An applicant for the licensing examination shall:

1. File the required application and fee no less than 60 days prior to the scheduled date of the examination.

2. Arrange for the board to receive the final certified transcript from the nursing education program at least 15 days prior to the examination date or as soon thereafter as possible. The transcript must be received prior to the reporting of the examination results to candidates.

G. Fifteen days prior to an examination date, all program directors shall submit a list of the names of those students who have completed or are expected to complete the requirements for graduation since the last examination. Any change in the status of a candidate within the above specified 15-day period shall be reported to the board immediately.

H. Practice of nursing pending receipt of examination results.

1. Graduates of approved nursing education programs may practice nursing in Virginia pending the results of the first licensing examination given by a board of nursing following their graduation, provided they have filed an application for licensure in Virginia. Candidates taking the examination in Virginia shall file the application for licensure by examination. Candidates taking the examination in other jurisdictions shall file the application for licensure by endorsement.

2. Candidates who practice nursing as provided in § 3.1 I 1 of these regulations shall use the designation "R.N. Applicant" or "L.P.N. Applicant" when signing official records.

3. The designations "R.N. Applicant" and "L.P.N. Applicant" shall not be used by applicants who do not take or who have failed the first examination for which they are eligible.

I. Applicants who fail the examination.

1. An applicant who fails the licensing examination shall not be licensed or be authorized to practice nursing in Virginia.

2. An applicant for reexamination shall file the required application and fee no less than 60 days prior to the scheduled date of the examination.

3. Applicants who have failed the licensing examination in another U.S. jurisdiction and who meet the qualifications for licensure in this jurisdiction may apply for licensure by examination in Virginia. Such applicants shall submit the required application and fee. Such applicants shall not, however, be permitted to practice nursing in Virginia until the requisite license has been issued.

§ 3.2. Licensure by endorsement.

A. A graduate of an approved nursing education program who has been licensed by examination in another U.S. jurisdiction and whose license is in good standing shall be eligible for licensure by endorsement in Virginia, provided the qualifications for licensure were equivalent to those in effect in Virginia at the time the applicant was initially licensed.

B. An applicant for licensure by endorsement shall submit the required application and fee and submit the required form to the appropriate credentialing agency in the state of original licensure for verification of licensure. Applicants will be notified by the board after 30 days, if the completed verification form has not been received.

C. If the application is not completed within one year of the initial filing date, the application shall be retained on file by the board as required for audit.

§ 3.3. Licensure of applicants from other countries.

A. Applicants whose basic nursing education was received in, and who are duly licensed under the laws of another country, shall be scheduled to take the licensing examination provided they meet the statutory qualifications for licensure. Verification of qualification shall be based on documents submitted as required in § 3.3 B and C of these regulations.

B. Such applicants for registered nurse licensure shall:

1. Submit evidence of a passing score on the Commission on Graduates of Foreign Nursing Schools Qualifying Examination; and

2. Submit the required application and fee for licensure by examination.

C. Such applicants for practical nurse licensure shall:

1. Request a transcript from the nursing education program to be submitted directly to the board office;
2. Provide evidence of secondary education to meet the statutory requirements;
3. Request that the credentialing agency, in the country where licensed, submit the verification of licensure; and
4. Submit the required application and fee for licensure by examination.

## § 3.4. Renewal of licenses.

A. Licensees born in even-numbered years shall renew their licenses by the last day of the birth month in even-numbered years. Licensees born in odd-numbered years shall renew their licenses by the last day of the birth month in odd-numbered years.

B. No less than 30 days prior to the last day of the licensee's birth month, an application for renewal of license shall be mailed by the board to the last known address of each licensee, who is currently licensed.

C. The licensee shall complete the application and return it with the required fee.

D. Failure to receive the application for renewal shall not relieve the licensee of the responsibility for renewing the license by the expiration date.

E. The license shall automatically lapse if the licensee fails to renew by the last day of the birth month.

F. Any person practicing nursing during the time a license has lapsed shall be considered an illegal practitioner and shall be subject to prosecution under the provisions of § 54.1-3008 of the Code of Virginia.

## § 3.5. Reinstatement of lapsed licenses.

A. A nurse whose license has lapsed shall file a reinstatement application and pay the current renewal fee and the reinstatement fee.

B. The board may request evidence that the nurse is prepared to resume practice in a competent manner.

## § 3.6. Replacement of lost license.

A. The licensee shall report in writing the loss of the original certificate of registration or the current license.

B. A duplicate license for the current renewal period shall be issued by the board upon receipt of the required form and fee.

## § 3.7. Evidence of change of name.

A licensee who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order evidencing the change. A duplicate license shall be issued by the board upon receipt of such evidence and the required fee.

## § 3.8. Requirements for current mailing address.

A. All notices, required by law and by these regulations to be mailed by the board to any licensee, shall be validly given when mailed to the latest address on file with the board.

B. Each licensee shall maintain a record of his current mailing address with the board.

C. Any change of address by a licensee shall be submitted in writing to the board within 30 days of such change.

§ 3.9. Licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a registered nurse or a licensed dentist within the context of § 54.1-3408 of the Code of Virginia.

## § 3.10. Clinical nurse specialist registration.

### A. Initial registration.

*An applicant for initial registration as a clinical nurse specialist shall:*

*1. Be currently licensed as a registered nurse in Virginia;*

*[ 2. Submit evidence of graduation from an approved program as defined in § 2.5 of these regulations; ]*

*[ 2. 3. ] Submit evidence of current [ ~~specialist specialty~~ ] certification [ ~~as a clinical nurse specialist from a national certifying organization~~ ] as defined in § 1.1 of these regulations; and*

*[ 2. 4. ] Submit the required application and fee.*

*[ 5. EXCEPTION: An individual who has practiced as a clinical nurse specialist in Virginia within the 12 months immediately preceding the effective date of these regulations shall:*

*a. Be currently licensed as a registered nurse in Virginia;*

*b. File the required application and fee within 120 days of the effective date of these regulations;*

*c. Submit evidence of a master's degree acceptable to the board; and*

*d. Submit evidence of employment as a clinical nurse specialist in Virginia within the 12 months.*

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*immediately preceding the effective date of these regulations. ]*

## *B. Renewal of registration.*

*1. Registration as a clinical nurse specialist shall be renewed biennially at the same time the registered nurse license is renewed.*

*2. The clinical nurse specialist shall complete the renewal application and return it with the required fee and evidence of current [ ~~specialist specialty~~ ] certification [ unless registered in accordance with § 3.10 A 5 of these regulations ] .*

*3. Registration as a clinical nurse specialist shall lapse if the registered nurse license is not renewed and may be reinstated as follows:*

*a. Reinstatement of R.N. license;*

*b. Payment of reinstatement and current renewal fees; and*

*c. Submission of evidence of [ ~~current specialist continued specialty~~ ] certification [ unless registered in accordance with § 3.10 A 5 of these regulations ]*

## *§ 3.11. Clinical nurse specialist practice.*

*A. The practice of clinical nurse specialists shall be consistent with the*

*1. Education required in § 2.5. of these regulations, and*

*2. Experience required for specialist certification.*

*B. The clinical nurse specialist shall provide [ ~~only~~ ] those advanced [ nursing ] services that are consistent with the standards of specialist practice as established by [ ~~the American Nurses' Association a national certifying organization~~ ] for the designated specialty and in accordance with the provisions of Title 54.1 of the Code of Virginia.*

*[ C. Advanced practice as a clinical nurse specialist shall include but shall not be limited to performance as an expert clinician to:*

*1. Provide direct care and counsel to individuals and groups;*

*2. Plan, evaluate and direct care given by others; and*

*3. Improve care by consultation, collaboration, teaching and the conduct of research. ]*

## PART IV. DISCIPLINARY PROVISIONS.

§ 4.1. The board has the authority to deny, revoke or suspend a license issued, or to otherwise discipline a licensee upon proof that the licensee has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

A. Fraud or deceit shall mean, but shall not be limited to:

1. Filing false credentials;

2. Falsely representing facts on an application for initial license, reinstatement or renewal of a license; or

3. Giving or receiving assistance in writing the licensing examination.

B. Unprofessional conduct shall mean, but shall not be limited to:

1. Performing acts beyond the limits of the practice of professional or practical nursing as defined in Chapter 30 of Title 54.1, or as provided by §§ 54.1-2901 and 54.1-2957 of the Code of Virginia;

2. Assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained;

3. Obtaining supplies, equipment or drugs for personal or other unauthorized use;

4. Employing or assigning unqualified persons to perform functions that require a licensed practitioner of nursing;

5. Falsifying or otherwise altering patient or employer records; or

6. Abusing, neglecting or abandoning patients or clients; or

7. Practice of a clinical nurse specialist beyond that defined in § 3.11. of these regulations.

8. Holding self out as or performing acts constituting the practice of a clinical nurse specialist unless so registered by the Board.

§ 4.2. Any sanction imposed on the registered nurse license of clinical nurse specialist shall have the same effect on the clinical nurse specialist registration.

## VIRGINIA RACING COMMISSION

Title of Regulation: VR 622-01-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering.

Statutory Authority: § 59.1-364 of the Code of Virginia.

Effective Date: March 14, 1990

Summary:

The Virginia Racing Commission is authorized by § 59.1-364 of the Code of Virginia to issue regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. These regulations (i) set forth the requirements for making applications for owner's, owner-operator's and operator's licenses, (ii) establish the criteria the Virginia Racing Commission will use in considering applicants, and (iii) set the fees and deadlines for payment thereof for applicants and licensees as well as the procedures, facilities and equipment to conduct horse racing with pari-mutuel wagering. Definitions are included for a full understanding of the proposed regulations.

VR 622-01-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering.

PART I.  
GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Act" means Chapter 29 (§§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia.

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of \$ .10

"Commission" means the Virginia Racing Commission.

"Enclosure" means all areas of the property of a track to which admission can be obtained only by payment of an admission fee or upon presentation of authorized credentials, and any additional areas designated by the commission.

"Horse owner" means a person owning an interest in a horse.

"Horse racing" means a competition on a set course involving a race among horses on which pari-mutuel wagering is permitted.

"Licensee" includes any person holding an owner's, operator's, limited or unlimited license, or any other license issued by the commission.

"Limited license" means a license issued by the commission allowing the holder to conduct a race meeting

or meetings, with pari-mutuel wagering privileges, for a period not exceeding 14 days in any calendar year.

"Member" includes any person designated a member of a nonstock corporation, and any person who by means of a pecuniary or other interest in such corporation exercises the power of a member.

"Owner's license" means a license issued by the commission allowing the holder to construct a horse racing facility for the purpose of conducting a limited or unlimited race meeting with pari-mutuel wagering privileges.

"Operator's license" means a license issued by the commission allowing the holder to conduct a horse race meeting with pari-mutuel wagering privileges.

"Pari-mutuel wagering" means the system of wagering on horse racing in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, less deductions required or permitted by law.

"Permit holder" includes any person holding a permit to participate in horse racing subject to the jurisdiction of the commission or in the conduct of a race meeting where pari-mutuel wagering is offered thereon as provided in the Act.

"Person" includes a natural person, partnership, joint venture, association or corporation.

"Pool" means the amount wagered during a race meeting in straight wagering, in multiple wagering, or during a specified period thereof.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members, owns or controls, directly or indirectly, 5.0% or more of the stock of any person who is a licensee, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of 5.0 % or more of any such stock.

"Race meeting" means the whole consecutive period of time during which horse racing with pari-mutuel wagering is conducted by a licensee.

"Retainage" means the total amount deducted, from the pari-mutuel wagering pool in the percentages designated by statute for the Commonwealth of Virginia, purse money for the participants, Virginia Breeders Fund, and the operators.

"Stock" includes all classes of stock of an applicant or licensee corporation, and any debt or other obligation of such corporation or stockholder thereof or stock of any affiliated corporation if the commission finds that the holder of such obligation or stock derives therefrom such control of or voice in the operation of the applicant or

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licensee corporation that he should be deemed a stockholder. "Totalizator" means an electronic data processing system for registering wagers placed on the outcomes of horse racing, deducting the retainage, calculating the mutuel pools and returns to ticket holders, and displaying approximate odds and payouts, including machines utilized in the sale and cashing of wagers.

"Unlimited license" means a license issued by the commission allowing the holder to conduct a race meeting or meetings, with pari-mutuel wagering privileges, for periods of 15 days or more in any calendar year.

"Virginia Breeders Fund" means the fund established to foster the industry of breeding racehorses in the Commonwealth of Virginia.

## PART II. LICENSURE.

§ 2.1. Identification of applicant for owner's, owner-operator's, operator's license.

An application shall include, on a form prepared by the commission, the name, address, and telephone number of the applicant and the name, position, address, telephone number, and authorized signature of an individual to whom the commission may make inquiry.

§ 2.2. Applicant's affidavit.

An application shall include, on a form prepared by the commission, an affidavit from the chief executive officer or a major financial participant in the applicant setting forth:

1. That application is made for a license to own, own-operate, or operate a horse racing facility at which pari-mutuel wagering is conducted;
2. That the affiant is the agent of the applicant, its owners, partners, members, directors, officers, and personnel and is duly authorized to make the representations in the application on their behalf. Documentation of the authority shall be attached;
3. That the applicant seeks a grant of a privilege from the Commonwealth of Virginia, and the burden of proving the applicant's qualifications rests at all times with the applicant;
4. That the applicant consents to inquiries by the Commonwealth of Virginia, its employees, the commission members, staff and agents, into the financial, character, and other qualifications of the applicant by contacting individuals and organizations;
5. That the applicant, its owners, partners, members, directors, officers, and personnel accept any risk of adverse public notice, embarrassment, criticism, or other circumstance, including financial loss, which

may result from action with respect to the application and expressly waive any claim which otherwise could be made against the Commonwealth of Virginia, its employees, the commission, staff, or agents;

6. That the affiant has read the application and knows the contents; the contents are true to affiant's own knowledge, except matters therein stated as information and belief; as to those matters, affiant believes them to be true;

7. That the applicant recognizes all representations in the application are binding on it, and false or misleading information in the application, omission of required information, or substantial deviation from representations in the application may result in denial, revocation, suspension or conditioning of a license or imposition of a fine, or any or all of the foregoing;

8. That the applicant will comply with all applicable state and federal statutes and regulations, all regulations of the commission and all other local ordinances;

9. The affiant's signature, name, organization, position, address, and telephone number; and

10. The date.

§ 2.3. Disclosure of ownership and control.

An applicant must disclose:

1. The type of organizational structure of the applicant, whether individual, business corporation, nonprofit corporation, partnership, joint venture, trust, association, or other;
2. If the applicant is an individual, the applicant's legal name, whether the applicant is a United States citizen, any aliases and business or trade names currently or previously used by the applicant, and copies of all state and federal tax returns for the past five years;
3. If the applicant is a corporation:
  - a. The applicant's full corporate name and any trade names currently or previously used by the applicant;
  - b. The jurisdiction and date of incorporation;
  - c. The date the applicant began doing business in Virginia and a copy of the applicant's certificate of authority to do business in Virginia;
  - d. Copies of the applicant's articles of incorporation, bylaws, and all state and federal corporate tax returns for the past five years;

e. *The general nature of the applicant's business;*

f. *Whether the applicant is publicly held as defined by the rules and regulations of the Securities and Exchange Commission;*

g. *The classes of stock of the applicant. As to each class, the number of shares authorized, number of shares subscribed to, number issued, number outstanding, par value per share, issue price, current market price, number of shareholders, terms, position, rights, and privileges must be disclosed;*

h. *Whether the applicant has any other obligations or securities authorized or outstanding which bear voting rights either absolutely or upon any contingency, the nature thereof, face or par value, number of units authorized, number outstanding, and conditions under which they may be voted;*

i. *The names, in alphabetical order, and addresses of the directors and, in a separate list, officers of the applicant. The number of shares held of record directly or indirectly by each director and officer as of the application date of each class of stock, including stock options and subscriptions, and units held of record or beneficially of other obligations or securities which bear voting rights must be disclosed;*

j. *The names, in alphabetical order, and addresses of each recordholder as of the date of application or beneficial owner of shares, including stock options and subscriptions, of the applicant or units of other obligations or securities which bear voting rights. As to each holder of shares or units, the number and class or type of shares or units shall be disclosed;*

k. *Whether the requirements of the Securities Act of 1933 and Securities and Exchange Act of 1934, as amended, and Securities and Exchange Commission rules and regulations have been met in connection with issuance of applicant's securities, and copies of the most recent registration statement and annual report filed with the Securities and Exchange Commission;*

l. *Whether the securities registration and filing requirements of the applicant's jurisdiction of incorporation have been met, and a copy of the most recent registration statement filed with the securities regulator in that jurisdiction; and*

m. *Whether the securities registration and filing requirements of the Commonwealth of Virginia have been met. If they have not, the applicant must disclose the reasons why. The applicant must provide copies of all securities filings with Virginia's State Corporation Commission during the past five*

years.

4. *If the applicant is an organization other than a corporation:*

a. *The applicant's full name and any aliases, business, or trade names currently or previously used by the applicant;*

b. *The jurisdiction of organization of the applicant;*

c. *The date the applicant began doing business in Virginia;*

d. *Copies of any agreements creating or governing the applicant's organization and all of the applicant's state and federal tax returns for the past five years;*

e. *The general nature of the applicant's business;*

f. *The names, in alphabetical order, and addresses of any partners and officers of the applicant and other persons who have or share policy-making authority. As to each, the applicant must disclose the nature and extent of any ownership interest, direct or indirect, including options, or other voting interest, whether absolute or contingent, in the applicant; and*

g. *The names, in alphabetical order, and addresses of any individual or other entity holding a record or beneficial ownership interest, direct or indirect, including options, as of the date of the application, or other voting interest, whether absolute or contingent, in the applicant. As to each, the applicant must disclose the nature and extent of the interest.*

5. *If a nonindividual record or beneficial holder of an ownership or other voting interest of 5.0 % or more in the applicant is identified pursuant to subdivision 3, i or j or subdivision 4, f and g, the applicant must disclose the information required by those subdivisions as to record or beneficial holders of an ownership or other voting interest of 5.0% or more in that nonindividual holder. The disclosure required by those subdivisions must be repeated, in turn, until all other voting interests of 5.0% or more in the applicant or any nonindividual holder are identified. When an applicant is unable to provide the information required, it shall explain fully and document its inability to do so;*

6. *Whether the applicant is directly or indirectly controlled to any extent or in any manner by another individual or entity. If so, the applicant must disclose the identity of the controlling entity and a description of the nature and extent of control;*

7. *Any agreements or understandings which the*



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applicant or any individual or entity identified pursuant to this part has entered into regarding ownership or operation of applicant's horse racing facility, and copies of any such agreements in writing;

8. Any agreements or understandings which the applicant has entered into for the payment of fees, rents, salaries, or other compensation concerning the proposed horse racing facility by the applicant, and copies of any such agreements in writing; and

9. Whether the applicant, any partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of 5.0% or more has held or holds a license or permit issued by a governmental authority to own or operate a horse racing facility, pari-mutuel wagering facility or any other form of gambling or has a financial interest in such an enterprise or conducts any aspect of horse racing or gambling. If so, the applicant must disclose the identity of the license or permit holder, nature of the license or permit, issuing authority, and dates of issuance and termination.

## § 2.4. Disclosure of character information.

An applicant for a license must disclose and furnish particulars as follows whether the applicant or any individual or other entity identified pursuant to subdivisions 3 and 4 of § 2.3 and subdivisions 2 and 3 of § 2.10 of these regulations:

1. Been charged in any criminal proceeding other than a traffic violation. If so, the applicant must disclose nature of the charge, the date charged, court and disposition;

2. Had a horse racing, gambling, business, professional, or occupational license or permit revoked or suspended or renewal denied or been a party in a proceeding to do so. If so, the applicant must disclose the date of commencement, circumstances and disposition;

3. Been accused in an administrative or judicial proceeding of violating a statute or regulation relating to horse racing or gambling;

4. Been charged in an administrative or judicial proceeding of violating a statute or regulation relating to unfair labor practices or discrimination;

5. Begun an administrative or judicial action against a governmental regulator of horse racing or gambling. If so, the applicant must disclose the date of commencement, forum, circumstances and disposition;

6. Been the subject of voluntary or involuntary bankruptcy proceedings. If so, the applicant must disclose the date of commencement, forum,

circumstances, date of decision and disposition;

7. Failed to satisfy any judgment, decree or order of an administrative or judicial tribunal. If so, the applicant must disclose the date and circumstances; and

8. Been delinquent in filing a tax return required or remitting a tax imposed by any government. If so, the applicant must disclose the date and circumstances.

## § 2.5. Disclosure of sites and facilities.

An application for a license must disclose with respect to the pari-mutuel horse racing facility it will own, operate, or own and operate:

1. The address of the facility, ownership of site for the last five years, legal description, mortgagors, proof of title insurance, its size, and geographical location, including reference to county and municipal boundaries;

2. A site map showing existing highways and streets adjacent to the facility, and separately showing any proposed highways and streets adjacent to the facility, including their scheduled completion dates;

3. The type or types of racing for which the facility is designed, whether thoroughbred, harness [ standard bred ], quarterhorse, or other;

4. Racetrack dimensions for each racetrack operated by the facility by:

a. Circumference;

b. Width;

c. Banking;

d. Location of chutes;

e. Length of stretch;

f. Distance from judges' stand to first turn;

g. Type of surface; and

h. Description of safety rail.

5. A description of the backstretch area, giving:

a. Dimensions and number of barns, whether open or enclosed;

b. Location and interval of barns;

c. Dimensions and number of stalls per barn;

- d. Location of offices for veterinarians;
  - e. Location of facilities for emergency care for horses;
  - f. Location of facilities for feed, tack, and other vendors;
  - h. Location, description and number of housing units for backstretch employees;
  - i. Location and description of commissary, lavatory and recreational facilities for backstretch employees; and
  - j. Location and description of training track, if any.
6. A description of the grandstand, giving:
    - a. Total seating capacity;
    - b. Total reserved seating capacity;
    - c. Indoor and outdoor seating capacity;
    - d. Configuration of grandstand seating and pari-mutuel and concession facilities within the grandstand;
    - e. The number and location of men's and women's restrooms, drinking fountains and medical facilities available to patrons; and
    - f. Description of public pedestrian traffic patterns throughout the grandstand.
  7. A description of the post-race detention barn, giving:
    - a. Distance from the post-race detention barn to track and paddock;
    - b. Number of sampling stalls;
    - c. Placement of viewing ports on each;
    - d. Location of post-mortem floor;
    - e. Number of wash stalls with hot and cold water and drains;
    - f. Availability of video monitors and other security measures; and
    - g. The walking ring.
  8. A description of the paddock and saddling area, giving:
    - a. Number of stalls in the paddock;
    - b. Height from the floor to lowest point of the stall ceiling and entrance;
    - c. Paddock public address and telephone services; and
    - d. Public viewing area.
  9. A description of the jockeys' and drivers' quarters, giving:
    - a. Changing areas;
    - b. A listing of equipment to be installed in each; and
    - c. The location of the jockeys' or drivers' quarters in relation to the paddock.
  10. A description of the pari-mutuel totalizator, giving:
    - a. Approximate location of bettors' windows and cash security areas; and
    - b. A description of the equipment, including vendor and manufacturer if known.
  11. A description of the parking, giving:
    - a. Detailed attention to access to parking from surrounding streets and highways;
    - b. Number of parking spaces available, distinguishing between public and other;
    - c. A description of the road surface on parking areas and the distance between parking and grandstand; and
    - d. A road map of the area showing the relationship of parking to surrounding, existing and proposed streets and highways.
  12. A description of the height, type of construction and materials of perimeter fence;
  13. A description of improvements and equipment at the [ ~~racetrack~~ horse racing facility ] for security purposes in addition to perimeter fence, including the vendor and manufacturer of equipment if known;
  14. A description of starting, timing, photo finish, and photo-patrol or video equipment, including the vendor and manufacturer if known;
  15. A description of work areas for the commission members, officers, employees, stewards, and agents;
  16. A description of the facility's access to public transportation, the types of public transportation and schedules and road maps of area which show pick-up

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and drop-off points; and

17. A description of manure and other refuse containers and plans for their prompt and proper removal.

## § 2.6. Disclosure of development process.

An applicant for a license must disclose with regard to development of its horse racing facility:

1. The total cost of construction of the facility, distinguishing between known costs and projected costs;

2. Separate identification of the following costs, distinguishing between known costs and projected costs:

- a. Facility design;
- b. Land acquisition;
- c. Site preparation;
- d. Improvements and equipment, separately identifying the costs of [ ~~section 5, subsections D to G~~ subdivisions 4 through 17 of § 2.5 ], and other categories of improvements and equipment; and
- e. Organization, administrative, accounting, and legal.)

3. Documentation of the nature of interim financing and the nature of permanent financing;

4. Documentation of fixed costs;

5. The schedule for construction of the facility, giving:

- a. Acquiring land;
- b. Soliciting bids;
- c. Zoning and construction permit approval;
- d. Awarding construction contracts;
- e. Beginning construction;
- f. Completing construction;
- g. Training staff; and
- h. Beginning of racing.

6. Schematic drawings;

7. Copies of any contracts with and performance bonds from the:

a. Architect or other design professional;

b. Project engineer;

c. Construction engineer;

d. Contractors and subcontractors; and

e. Equipment procurement personnel.

8. Whether the site has been acquired or leased by applicant. If so, the applicant must provide the documentation. If not, the applicant must state which actions must be taken in order to obtain the site; and

9. Whether present construction planning envisions future expansion of the facilities and, if so, a general description of the nature of such expansion.

## § 2.7. Disclosure of financial resources.

An applicant for license must provide the following with regard to financial resources:

1. The most recent independently audited financial statement showing:

a. The applicant's current assets, including investments in affiliated entities, loans and accounts receivable;

b. Fixed assets;

c. Current liabilities, including loans and accounts payable; and

d. Long-term debt and equity; and

e. Statement of income and expenses, and statement of cash flow;

2. Equity and debt sources of funds to develop, own and operate the horse racing facility:

a. With respect to each source of equity:

(1) Contribution;

(2) Identification of the source;

(3) Amount;

(4) Form;

(5) Method of payment;

(6) Nature and amount of present commitment; and

(7) Documentation, copies of agreements and actions which the applicant will take to obtain commitments for additional amounts;

b. With respect to each source of debt:

- (1) Contribution;
- (2) Identification of the source;
- (3) Amount;
- (4) Terms of debt;
- (5) Collateral;
- (6) Identity of guarantors;
- (7) Nature and amount of commitments; and
- (8) Documentation, copies of agreements and actions which the applicant will take to obtain commitments for additional amounts; and

3. Identification and description of sources of additional funds if needed due to cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other cause.

§ 2.8. Disclosure of financial plan.

An applicant for a license must disclose with regard to its financial plan the financial projections for the development period and for each of the first five racing years, with separate schedules based upon the number of racing days, types of racing, and types of pari-mutuel wagering the applicant requires to break even and the optimum number of racing days and types of wagering the applicant seeks each year. The commission will utilize financial projections in deciding whether to issue licenses.

Neither acceptance of a license application nor issuance of a license shall bind the commission as to matters within its discretion, including, but not limited to, assignment of racing days and approval of types of permissible pari-mutuel pools.

The disclosure must include:

1. The following assumptions and support for them:

- a. Average daily attendance;
- b. Average daily per capita handle and average bet;
- c. Retainage;
- d. Admissions to track, including ticket prices and free admissions;
- e. Parking volume, fees and revenues;
- f. Concessions, gift shop and program sales;
- g. Cost of purses;

h. Pari-mutuel expenses;

- i. State taxes;
- j. Local taxes;
- k. Federal taxes;
- l. Virginia Breeders Fund;
- m. Payroll;
- n. Operating supplies and services;
- o. Utilities;
- p. Repairs and maintenance;
- q. Insurance;
- r. Travel expenses;
- s. Membership expenses;
- t. Security expenses;
- u. Legal and audit expenses; and
- v. Debt service;

2. The following profit and loss elements:

- a. Total revenue, including projected revenues from retainage, breakage, uncashed tickets, admissions, parking, and concessions, gift and program operations;
- b. Total operating expenses, including anticipated expenses for:
  - (1) Purses;
  - (2) Pari-mutuel;
  - (3) Sales tax;
  - (4) Local taxes;
  - (5) Admissions tax;
  - (6) Virginia Breeders Fund;
  - (7) Special assessments;
  - (8) Cost of concession goods, gifts and programs;
  - (9) Advertising and promotion;
  - (10) Payroll;
  - (11) Operating supplies and service;

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(12) Maintenance and repairs;

(13) Insurance;

(14) Security;

(15) Legal and audit; and

(16) Federal and state taxes.

c. Nonoperating expenses, including anticipated expenses for debt service, facility depreciation and identification of method used, and equipment depreciation and identification of method used;

3. Projected cash flow, including assessment of:

a. Income, including equity contributions, debt contributions, interest income and operating revenue; and

b. Disbursements, including land, improvements, equipment, debt service, operating expense and organizational expense.

4. Projected balance sheets as of the end of the development period and of each of the first five racing years setting forth:

a. Current, fixed and other noncurrent assets;

b. Current and long-term liabilities; and

c. Capital accounts.

5. The applicant must also disclose an accountant's review report of the financial projections.

## § 2.9. Disclosure of governmental actions.

An applicant for a license must disclose with regard to actions of government agencies:

1. The street and highway improvements necessary to ensure adequate access to applicant's horse racing facility, and the cost of improvements, status, likelihood of completion and estimated date of completion;

2. The sewer, water and other public utility improvements necessary to serve applicant's facility, and the cost of improvements, status, likelihood of completion and estimated date of completion;

3. The status of any required government approvals for development, ownership and operation of its horse racing facility:

a. A description of the approval, unit of government, date and documentation;

b. Whether public hearings were held. If they were, the applicant must disclose when and where the hearings were conducted. If they were not held, the applicant must disclose why they were not held; and

c. Whether the unit of government attached any conditions to approval. If so, the applicant must disclose these conditions, including documentation. In addition, the applicant must summarize its plans to meet these conditions.

4. Whether any required governmental approvals remain to be obtained, as well as a description of the approval, unit of government, status, likelihood of approval and estimated date of approval;

5. Whether an environmental assessment or environmental impact statement of the facility has been or will be prepared. If so, the applicant must disclose its status and the governmental unit with jurisdiction, and provide a copy of any statement; and

6. Whether the applicant is in compliance with all state statutes, local charter provisions, local ordinances, and state and local regulations pertaining to the development, ownership and operation of its horse racing facility. If the applicant is not in compliance, the applicant must disclose the reasons why the applicant is not in compliance and summarize plans to obtain compliance.

## § 2.10. Disclosure of management.

An applicant for a license must disclose with regard to the development, ownership and operation of its pari-mutuel horse racing facility:

1. A description of the applicant's management plan, with budget and identification of management personnel by function, job descriptions and qualifications for each management position, and a copy of the organization chart;

2. Management personnel to the extent known and with respect to each:

a. Legal name, alias(es) and previous name(s);

b. Current residence and business addresses and telephone numbers;

c. Qualifications and experience in the following areas:

(1) General business;

(2) Marketing, promotion and advertising;

(3) Finance and accounting;

- (4) Horse racing;
  - (5) Pari-mutuel wagering;
  - (6) Security; and
  - (7) Human and animal health and safety.
- d. Description of the terms and conditions of employment and a copy of each type of agreement;

3. Consultants and other contractors who have provided or will provide management-related services to applicant with respect to each:

- a. Full name;
- b. Current address and telephone number;
- c. Nature of services;
- d. Qualifications and experience; and
- e. Description of terms and conditions of each contractor's agreement and a copy of the agreement.

4. Memberships of the applicant, management personnel and consultants in horse racing organizations.

5. Description of the applicant's marketing, promotion and advertising plans;

6. A description of the applicant's plan for concessions, including whether the licensee will operate concessions and, if not, who will;

7. A description of training of the applicant's personnel; and

8. A description of plans for compliance with all laws pertaining to discrimination, equal employment and affirmative action; policies regarding recruitment, use and advancement of minorities; policies with respect to minority contracting; and a copy of Equal Employment Opportunity Statement.

§ 2.11. Disclosure of safety and security plans.

An application for a license must disclose with regard to the development of its horse racing facility:

- 1. A description of the local emergency services available to the [ racetrack horse racing facility ], including fire fighting, law enforcement and medical emergency services;
- 2. A description of the security equipment, such as fences, locks, alarms and monitoring equipment, for the [ horse racing ] facility, including:

- a. Perimeter fence and its construction;
- b. Stables;
- c. Paddock;
- d. Cash room and the vault;
- e. Pari-mutuel ticket windows;
- f. Totalizator room;
- g. Post-race detention barn; and
- h. Parking lot.

3. A description of the security procedures to be used:

- a. To admit individuals to restricted areas of the [ racetrack horse racing facility ] ;
- b. To secure areas where money and mutuel tickets are vaulted, and daily transfers of cash via armored trucks;
- c. To provide security for patrons and employees; and
- d. Specific plans to discover persons at the facility who have been convicted of a felony, had a license suspended, revoked, or denied by the commission or by the horse racing authority of another jurisdiction or are a threat to the integrity of racing in Virginia.

4. A description of the security personnel to be employed at the facility, giving:

- a. Whether personnel will be employees of the licensee or employees of an independent contractor;
- b. If the personnel are employed by an independent contractor, describe the organization and qualifications of the contractor as well as meeting applicable state licensing requirements;
- c. State the number of individuals to be employed and the area of the racetrack where each will serve;
- d. Provide an organizational chart of the security force with a job description of each level; and
- e. State whether or not the security personnel are bonded and if so, state amount and conditions of the bond and the name and address of the surety company that issued the bond.

5. A description of the fire safety and emergency procedures, giving:

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a. Evacuating the patrons and controlling traffic in an emergency;

b. Inspecting the facility for fire and safety hazards;

c. Restricted smoking areas; and

d. Coordinating the facility's security, fire and safety procedures with the state police, the commission and other local agencies.

6. A description of the first aid facilities available at the [ ~~racetrack~~ horse racing facility ] during racing hours and the facilities available to employees during non-racing hours;

7. Whether the applicant will be a member of the Thoroughbred Racing Protective Bureau or other security organization; and

8. A description of the internal accounting controls to create cross checks and balances in order to safeguard assets and detect fraud and embezzlement.

## § 2.12. Disclosure of public service.

An applicant for a license must disclose its plans for promotion of the orderly growth of horse racing in Virginia and education of the public with respect to horse racing and pari-mutuel wagering.

## § 2.13. Disclosure of impact of facilities.

An applicant for a license must disclose and document the projected impact of its horse racing facility, including:

### 1. Economic impact, giving:

a. Number of jobs created, whether permanent or temporary, type of work, compensation, employer and how created;

b. Purchases of goods and services, types of purchases and projected expenditures;

c. Public and private investment; and

d. State and local tax revenues generated.

### 2. Environmental impact;

3. Impact on energy conservation and development of alternative energy sources; and

4. Social impact on the community in which the [ ~~racetrack~~ horse racing facility ] would be located.

## § 2.14. Effects on competition.

An applicant must disclose the anticipated short- and long-range effects of its ownership and operation of its

horse racing facility on competition within the horse racing industry.

## § 2.15. Disclosure of assistance in preparation of application.

An applicant must disclose the names, addresses and telephone numbers of individuals and businesses who assisted the applicant in the writing of its application and supply copies of all studies completed for the applicant.

## § 2.16. Personal information and authorization for release.

In an application for a license, the applicant shall include the following with respect to each individual identified as an applicant, partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of five percent or more in the applicant and each individual identified pursuant to subdivisions 2 and 3 of § 2.10:

1. Full name, business and residence addresses and telephone numbers, residence addresses for past five years, date of birth, place of birth, Social Security number, if the individual is willing to provide it, and two references; and

2. An authorization for release of personal information, on a form prepared by the commission, signed by the individual and providing that he:

a. Authorizes a review by, and full disclosure to, an agent of the Virginia State Police, of all records concerning the individual;

b. Recognizes the information reviewed or disclosed may be used by the Commonwealth of Virginia, its [ employers employees ], the commission, members, staff and agents to determine the signer's qualifications for a license; and

c. Releases authorized providers and users of the information from any liability under state or federal data privacy statutes.

## § 2.17. License criteria.

A. The commission may issue a license if it determines on the basis of all the facts before it that:

1. The applicant is financially able to operate a racetrack;

2. Issuance of a license will not adversely affect competition within the horse racing industry and the public interest;

3. The racetrack will be operated in accordance with all applicable state and federal statutes and regulations, regulations of the commission and all

local ordinances; and

4. The issuance of the license will not adversely affect the public health, safety and welfare.

B. In making the required determinations, the commission must consider the following factors:

1. The integrity of the applicant, including:

- a. Criminal record;
- b. Involvement in litigation over business practices;
- c. Involvement in disciplinary actions over a business license or permit or refusal to renew a license or permit;
- d. Involvement in proceedings in which unfair labor practices, discrimination or government regulation of horse racing or gambling was an issue;
- e. Involvement in bankruptcy proceedings;
- f. Failure to satisfy judgments, orders or decrees;
- g. Delinquency in filing of tax reports or remitting taxes; and
- h. Any other factors related to integrity which the commission deems crucial to its decision making, as long as the same factors are considered with regard to all applicants.

2. The types and variety of pari-mutuel horse racing, pari-mutuel wagering, and other uses of the facility when racing or wagering is not offered;

3. The quality of physical improvements and equipment in applicant's facility, including:

- a. Racetrack or tracks and provisions, if any, for a turf course;
- b. Stabling, including fire control measures;
- c. Grandstand;
- d. Detention barn;
- e. Paddock;
- f. Jockeys', drivers' and backstretch employees' quarters;
- g. Pari-mutuel totalizator;
- h. Parking;
- i. Access by road and public transportation;

j. Perimeter fence;

k. Other security improvements and equipment;

l. Starting, timing, photo finish and photo-patrol or video equipment;

m. Commission work areas; and

n. Any other factors related to quality which the commission deems crucial to its decision making, as long as the same factors are considered with regard to all applicants;

4. Imminence of completion of facility and commencement of pari-mutuel horse racing;

5. Financial ability to develop, own and operate a pari-mutuel horse racing facility successfully, including:

- a. Ownership and control structure;
- b. Amounts and reliability of development costs;
- c. Certainty of site acquisition or lease;
- d. Current financial condition;
- e. Sources of equity and debt funds, amounts, terms and conditions and certainty of commitment;
- f. Provision for cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other financial adversity;
- g. Feasibility of financial plan; and
- h. Any other factors related to financial ability which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

6. Status of governmental actions required for the applicant's facility, including:

- a. Necessary road improvements;
- b. Necessary public utility improvements;
- c. Required governmental approvals for development, ownership and operation of the facility;
- d. Acceptance of any required environmental assessment and preparation of any required environmental impact statement; and
- e. Any other factors related to status of governmental actions which the commission deems crucial to its decision making as long as the same



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factors are considered with regard to all applicants.

7. Management ability of the applicant, including:

a. Qualifications of managers, consultants and other contractors to develop, own and operate a pari-mutuel horse racing facility;

b. Security plan;

c. Plans for human and animal health and safety;

d. Marketing, promotion and advertising plans;

e. Concessions plan;

f. Plan for training personnel;

g. Equal employment and affirmative action plans; and

h. Any other factors related to management ability which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

8. Compliance with applicable statutes, charters, ordinances or regulations;

9. Efforts to promote orderly growth of horse racing in Virginia and educate public with respect to horse racing and pari-mutuel wagering;

10. Impact of facility, including:

a. Economic impact, including employment created, purchases of goods and services, public and private investment and taxes generated;

b. Environmental impact;

c. Impact on energy conservation and development of alternative energy sources;

d. Social impact;

e. Costs of public improvements;

f. Impact on the highway network; and

g. Any other factors related to impact which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

11. Extent of public support and opposition;

12. Effects on competition, including:

a. Number, nature and relative location of other licenses;

b. Minimum and optimum number of racing days sought by the applicant; and

c. Any other factors of the impact of competition which the commission deems crucial to decision making as long as the same factors are considered with regard to all applicants.

13. The commission shall also consider any other information which the applicant discloses and is relevant and helpful to a proper determination by the commission.

§ 2.18. Criteria for unlimited horse racing facilities.

A. Generally.

Every license to conduct a horse race meeting with pari-mutuel wagering privileges, of 15 days or more in any calendar year is granted by the commission upon the condition that the licensee will conduct horse racing at its facility or meeting for the promotion, sustenance, and growth of a native industry in a manner consistent with the health, safety, and welfare of the people. The adequacy and sufficiency with which the licensee meets the criteria for the procedures, facilities, and equipment for conducting a horse race meeting of such duration shall rest with the commission.

1. Each licensee shall accept, observe, and enforce all federal and state laws, regulations of the commission, and local ordinances.

2. Each licensee shall at all time maintain its grounds and facilities so as to be neat and clean, painted and in good repair, with special consideration for the comfort and safety of the public, employees, other persons whose business requires their attendance, and for the health and safety of the horses there stabled.

3. Each licensee shall honor commission exclusions from the enclosure and eject immediately any person found within the enclosure who has been excluded by the commission and report the ejection to the commission. Whenever any licensee ejects a person from the enclosure, it shall furnish a written notice to the person ejected and shall report the ejection to the commission.

4. No later than 30 days before the first day of any race meeting, each licensee shall submit to the commission the most recent inspection reports issued by governmental authorities regarding the condition of facilities, sanitation, and fire prevention, detection, and suppression.

5. Each licensee shall provide the commission daily attendance reports showing a turnstile count of all persons admitted to the enclosure and the reports shall indicate the daily number of paid admissions, taxed complimentary admissions, and tax exempt

admissions.

6. Each licensee shall furnish to the commission within three months of the closing of its fiscal year, three copies of its balance sheet and of its operating statement for the previous fiscal year with comparison to the prior fiscal year, the same duly sworn to by the treasurer of the association, and certified by an independent certified public accountant. The financial report shall be in the form as may be prescribed from time to time by the commission.

7. Each licensee shall maintain a separate bank account to be known as the "horsemen's account," with the amount of purse money statutorily mandated to be deposited in the account within 48 hours of the running of the race. Withdrawals from this account shall at all times be subject to audit by the commission, and the horsemen's bookkeeper in charge of the account shall be bonded:

a. All portions of purse money shall be made available when the stewards have authorized payment to the earners; and

b. No portion of purse money other than jockey fees shall be deducted by the licensee for itself or for another, unless so requested in writing by the person to whom such purse moneys are payable, or his duly authorized representative. Irrespective of whether requested, the horsemen's bookkeeper shall mail to each owner a duplicate of each record of a deposit, withdrawal, or transfer of funds affecting such owner's racing at the close of each race meeting.

8. Each licensee shall remit to the commission within five days of the day on which the revenue for pari-mutuel taxes, admission taxes, and breeders' funds were collected. The remittance shall be accomplished by a direct deposit in a financial institution designated by the commission. On those days when the fifth day is a holiday or a weekend day, the payment must be made by the succeeding business day. At the close of each month in which racing is conducted, the licensee must report to the commission all deposits of taxes and breeders' funds for that month.

9. On each day that deposits are made by the licensee, a report must be filed with the commission containing the following recapitulation: total retainage, pari-mutuel tax; state and local admissions taxes; purse moneys; total breakage; and breeders' fund taxes.

10. Each licensee shall provide areas within the enclosure where publications, other informational materials, and tip sheets, may be sold to the public. All persons holding a tip sheet concession at the

facility must be licensed by the commission as vendors.

a. Each handicapper shall post in a conspicuous place the previous day's tip sheet and the outcome of the races. Each handicapper shall deliver one copy of the tip sheet to a commission representative at least one hour before post time.

11. Each licensee shall supervise the practice and procedures of all vendors of food, horse feed, medication, and tack, who are licensed and have access to the stabling area. No licensee by virtue of this regulation shall attempt to control or monopolize proper selling to owners, trainers, or stable employees; nor shall a licensee grant a sole concession to any vendor of feed, racing supplies, or racing services.

12. Each licensee shall provide to the commission copies of all subordinate contracts, in the amount of \$15,000 annual gross and above, entered into by the owner, owner-operator, or operator, and such contracts shall be subject to approval of the commission.

## B. Facilities for conducting horse racing.

Each licensee shall provide all of the facilities for the conduct of horse racing so as to maintain horse racing of the highest quality and free of any corrupt, incompetent, or dishonest practices and to maintain in horse racing complete honesty and integrity.

1. Each licensee shall provide for flat racing a main racing surface of at least one mile in circumference; for flat or jump racing on the turf a racing surface of at least seven-eighths of a mile in circumference; for harness racing a main racing surface of at least five-eighths of a mile in circumference; and for other types of racing a racing surface of generally accepted standards.

2. Each licensee shall provide a safety rail on the inside of each racing surface and such other fencing that is appropriate to safely enclose the racing surface for horses and riders.

3. Each licensee shall provide distance poles marking off the racing surface and the poles shall be painted in the following colors: quarter poles, red and white; eighth poles, green and white; and sixteenth poles, black and white.

4. Each licensee shall provide racing surfaces whose construction, elevation, and surfaces have received scientific approval as safe and humane, adequate and proper equipment to maintain the racing surface, and sufficient trained personnel to properly operate the equipment. Daily records of maintenance shall be open for inspection.

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5. Each licensee shall provide stabling in a sufficient amount to conduct a successful horse race meeting. The horses shall be quartered in individual stalls with separate feeding and watering facilities.

6. Each licensee shall provide a stabling area that is maintained in approved sanitary condition with satisfactory drainage, manure, and other refuse kept in separate boxes or containers distant from living quarters, and the boxes or containers promptly and properly removed.

7. Each licensee shall provide a systematic and effective insect control program and programs to eliminate hazards to public health and comfort in the stabling area and throughout the enclosure.

8. Each licensee shall provide satisfactory living quarters for persons employed in the stabling area as well as satisfactory commissary, recreation, and lavatory facilities, and maintain the facilities in a clean and sanitary manner. No employee shall be permitted to sleep in any stall or barn loft.

9. Each licensee shall provide on every racing day satisfactory sanitary toilets and wash rooms, and furnish free drinking water for patrons and persons having business within the enclosure.

10. Each licensee shall provide satisfactory first aid facilities with not less than two beds and attendance of a competent physician and registered nurse during racing hours who will be available to treat both patrons and permittees.

11. Each licensee shall provide a paddock where the horses are assembled prior to the post parade. Each licensee shall provide a public viewing area where patrons may watch the activities in the paddock. Each licensee shall also provide a sufficient number of roofed stalls so that horses may be housed during inclement weather.

12. Each licensee shall provide satisfactory facilities for jockeys or drivers who are participating in the day's program. The facilities shall include accommodations for rest and recreation, showers, toilets, wash basins, arrangements for safe keeping of apparel and personal effects [ ; ~~snack bar, and other accommodations as requested by the clerk of sales, during thoroughbred and snack bar during horse race~~ ] meetings.

13. Each licensee shall maintain an information desk where the public may make complaints regarding the facilities, operations of the licensee, or rulings of the commission. The licensee shall respond promptly to complaints, and inform the commission regarding any alleged violation of its regulations.

14. Each licensee shall maintain a detention barn for

use by commission employees in securing from horses which have run a race, samples of urine, saliva, blood, or other bodily substances for chemical analysis. The detention barn shall include a wash rack, commission veterinarian office, a walking ring, and a sufficient number of stalls each equipped with a window sufficiently large to allow the taking of samples to be witnessed from outside the stall. The detention barn shall be located convenient to the racing surface and shall be enclosed by a fence so that unauthorized persons shall be excluded. Space shall be provided for signing in and signing out of permittees whose attendance is required in the detention barn.

15. Each licensee shall maintain a receiving barn conveniently located for use by horses arriving for races that are not quartered in the stabling area. The licensee shall have a sufficient number of stalls to accommodate the anticipated number of horses, hot and cold running water, and stall bedding. The licensee shall maintain the receiving barn in a clean and sanitary manner.

16. Each licensee shall provide and maintain lights so as to ensure adequate illumination in the stabling area and parking area. Adequacy of track lighting for night racing shall be determined by the commission.

17. Each licensee shall provide and maintain stands commanding an uninterrupted view of the entire racing surface for the stewards with the location to be approved by the commission. The licensee shall provide patrol judge stands so that the floor shall be at least six feet higher than the track rail. For harness racing, each licensee shall provide space in the mobile starting gate which will accompany the horses during the race.

18. Each licensee shall furnish office space, approved by the commission, for the commission's use within the enclosure and an appropriate number of parking spaces so that its members and staff may carry out their duties.

19. Each licensee shall submit to the commission, at least 30 days prior to the opening day of a meeting, a complete list of its racing officials, as set forth elsewhere in these regulations, and department heads. No person shall hold any appointment for a horse race meeting unless approved by the commission after determination that the appointee is qualified for his duties, not prohibited by any law of the Commonwealth of Virginia or regulation of the commission, and eligible to be licensed by the commission.

20. Each licensee shall provide a condition book, or for harness racing, a condition sheet, listing the proposed races for the upcoming racing days and prepared by the racing secretary, to the commission

at least one week prior to opening day. Additional condition books or condition sheets shall be provided to the commission as soon as published.

21. No licensee shall allow any person to exercise any horse within the enclosure unless that person is wearing a protective helmet of a type approved by the stewards and the chin strap is buckled. For flat racing, the term "exercising" is defined to include breezing, galloping, or ponying horses.

22. Each licensee shall employ at least two outriders for flat racing, at least four outriders for jump races, and at least one outrider for harness racing, to escort starters to the post and to assist in the returning of all horses to the unsaddling area for flat races. No outrider shall lead any horse that has not demonstrated unruliness, but shall assist in the control of any horse which might cause injury to a jockey or driver or others. During racing hours, outriders will wear traditional attire. For flat race meetings, outriders shall be required to be present on the racing strip, mounted, and ready to assist in the control of any unruly horse or to recapture any loose horse, at all times when the track is open for exercising.

23. Each licensee shall employ for flat meets a sufficient number of valets to attend each jockey on a day's program. Valets will be under the immediate supervision and control of the clerk of scales. No valet shall be assigned to the same jockey for more than two consecutive racing days. Valets shall be responsible for the care and cleaning up of his assigned rider's apparel and equipment; shall ensure his rider has the proper equipment and attend the saddling of his rider's mount; and shall attend the weighing out of his rider. No valet or other jockey room attendant may place a wager for himself or another, directly or indirectly, on races run while he is serving as a valet. Each licensee shall provide uniform attire for valets who shall wear the uniform attire at all times while performing their duties within public view.

### C. Equipment for conducting horse racing.

Each licensee shall provide all of the equipment for the conduct of horse racing so as to maintain horse racing of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled practices, and to maintain in horse racing complete honesty and integrity.

1. Each licensee shall maintain at least two operable starting gates for flat meetings and two operable mobile starting gates for harness racing. The licensee shall have in attendance one or more persons qualified to keep the starting gates in good working order and provide for periodic inspection. For flat meetings, the licensee shall also make at least one starting gate along with adequate personnel available

for schooling for two hours each day during training hours, exclusive of nonrace days. For harness racing meetings, a mobile starting gate shall be made available for qualifying races and schooling.

2. Each licensee shall maintain photo-finish equipment to assist the stewards and placing judges, where employed for flat race meetings, in determining the order of finish of each race. The licensee shall provide at the finish line two photo-finish cameras for photographing the finish of races; one camera to be held in reserve. The standards and operations of the photo-finish camera as well as the methodology of the personnel shall be subject to the approval of the stewards:

a. The photo-finish photographer shall promptly furnish the stewards and placing judges prints as they are requested, and the photographer will promptly inform the stewards and placing judges of any malfunction of his equipment;

b. A print of a photo finish where the placing of horse is a half of length or less shall be displayed either by posting copies of the print or video means to the public promptly after the race has been declared "official"; and

c. Each licensee shall be responsible for maintaining a file of photo finishes of all races for one year after the closing of the horse race meeting.

3. Each licensee shall provide color video tape recordings of the running of each race clearly showing the position and actions of the horse and jockeys or drivers at close range. Each licensee shall provide at least three cameras to record panoramic and head-on views of the race. One camera shall be located on the finish line:

a. Promptly after a race has been declared "official," video tape recordings shall be replayed for the benefit of the public. In those races where there was a disqualification, video tapes of the head-on views may also be shown with an explanation by the public address announcer; and

b. The licensee shall safeguard the tapes of all videotapes for one year after the close of the horse race meeting and promptly deliver to the commission copies of videotapes of those races where there has been an objection, inquiry, protest, or disqualification.

4. Each licensee shall provide an electronic timing system. Each licensee shall also provide a qualified person to manually time each race, including splits of each quarter of a mile, in the event of a malfunction of the electronic system.

5. Each licensee shall provide an internal

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communication system which links the [ steward's stewards' ] stand, racing secretary's office, pari-mutuel department, jockeys' or drivers' room, paddock, detention barn, commission veterinarian's office, starting gate, film patrol office, ambulances, public address announcer, patrol judges, and any other personnel designated by the commission.

6. Each licensee shall provide a public address system whereby calls of the races and other pertinent information may be communicated to the public. This system shall be utilized by a qualified person, and the system shall have the capability of transmitting throughout the stabling area.

7. Each licensee shall restrict the use of all external communication devices for a period of time beginning 30 minutes before post time of the first race and ending when the last race is declared "official":

a. The licensee shall render inoperable each telephone or other instrument of communication located in the enclosure, other than those designated for the exclusive use of the commission;

b. The licensee may not permit an individual within the enclosure to receive a telephone call, telegram, or message from outside the enclosure without the approval of the stewards;

c. Each licensee shall confiscate until the end of the restricted time period a portable telephone, transmitter, or other instrument of external communication, including a car phone, located within the enclosure; and

d. The licensee may have telephone or telegraph systems within the enclosure for the benefit of the media, but no information regarding the results shall be transmitted out of the enclosure until the results are official except for races that are broadcast or televised live.

8. Each licensee shall provide a totalizator and employ qualified personnel to operate the system, provide maintenance of the hardware, software, and ancillary wagering devices, and be able to perform emergency repairs in case of emergencies. The licensee shall also provide a mutuel board in the infield where approximate odds, amounts wagered in the win, place, and show pools on each betting interest, and other pertinent information may be prominently displayed to the public:

a. The totalizator shall maintain at least two independent sets of pool totals and compare them at [ ~~least~~ ] once every 60 seconds. The totalizator shall record in a system log file any difference in the final pool totals;

b. The totalizator shall have the capability of

calculating the mutuel pools, approximate odds, probable payoffs and display them to the public at intervals of not more than 60 seconds;

c. The totalizator shall have the capability of being locked and wagering terminated automatically at the command of a steward. Any failure of the system to lock at the start of the race shall be reported immediately by the mutuel manager to the stewards;

d. The totalizator shall have the capability of displaying the probable payoffs on various combinations in the daily double, perfecta, and quinella wagering, and displaying the payoffs to the public;

e. The totalizator shall have the capability of recording the wagering by individual wagers, including the amount wagered, the betting interest, and the mutuel window where the wager was placed. The records of the wagering shall be promptly made available to the commission upon request. The licensee shall preserve the records of the wagering for 30 days after closing of the horse race meeting. The records shall not be destroyed without permission of the commission;

f. The personnel operating the totalizator shall report immediately to the stewards any malfunction in the system, or what they perceive to be any unusual patterns in the wagering;

g. The totalizator personnel shall make available to the commission any special reports or requests that may assist the commission in carrying out its statutory duties and responsibilities for the conduct of horse racing; and

h. The commission may require an independent certified audit of the totalizator's software attesting to the accuracy of its calculations and the integrity of its accounting processes.

9. Each licensee shall provide at least one human ambulance and at least one horse ambulance within the enclosure at all times during those hours when the racing and training surface is open for racing and training. The ambulances shall be manned and equipped to render immediate assistance, and shall be stationed at a location approved by the stewards.

## D. Provisions for safety, security and fire prevention.

Each licensee shall employ sufficient trained personnel to provide for the safety and security of the public and others who have business within the enclosure. Each licensee shall also take all measures to prevent the outbreak of fires within the enclosure and develop plans for the quick extinguishing of any fires that should occur.

1. Each licensee shall provide sufficient trained security personnel under the supervision of a qualified director of security. If the licensee contracts with a private security service, the security service must be bonded and meet all applicable licensing requirements. If the licensee establishes its own security force, then director of security shall forward to the commission detailed plans for the screening, hiring, and training of its own personnel.

2. The director of security of each licensee shall cooperate fully with the commission and its staff, federal and state law enforcement agencies, local police and fire departments, and industry security services to enforce all laws and regulations to ensure that horse racing in the Commonwealth of Virginia is of the highest integrity.

3. Each licensee shall develop a detailed security plan describing the equipment, i.e., fences, locks, alarms, and monitoring devices; the procedures to admit persons to restricted areas, i.e., stabling area, paddock, jockeys' or drivers' room, vault, mutual lines, totalizator room, and post-race detention barn; and the trained personnel in sufficient numbers to provide for the safety and security of all persons during racing and nonracing hours.

4. Each licensee may provide a perimeter fence around the entire enclosure, but shall fence off the stabling area. The entrance to the stabling area shall be guarded on a 24-hour basis by uniformed security personnel so that unauthorized persons shall be denied access to the restricted stabling area. The licensee shall also provide for routine patrolling by uniformed security personnel on a 24-hour basis within the stabling area.

5. During racing hours, the licensee shall provide uniformed security personnel to guard the entrances to the paddock, jockeys' or drivers' room, stewards' stand, and other restricted areas as may be deemed appropriate by the commission so that unauthorized persons shall be denied access to them.

6. The licensee's director of security shall submit to the commission and Virginia State Police a written report describing every arrest or completed incident of security investigation or rule violation including the person charged, the charges against the person, the present whereabouts of the person, and disposition of the charges, if any.

7. The licensee's director of security shall submit to the commission a detailed plan describing the procedures to be followed in case of fire or any other emergency within the enclosure. The plan shall contain the resources immediately available within the surrounding communities to cope with fire or other emergencies, route of evacuation for the public, controlling traffic, and those resources available from

the surrounding communities for police, fire, ambulance, and rescue services.

8. Each licensee shall observe and enforce all state and local building codes and regulations pertaining to fire prevention, and shall prohibit the following:

a. Smoking in horse stalls, feed rooms, or under the shedrow;

b. Open fires and oil or gasoline burning lanterns or lamps in the stable area;

c. The unsafe use of electrical appliances or other devices which would pose a hazard to structures, horses, permittees, or the public; and

d. Keeping flammable materials including cleaning fluids or solvents in the stabling area.

§ 2.19. Reserved.

§ 2.20. Owner, owner-operator, or operator unlimited license application fee.

An applicant for an owner's, owner-operator's, or operator's license under § 59.1-375 of the Act must submit a nonrefundable application [ a license: A nonrefundable fee of \$100 times the application fee to the commission's designee at the time of application ] by a certified check or bank draft to the order of the Commonwealth of Virginia in the amount of \$10,000 to cover the cost of the background investigations mandated by § 59.1-371 of the Code of Virginia. In the event the cost of the investigation exceeds the \$10,000 application fee, the applicant must remit the amount of the difference by certified check or bank draft within 10 days after receipt of a bill from the commission.

§ 2.21. Reserved.

§ 2.22. Payment of owner and operator license fee.

An owner's or operator's license becomes effective upon the receipt by the commission of a certified check or bank draft to the order of the Commonwealth of Virginia in the amount of license fees and is suspended if the license fee is not received on or before the specified dates:

1. Owner's license: A nonrefundable fee of \$5,000 per year due and payable within 10 days of the original license being issued and on or before January 1 of each succeeding year.

2. [ ~~Operator~~ Operator's license: A nonrefundable fee of \$100 times the ] number of racing days awarded in the annual application for racing days due and payable on or before January 1 of each year.

§ 2.23. Reserved.

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§ 2.24. Reserved.

NOTE: Due to its length, the License Application used by the Virginia Racing Commission in administering this regulation is not being published; however, the application is available for public inspection at the Office of the Registrar of Regulations or at the Virginia Racing Commission.

## DEPARTMENT OF STATE POLICE

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of State Police will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 545-01-1. Motor Carrier Safety Regulations.

**Statutory Authority:** § 52-8.4 of the Code of Virginia.

**Effective Date:** April 1, 1990

### Summary:

*Virginia is repealing Addendum 112 as it relates to § 395.8, driver's record for duty status intrastate. This action requires intrastate drivers to comply with § 395.8.*

### Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Motor Carrier Safety Regulations is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, the entire document will not be printed in The Virginia Register of Regulations; however, the text being repealed is set out below. Copies of the document are available for inspection at the Department of State Police, 7700 Midlothian Turnpike, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 292, General Assembly Building, Capitol Square, Richmond, Virginia.


§ 395.8. Driver's record of duty status:

Added paragraph; same effect as in Hawaii (FMCSR)

(k) (1) Exemptions (4) Drivers operating in Virginia. The rules in this section do not apply to a driver who drives a motor vehicle wholly in the State of Virginia, if the motor carrier who employs the driver maintains and retains for a period of 6 months accurate and true records showing

(i) The total number of hours the driver is on duty each day; and

(ii) The time at which the driver reports for, and is released from, duty each day.

  
**COMMONWEALTH of VIRGINIA**  
VIRGINIA CODE COMMISSION  
General Assembly Building

POST OFFICE BOX 2 JAG  
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January 15, 1990

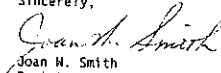
Lieutenant Colonel William F. Convello  
Acting Superintendent  
Department of State Police  
P. O. Box 27472  
Richmond, Virginia 23261-7472

Re: VR 545-01-1. Motor Carrier Safety Regulations

Dear Lieutenant Colonel Convello:

This will acknowledge receipt of the above-referenced regulations from the Department of State Police.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by federal law.

Sincerely,  
  
Joan M. Smith  
Registrar of Regulations

JWS:s11

## DEPARTMENT OF YOUTH SERVICES (BOARD OF)

**NOTICE:** The following regulation was filed by the Department of Corrections as a proposed regulation and was published in 5:26 VA.R. 3977-3983 September 25, 1989. The General Assembly transferred the authority to promulgate this regulation to the Board of Youth Services; therefore, both the Board of Corrections and the Board of Youth Services adopted this regulation after the public comment period elapsed.

**Title of Regulation:** VR 690-40-005. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.

**Statutory Authority:** §§ 66-10 and 66-28 of the Code of Virginia.

**Effective Date:** July 1, 1990

### Preface:

In 1970, the Delinquency Prevention Service was established in recognition of the need to reduce the number of institutionalized children by preventing their contact with the Virginia Juvenile Justice System. The program was founded on several assumptions:

1. The causes of juvenile delinquency are to be found, in large part, in conditions and situations that exist in every community.
2. If these conditions and situations are to be changed, there must be a coordinated and systematic effort by each community to identify those which need to be modified.
3. The involvement of citizens as well as professionals in this process will help assure that each locality will make maximum utilization of existing services before new programs are developed.
4. The goal should be to create an environment which will provide for the positive and wholesome development of youth.

In short, it is the philosophy of the Department of Youth Services that delinquency prevention is a process of community development. This process should encompass all segments of the community including the young people themselves.

In 1974, the Virginia General Assembly enacted legislation officially delegating the responsibility for a delinquency prevention and youth development program to the Department of Corrections. This was followed in 1979 by the Delinquency Prevention and Youth Development Act which provided funds for the operation of community-based delinquency prevention programs. Although compliance with these standards is required by those receiving Act funds, they can also be used as

guidelines for the development of a delinquency prevention and youth development program by communities which are not receiving Act funds. The standards require that only a minimum of services be provided and establish parameters within which each community is free to develop new and innovative approaches to delinquency prevention.

A program's Youth Services Citizen Board derives its authority from its city council or board of supervisors. Therefore, city councils or boards of supervisors are to define the relationship of the Youth Services Citizen Board to its staff, the Office on Youth. While policy-making or advisory boards with clearly defined responsibilities are the only ones specified in these standards, local governing bodies are not limited in their discretion in determining what form of Youth Services Citizen Board is appropriate for their locality.

These standards represent a revision of the 1982 standards and were accomplished by a work group of professionals and citizens from throughout the Commonwealth.

The Code of Virginia is the foundation for the development of Minimum Standards for Delinquency Prevention Programs. Section 66-28 of the Code of Virginia directs the Board of Youth Services to prescribe rules and regulations governing applications for grants and standards for the operation of programs developed and implemented under Delinquency Prevention and Youth Development Act grants. The Board of Youth Services is authorized to monitor the activities of the department and its effectiveness in implementing the standards and goals of the board as specified by § 66-10 of the Code of Virginia.

The Board of Youth Services will certify all Virginia Delinquency Prevention and Youth Development Act grant programs which comply with standards approved by the board. The schedule of required compliance will be in accordance with the certification process policy adopted by the Board of Corrections.

At the time of adoption by the Board of Youth Services, the following standards will replace and supersede the existing Minimum Standards, The Virginia Delinquency Prevention and Youth Development Act, Department of Corrections, approved by the State Board of Corrections, September 15, 1982. These proposed standards shall become effective on July 1, 1990.

### Summary:

These standards are for the operation of programs developed and implemented under Virginia Delinquency Prevention and Youth Development (DP&YD) Act grants. State law creating this Act requires that a city or county have a youth services citizen board. The standards give guidance to these youth services citizen boards, their staff (i.e., an



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Office on Youth), and their programs and services. The standards outline the powers, appointment and qualifications, and responsibilities of the youth services citizen boards. Office on Youth administration is addressed and includes such items as goals and objectives, personnel, staff training, fiscal management, and monitoring and evaluation. The standards conclude with requirements concerning programs and services (i.e., comprehensive community youth needs planning, community involvement, and direct service programs).

The only substantial change is the deletion of a requirement for a second equivalent full-time paid position for each office on youth. Concerns were expressed by the Department of Planning and Budget regarding lack of funding for this requirement. The Department of Youth Services does not wish to have such a mandate without providing the necessary funding. Therefore, the proposed standard was withdrawn from the final regulations.

VR 230-40-005. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.

## PART I. INTRODUCTION.

### § 1.1. Definitions.

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

“Administrative Manual” means a written document which contains policies/procedures, rules and regulations, or other operating instructions for a Youth Services Citizen Board or Office on Youth.

“Biennial Operating Plan” means a written plan setting forth measurable goals and objectives for a two-year period (two fiscal years) which will accomplish the goal of developing, coordinating, and evaluating youth services. The Biennial Operating Plan is to be based primarily on the six-year Delinquency Prevention and Youth Development Needs Assessment and Plan.

“Community” means the particular city or county or combination thereof which a Youth Services Citizen Board serves.

“Counseling Plan” means a written statement of objectives and goals, services to be rendered, identification of service provider, and timetable for the accomplishment of the objectives and goals.

“Delinquency Prevention and Youth Development Needs Assessment and Plan” means a document, developed every six years, which analyzes the problems, opportunities and conditions of youth and concludes with

a plan of action to meet identified needs.

“Direct service” means Office on Youth staff or assigned Youth Services Citizen Board Member(s) or both providing substantial person-to-person contact with youth or families or both for purposes of instructional or skills development training.

“Direct services counseling” means a one-to-one or group relationship involving a trained counselor and focusing on some aspects of a client’s adjustment, developmental, or decision-making needs.

“Functional Working Agreement” means a written document indicating an intent on the part of an agency/organization/individual to support, coordinate/cooperate with, refer to, receive referrals from, provide a resource or service, serve on a task force/committee, etc.

“Generally accepted accounting principles” means the conventions, rules, procedures, or principles necessary to define accepted accounting practice at a particular time.

“Government agencies” means an administrative division of state or local government.

“Knowledge, skills, and abilities qualifications” means the criteria which set forth the expectations of a position (formerly a correlative to education/experience qualifications).

“Local governing body” means the city council or county board of supervisors of a city or county, respectively. Many governmental services in Virginia are regionalized to serve more than one governmental jurisdiction. Any Youth Services Citizen Board and Office on Youth designed to provide regionalized services to more than one governmental jurisdiction must have the endorsement and support of all affected governing bodies.

“Office on Youth” means the staff and the place of business of the staff to the Youth Services Citizen Board.

“Personnel Policy Manual” means a written document which contains the conditions of employment including policies, procedures, responsibilities and benefits for employees of an Office on Youth.

“Primary prevention” means the active process of creating conditions that promote the well-being of people. It encompasses activities which impact systems which address causes rather than symptoms. Primary prevention promotes positive youth development before delinquency occurs. Service options of primary prevention include community assessment, planning, community organization, community education, organizational development, consultation, training, parent education, advocacy for changes in conditions, employment development, legislation development, etc.

"Principal administrative officer" means the individual (i.e., city manager or county administrator) who is appointed and paid by a local governing body to implement its decisions.

"Program of public education" means a planned overall approach to provide information to the public related to the needs of youth. Program does not mean a single activity, but multiple types of activities.

"Self evaluation" means the assessment that a Youth Services Citizen Board performs at least once a fiscal year of its performance and program. Some factors to include in the self evaluation are the relevancy of the Youth Services Citizens Board/Office on Youth Program; the performance of the Youth Services Citizen Board's/Office on Youth's program; the performance of the staff; the funding of the Youth Services Citizen Board/Office on Youth and its program; the organization, responsibilities, and functioning of the Youth Services Citizen Board, and the Youth Services Citizen Board and Office on Youth relationships and delegated responsibilities.

"Service agency" means a public or private human service or juvenile justice organization/agency which primarily addresses the needs of youth and families.

"Youth Services Citizen Board" means an organization of citizens created by legislative action of the local governing body(ies) to be responsible for planning and coordination and other functions relative to the system of youth services in the community.

## PART II. YOUTH SERVICES CITIZEN BOARD. ADMINISTRATION.

### Article 1.

#### Powers, Appointment, and Qualifications of Members.

§ 2.1. The Youth Services Citizen Board shall be established by an ordinance or resolution of the local governing body(ies) of a locality(ies), and shall derive its authority from, and be administered by the local governing body(ies). The ordinance or resolution shall be in accordance with §§ 66-29 through 66-35 of the Code of Virginia.

§ 2.2. The members of the Youth Services Citizen Board, a majority of whom shall be citizens who are not employed by government or service agencies and who are not elected government officials, shall be appointed by the local governing body(ies). At least one member shall be below the age of 18 years.

§ 2.3. Youth Services Citizen Board members shall be appointed for a term of no less than three years and not more than five years; appointments shall be staggered for continuity. Youth members shall serve one-year terms and may be reappointed as eligible.

§ 2.4. No title, position or agency shall be appointed to the Youth Services Citizen Board.

§ 2.5. The Youth Services Citizen Board shall elect its own officers and establish its own bylaws.

### Article 2.

#### Responsibilities of Youth Services Citizen Boards: Policy-Making Boards.

§ 2.6. The Youth Services Citizen Board shall be responsible for supervision and administration of the Office on Youth.

§ 2.7. The Youth Services Citizen Board shall hire the administrator for the Office on Youth and shall approve the following:

1. The number of staff for the Office on Youth;
2. Written job descriptions; and
3. Written minimum knowledge, skills, and abilities qualifications.

§ 2.8. The Youth Services Citizen Board shall delegate, in writing to the administrator of the Office on Youth, authority for the hiring of staff.

§ 2.9. The Youth Services Citizen Board shall be responsible for developing or adopting and maintaining a written administrative manual which shall include policies, procedures, and guidelines for the Office on Youth. This manual shall be available to all Office on Youth staff.

§ 2.10. The Youth Services Citizen Board shall establish or adopt written policies, for the Office on Youth administrator, relating to delegation of administrative authority.

§ 2.11. The Youth Services Citizen Board shall establish or adopt written policy which prohibits Youth Services Citizen Board members and Office on Youth staff from using their official position to secure privileges for themselves or others and from engaging in activities that constitute conflict of interest.

### Article 3.

#### Responsibilities of Youth Services Citizen Boards: Advisory Boards.

§ 2.12. The Youth Services Citizen Board shall assist the principal administrative officer in the supervision and administration of the Office on Youth.

§ 2.13. The Youth Services Citizen Board shall assist the principal administrative officer in establishing for the Office on Youth the following:

1. The number of staff;

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2. Written job descriptions; and

3. Written minimum knowledge, skills, and abilities qualifications.

§ 2.14. The Youth Services Citizen Board shall participate in the hiring of the administrator of the Office on Youth.

§ 2.15. The principal administrative officer shall be responsible for developing and maintaining a written administrative manual which shall include policies, procedures, and guidelines for the Office on Youth. This manual shall be available to all Office on Youth staff.

## PART III OFFICE ON YOUTH ADMINISTRATION.

### Article 1. Goals and Objectives.

§ 3.1. The Office on Youth shall implement the strategies to accomplish the goals and objectives as established and authorized in the Youth Services Citizen Board Biennial Operating Plan.

### Article 2. Personnel and Operations.

§ 3.2. The Office on Youth shall have one paid full-time administrator.

[ § 3.3. The Office on Youth shall have at least the equivalent of one full-time paid position to assist the administrator with the accomplishment of the goals and objectives of the Youth Services Citizen Board. A local unit of government shall submit documentation to the Department of Corrections for determination that:

1. The participating locality can accomplish the goals and objectives of the Youth Services Citizen Board without the equivalent of this full-time paid position to assist the Office on Youth's administrator; or

2. The participating locality cannot accomplish the goals and objectives of the Youth Services Citizen Board without the equivalent of this full-time paid position to assist the Office on Youth's administrator.

]

[ § 3.4. § 3.3. ] The Office on Youth shall possess an administrative capability including clerical and other support services.

[ § 3.5. § 3.4. ] A written job description with minimum knowledge, skills, and abilities qualifications shall exist for each Office on Youth staff position.

[ § 3.6. § 3.5. ] Job descriptions and minimum knowledge, skills, and abilities qualifications for the Office on Youth administrator staff position shall include, but not be limited to the following:

1. Ability to conduct studies, analyze findings, identify problems, and formulate solutions;

2. Ability to research and develop informational materials;

3. Ability to provide technical assistance and consultation;

4. Ability to establish effective working relationships with agency management and employees, with citizen groups, and with state, local and private organizations; and

5. Ability to communicate orally and in writing.

[ § 3.7. § 3.6. ] All Office on Youth staff members shall meet the minimum knowledge, skills, and abilities qualifications established for their respective positions.

[ § 3.8. § 3.7. ] Salary levels and employee benefits for all Office on Youth personnel shall be equitable with comparable occupational groups within the sponsoring locality.

[ § 3.9. § 3.8. ] An Office on Youth shall be governed by the written personnel policy manual of the sponsoring locality when operated under an advisory Youth Services Citizen Board. [ If no sponsoring locality manual exists, one shall be developed for the Office on Youth. ]

[ § 3.10. § 3.9. ] Policy-making Youth Services Citizen Boards shall develop and approve a written personnel policy manual for Office on Youth employees or adopt the sponsoring locality's.

[ § 3.11. § 3.10. ] When the Office on Youth is operated under a policy-making board, the Office on Youth personnel policy manual shall include, but not be limited to, policies concerning:

1. Recruitment and selection;
2. Grievance and appeal;
3. Annual employee evaluation;
4. Confidentiality of employee personnel records;
5. Equal employment opportunity;
6. Leave and benefits;
7. Resignations and termination;
8. Promotion, demotion and transfer;
9. Probationary period; and
10. Compensation.

[ ~~§ 3-12~~ § 3.11. ] A copy of the personnel policy manual shall be made available to each Office on Youth employee by the administrator of the Office on Youth.

[ ~~§ 3-13~~ § 3.12. ] A copy of the statewide procedures and guidelines manual developed by the Department of [ ~~Corrections~~ Youth Services ] shall be made available to each Youth Services Citizen Board member and Office on Youth employee by the administrator of the Office on Youth and shall be followed by the Office on Youth when applicable procedures and policies are not provided by the local governing body or developed and approved by the Youth Services Citizen Board. [ Local procedures shall not be in conflict with the statewide procedures and guidelines manual. ]

### Article 3. Staff Training and Development.

[ ~~§ 3-14~~ § 3.13. ] A program of training with defined objectives relating to the job description, the Biennial Operating Plan and the Delinquency Prevention and Youth Development Needs Assessment and Plan shall be written annually for each position established for the Office on Youth.

[ ~~§ 3-15~~ § 3.14. ] All full-time staff members of the Office on Youth shall have a minimum of 40 hours of training per year based on the written [ training ] program.

[ ~~§ 3-16~~ § 3.15. ] All part-time staff members of the Office on Youth working 20 hours or more per week shall have a minimum of 20 hours of training per year based on the written training program.

### Article 4. Fiscal Management.

[ ~~§ 3-17~~ § 3.16. ] The proposed annual operating budget of the Youth Services Citizen Board/Office on Youth shall be approved by the Youth Services Citizen Board prior to submission to the locality's principal administrative officer(s) and governing body(ies).

[ ~~§ 3-18~~ § 3.17. ] The sponsoring locality shall submit annually to the Department of Corrections the approved operating budget for the Youth Services Citizen Board/Office on Youth showing appropriated revenue and projected expenses for the coming year.

[ ~~§ 3-19~~ § 3.18. ] There shall be a system of financial record keeping for the Youth Services Citizen Board/Office on Youth that is consistent with generally accepted accounting principles.

[ ~~§ 3-20~~ § 3.19. ] There shall be a system of financial record keeping that shows a separation of the Youth Services Citizen Board/Office on Youth accounts from all other records.

[ ~~§ 3-21~~ § 3.20. ] Those members of the Youth Services

Citizen Board and Office on Youth staff who have been authorized the responsibility of handling funds of the program shall be bonded.

[ ~~§ 3-22~~ § 3.21. ] A compliance audit by an independent Certified Public Accountant shall be conducted annually on the financial records of the Youth Services Citizen Board/Office on Youth programs in accordance with local and state regulations.

[ ~~§ 3-23~~ § 3.22. ] The sponsoring locality's purchasing policies and procedures shall govern purchasing of supplies, materials, equipment and services.

[ ~~§ 3-24~~ § 3.23. ] The Youth Services Citizen Board shall review, on at least a quarterly basis, income received and disbursements made by the Youth Services Citizen Board/Office on Youth.

### Article 5. Monitoring and Evaluation.

[ ~~§ 3-25~~ § 3.24. ] The administrator of the Office on Youth shall provide the Department of Corrections, at least semi-annually, documentation to evaluate the accomplishment of the Biennial Operating Plan.

[ ~~§ 3-26~~ § 3.25. ] The administrator of the Office on Youth shall circulate/distribute copies of the on-site status report received from the Regional Juvenile Delinquency Prevention Specialist to all members of the Youth Services Citizen Board and the principal administrative officer within 45 calendar days of its receipt.

[ ~~§ 3-27~~ § 3.26. ] The Youth Services Citizen Board shall conduct a self evaluation at least once a year regarding the board's functioning. The self evaluation shall include, but not be limited to, the following factors: the relevancy of the Youth Services Citizen Board/Office on Youth program; the performance of the Youth Services Citizen Board's/Office on Youth's program; the performance of the staff; the funding of the Youth Services Citizen Board/Office on Youth and its program; the organization, responsibilities, and functioning of the Youth Services Citizen Board; and the Youth Services Citizen Board and Office on Youth relationships and delegated responsibilities.

[ ~~§ 3-28~~ § 3.27. ] The administrator of the Office on Youth shall keep a signed, dated copy of the annual Youth Services Citizen Board's self evaluation in the office files.

## PART IV. PROGRAMS AND SERVICES.

### Article 1. Delinquency Prevention and Youth Development Needs Assessment and Plan.

§ 4.1. The Office on Youth shall conduct an assessment of

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the needs of youth within their jurisdiction at least every six years after the initial assessment [ , which shall be completed within the first two years of operation ] .

§ 4.2. The assessment of the needs of youth shall include but not be limited to:

1. A detailed compilation of the problems, needs, opportunities and conditions of youth based on:

a. Youth-service agencies' opinions;

b. A survey of public opinion;

c. A survey of youth; and

d. An analysis of available archival data.

2. A comprehensive inventory of current programs and resources impacting on youth, including:

a. Identifying information;

b. Program descriptions;

c. Clientele served; and

d. Fee requirements.

§ 4.3. The Youth Services Citizen Board and the Office on Youth, in conjunction with other youth serving agencies, shall develop and approve the written Delinquency Prevention and Youth Development Needs Assessment and Plan for their community(ies).

§ 4.4. The Delinquency Prevention and Youth Development Needs Assessment and Plan.

The plan shall include, but not be limited to:

1. An analysis of the needs assessment;

2. Recommendations concerning youth service needs of the community; and

3. A plan of action to meet the identified needs.

§ 4.5. The Youth Services Citizen Board shall submit a signed copy of the written six-year Delinquency Prevention and Youth Development Needs Assessment and Plan to the local governing body(ies) and the Virginia Department of [ ~~Corrections~~ Youth Services ] within 60 days of Youth Services Citizen Board approval.

## Article 2. Biennial Operating Plan.

§ 4.6. The Youth Services Citizen Board and the Office on Youth shall develop a written Biennial Operating Plan with 75% of the objectives based on the Delinquency Prevention and Youth Development Needs Assessment and

Plan, which shall set forth goals, objectives and strategies for the Youth Services Citizen Board and Office on Youth.

§ 4.7. Annually, the Youth Services Citizen Board shall submit a written report to the local governing body and the Virginia Department of [ ~~Corrections~~ Youth Services ] regarding progress toward accomplishment of the Delinquency Prevention and Youth Development Needs Assessment and Plan, and the Biennial Operating Plan.

§ 4.8. The Biennial Operating Plan shall address at least three of the youth needs areas identified by the Department of [ ~~Corrections~~ Youth Services ] .

§ 4.9. The Biennial Operating Plan shall include a program of public education to be conducted related to the needs of youth as identified in the Delinquency Prevention and Youth Development Needs Assessment and Plan.

## Article 3. Community Involvement.

§ 4.10. The Youth Services Citizen Board shall document attempts to add, delete or change laws, policies, and procedures that will improve community conditions for youth development.

§ 4.11. It shall be the responsibility of the Youth Services Citizen Board, through the Office on Youth, to assure that a mechanism exists for all youth and their families to be linked to appropriate services through a 40-hour or more per week referral system in the community. Exceptions to the 40 hours or more per week referral system can be made for locally approved holidays as specified in the sponsoring governing body's personnel policy manual.

§ 4.12. The Office on Youth shall document efforts to promote collaboration among and between other youth serving agencies through the development and updating of functional working agreements with and among other youth-service agencies.

§ 4.13. Letters of understanding, cooperation or agreement outlining expectations of all parties shall be established between the Youth Services Citizen Board/Office on Youth and other agencies identified [ as primary participants ] in the [ accomplishment of the ] Biennial Operating Plan.

§ 4.14. Consistent with the applicable personnel policies, the Office on Youth shall be accessible to the public by phone or walk-in 40 hours per week.

## Article 4. Direct Service Programs.

§ 4.15. The need for the Office on Youth to operate a direct service program shall be documented and included in the Delinquency Prevention and Youth Development Needs Assessment and Plan, and Biennial Operating Plan.

§ 4.16. In order for the Office on Youth to operate a direct service program, documentation shall be submitted for approval to the Department of [ ~~Corrections~~ Youth Services ] with the Biennial Operating Plan to include letters of assurance from the Youth Services Citizen Board and the administrator of the appropriate agency or organization. The letters shall state that the service cannot be provided by existing agencies.

§ 4.17. When a program provides direct counseling services, the administrator of the Office on Youth shall develop written policy and procedure governing counseling case record management to include, but not be limited to:

1. Confidentiality;
2. Release of information; and
3. Destruction of records.

§ 4.18. Direct counseling services case records shall be basically uniform as to content and arrangement of content.

§ 4.19. The direct counseling services case files shall include, but not be limited to, the following:

1. Face sheet;
2. Reason for referral;
3. Assessment/evaluation;
4. Case narrative;
5. Correspondence;
6. Counseling service plan; and
7. Reason for termination and date.

§ 4.20. The direct counseling services face sheet shall contain the following client information:

1. Name;
2. Sex;
3. Race;
4. Date of birth;
5. Name of parents or legal guardian(s);
6. Address of child, parent or legal guardian(s);
7. Telephone number;
8. Referral source; and
9. Date of initial contact.

§ 4.21. Each direct counseling services case shall be reviewed and evaluated by the administrator of the Office on Youth at least once every 90 days to determine the appropriateness of the counseling plan and continued service delivery.

§ 4.22. The direct counseling services plan shall be discussed with the client (juvenile or family) within the initial 30 days and at least every 90 days thereafter.

§ 4.23. The written direct counseling service plan shall be reviewed by the administrator of the Office on Youth before being implemented.

§ 4.24. Counselors or existing staff assigned to provide direct counseling services shall receive, at a minimum, 40 hours of annual training. At least 20 of these hours shall be in counseling theory and techniques.

# EMERGENCY REGULATIONS

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-04-08.7. Client Appeals.

Statutory Authority: § 32.1-325

Effective Dates: January 16, 1990 through January 15, 1991

### SUMMARY

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled Client Appeals. This Client Appeals policy will ensure proper application of Medicaid policy and increase the visibility of its equitable application.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action concerning Client Appeals. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski, Director - May 23, 1989

### 3. CONCURRENCES:

Concur

/s/ Eva S. Teig  
Secretary of Health and Human Resources  
Date: June 7, 1989

### 4. GOVERNOR'S ACTION:

Approve

/s/ Gerald L. Baliles  
Governor  
Date: June 21, 1989

### 5. FILED WITH:

/s/ Joan W. Smith  
Registrar of Regulations  
Date: January 16, 1990

### DISCUSSION

6. **BACKGROUND:** The Code of Federal Regulations § 431 Subpart E contains the federal requirements for fair hearings for applicants and recipients. This subpart, in implementing the Social Security Act § 1902(a)(3), requires that the State Plan for Medical Assistance provide an opportunity for a fair hearing to any person whose claim for assistance is denied or not acted upon promptly. Hearings are also available for individuals if Medicaid takes action to suspend, terminate, or reduce services. The State Plan conforms to this requirement on page 33.

The Virginia General Assembly amended the

Administrative Process Act effective July 1, 1989, to allow judicial review of public assistance case decisions. While granting recipients the right to judicial review, the General Assembly limited the scope of the review to the application of the law to an individual case; the validity of the law itself is not subject to review. The Department is revising its administrative procedures for recipient appeals. This revision involves expanding the number of hearing officers, and replacing the current Medicaid Appeals Board with a panel of Administrative Law Judges.

The proposed appeals procedures will assure continued due process and fairness in client appeals and, in anticipation of the newly established availability of judicial review, should minimize the number of potentially incorrect decisions.

The Client Appeal system proposed in this emergency regulation provides for two levels of review of Medicaid recipients' appeals. The first level is a Hearing Officer's decision and the second is decision by a panel of Administrative Law Judges. Review by Administrative Law Judges will replace the present part-time volunteer Medicaid Appeals Board with a full-time panel of professionally trained employees.

These regulations can not be implemented until the required staff have been employed. The positions must be established and classified, and recruitment must be completed. Because of the Department of Personal and Training's involvement, the date by which staff will be available is unknown. DMAS will file the emergency regulations with the Registrar as soon as the new Division of Client Appeals is staffed.

7. **AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's 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.

These appeal regulations are in compliance with Federal regulations found at 42 CFR 431.200 - 431.250.

Without this emergency regulation, amendments to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met.

8. **FISCAL/BUDGETARY IMPACT:** The additional MEL and funds to support the revised appeal system were included in the Governor's budget. The full year cost of three Administrative Law Judges and for 8 additional staff for the first level of appeal is \$239,155. These additional

staff are needed because of changes in the federal law through the Omnibus Budget Reconciliation Act of 1987 and the Medicare Catastrophic Coverage Act, both of which granted new appeal rights to Medicaid recipients. The Department is funded for implementing these changes in FY 90.

9. **RECOMMENDATION:** Recommend approval of this request to take an emergency adoption action to become effective upon its adoption and filing with the Registrar of Regulations. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to implement this Client Appeals system.

10. Approval Sought for VR 460-04-8.7.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the attached regulation.

VR 460-04-8.7. Client Appeals.

## PART I. GENERAL.

### Article 1. Definitions.

#### § 1.1. Definitions.

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

"Department" means the Department of Medical Assistance Services.

"Final Decision" means a written determination by a Hearing Officer which is binding on the Department.

"Agency" means:

a. An agency which, on the Department's behalf, makes determinations regarding applications for benefits provided by the Department; and,

b. The Department itself when it makes initial determinations regarding client benefits.

"Representative" means an attorney or agent who has been authorized to represent an Appellant pursuant to these regulations.

"Division" means the Department's Division of Client Appeals.

"Appellant" means an applicant for or recipient of medical assistance benefits from the Department who

seeks to challenge an appealable adverse action regarding his benefits or his eligibility for benefits.

"Unappealable Issue" means an issue which cannot be resolved in the Appellant's favor because it consists solely of an issue which is a matter of policy; such as an appeal of a denial of a requested service which is not covered without regard to the applicant's qualifications.

### Article 2.

#### Division of Client Appeals.

#### § 1.2. Division of Client Appeals' Function.

The Division shall maintain a two-step appeals system for clients to challenge adverse determinations regarding benefits provided by the Department.

### Article 3.

#### Representation.

#### § 1.3. Right to Representation.

An Appellant shall be accorded the full right to representation by an attorney or agent at all stages of appeal. An Appellant may be represented at any time by only one Representative.

#### § 1.4. Agents.

##### A. Designation.

An agent's designation shall be by duly executed Declaration of Representation form. The designation shall be of an individual by name, rather than to a firm, partnership, or organization.

##### B. Revocation.

An Appellant may revoke a Declaration of Representation at any time. Termination is effective when the Department receives written notice from the Appellant.

#### § 1.5. Attorneys.

##### A. Designation.

A Release of Information form signed by an Appellant or his guardian, permitting access to all information in the Appellant's records, and a signed statement by an attorney that he is authorized to represent the Appellant prepared on the attorney's letterhead, shall be accepted in lieu of an executed Declaration of Representation.

##### B. Revocation.

An Appellant may revoke representation by an attorney at any time. The revocation is effective when the Department receives written notice from the Client.

### Article 4.



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## Appeal Rights.

### § 1.6. Right to Appeal.

A client has the right to file an appeal pursuant to these regulations when:

A. His application for benefits administered by the Department is denied;

B. The Agency takes action or proposes to take action which will adversely affect, reduce, or terminate his receipt of benefits;

C. The Agency applies policy in a manner which will adversely affect, reduce, or terminate his receipt of benefits;

D. His request for a particular medical service is denied, in whole or in part;

E. The Agency does not act with reasonable promptness on his application for benefits or request for a particular medical service; or

F. Federal regulations require that a fair hearing be granted.

## Article 5.

### Miscellaneous Provisions.

### § 1.7. Division Records.

#### A. Removal of Records.

No person shall take from the Division's custody any original record, paper, document, or exhibit which has been certified to the Division except as the Director of Client Appeals authorizes, or as may be necessary to furnish or transmit copies for other official purposes.

#### B. Release of Information.

Information requested from records, including copies of records in the Division's custody, shall be furnished to the extent the law and the Department's regulations and policies permit.

#### C. Fees.

The fees to be charged and collected for the release of information and for any copies will be in accordance with Virginia's Freedom of Information Act or other controlling law.

#### D. Waiver of Fees.

When information or copies are requested from records certified to and in the Division's custody, the required fee shall be waived if the information or copies are requested in connection with a pending review or appeal.

### § 1.8. Expenses.

The Department shall provide transportation to a hearing for the Appellant, his Representative, and the witnesses necessary to the appeal if a request for transportation is filed no later than five days before the hearing.

### § 1.9. Computation of Time Limits.

#### A. Acceptance of Postmark Date.

Documents postmarked before a time limit's expiration shall be accepted as having been timely filed.

#### B. Computation of Time Limit.

In computing any time period under these regulations, the first day of the specified period shall be excluded and the last day included. If a time limit would expire on a Saturday, Sunday, or state or federal holiday, it shall be extended until the next regular business day.

### § 1.10. Maintaining Services.

A. If an Appellant files a timely Request for Appeal, his services shall not be terminated or reduced until the appeal has been finally decided unless the appeal is invalidated by the Hearing Officer because the sole issue is one of federal or state law or policy.

B. If the Agency's action is sustained on appeal, the Agency may institute recovery procedures against the Appellant to recoup the cost of any services furnished to the Appellant, to the extent they were furnished solely by reason of § 1.10(A) of these regulations.

### § 1.11. Time Limitation for Appeals.

Appeals shall be scheduled and conducted so as to comply with time limitations imposed by federal regulations, unless waived in writing by the Appellant or the Appellant's Representative.

## PART II.

### REVIEW OF LOCAL AGENCY DETERMINATION.

## Article 1.

### The Appeal Unit.

### § 2.1. The Appeal Unit's Function.

The Appeal Unit shall review all Agency determinations which are properly before it; conduct informal, fact-gathering hearings; evaluate evidence presented to it; and issue a written decision upholding, reversing, or remanding each case to the Agency for further proceedings.

## Article 2.

### Notification of Review Rights.

## § 2.2. Notification.

The Agency which makes an initial determination shall inform the Appellant of the right to request an Appeal and the time within which to do so, the right to submit evidence, the right to a hearing, and the right to representation.

### Article 3. Commencement of Appeals.

## § 2.3. What Commences an Appeal.

A timely filed Request for Appeal commences an Appeal.

## § 2.4. Request for Appeal.

A written communication from an Appellant or his Representative which clearly expresses a desire to present the issues upon which the request is predicated, or a completed "Request for an Appeal" form shall constitute a Request for Appeal.

### Article 4. Filing.

## § 2.5. Place of Filing a Request for Appeal.

A Request for Appeal shall be sent to the Department's Division of Client Appeals - Appeal Unit.

## § 2.6. Who May File a Request for Appeal.

A Request for Appeal may be filed by an Appellant or his Representative.

## § 2.7. Time Limit for Filing.

A Request for Appeal shall be filed within thirty (30) days of the Appellant's receipt of notification of an adverse determination pursuant to § 1.6 of these regulations. A Request for Appeal on the grounds that an Agency has not acted with reasonable promptness may be filed at any time until the Agency has acted.

## § 2.8. Extension of Time for Filing.

An extension of the 30-day period for filing a Request for Appeal may be granted for good cause shown.

## § 2.9. Provision of Regulations.

Upon receipt of a Request for Appeal, the Division shall notify the Appellant or his Representative of general appeals procedures and shall provide further detailed information upon request, or as required by federal law.

### Article 5. Validation Review.

## § 2.10. Grounds for Invalidation.

A Request for Appeal shall be invalidated if:

A. it was not filed within the time limit imposed by § 2.7 of these regulations, or as extended pursuant to § 2.8; or

B. the Department of Medical Assistance Services is not the appropriate agency to review the Agency determination; or

C. it was filed by a person other than the Appellant or his Representative, and was not accompanied by a proper Declaration of Representation, unless the Appellant or his Representative verifies the Request for Appeal in writing within ten (10) days of request by the Hearing Officer; or

D. it consists solely of an Unappealable Issue.

## § 2.11. Validation Review.

Upon being assigned a case, a Hearing Officer shall review it for compliance with prehearing substantive and procedural requirements. If the Hearing Officer determines that the Appellant has failed to conform to any such requirement, the Hearing Officer shall dismiss the case as "invalid." This determination of lack of validity shall constitute the Hearing Officer's Final Decision and shall be appealable pursuant to these regulations.

## § 2.12. Notification of Client.

If a Request for Appeal is invalidated, the Appellant and his Representative, if any, shall be notified in writing and shall be informed of the right to appeal the invalidation to the Medical Assistance Appeals Panel, pursuant to these regulations.

### Article 6. Prehearing Review.

## § 2.13. Prehearing Resolution.

An appeal may be resolved without a hearing under the following circumstances:

A. Judgment on the records.

If the Hearing Officer determines from the records that the Agency's determination was clearly in error and that the case should be resolved in the Appellant's favor, he shall issue a Final Decision without first conducting a hearing.

B. Remand to Agency.

If the Hearing Officer determines from the records that the case might be resolved in the Appellant's favor if the Agency obtains and develops additional information, documentation, or verification, he may remand the case to

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the Agency for action consistent with the Hearing Officer's written instructions.

## § 2.14. Prehearing Supplementation of the Record.

As part of the prehearing review, and consistent with confidentiality requirements, a Hearing Officer may communicate with the Appellant or his Representative, the Agency, or any individual, association, business, or government agency which may explain, verify, or supplement the record. Any such material or information shall be shared with the Appellant or his Representative before the hearing and in sufficient time to enable the Appellant or his Representative to respond to it in accordance with § 2.20 of these regulations.

## § 2.15. Medical Assessment.

A. A Hearing Officer may order that an independent medical assessment be obtained if:

a. The hearing involves medical issues such as a diagnosis, an examining physician's report, or a medical review team's decision; and

b. The Hearing Officer determines it necessary to have an assessment by someone other than the person or team who made the original decision.

B. A medical assessment ordered pursuant to this regulation shall be at the Department's expense.

C. A medical assessment ordered pursuant to this regulation shall become part of the record.

D. If a medical assessment is ordered pursuant to this regulation, the person who made the assessment shall be available to testify at the hearing upon the Appellant's or his Representative's request, at the Department's expense.

## Article 7. Hearing.

## § 2.16. Scheduling of Hearing.

To the extent facilities permit, hearings will be scheduled at the Appellant's convenience, with consideration of the travel distance required.

## § 2.17. Notification of Hearing.

When a hearing is scheduled, the Appellant and his Representative shall be notified in writing of its time and place.

## § 2.18. Postponement of Hearing.

A hearing may be postponed for good cause shown. No postponement will be granted beyond thirty (30) days after the date of the Request for Appeal was filed unless the client or his representative waives in writing the 90-day

deadline for the Final Decision.

## § 2.19. Place of Hearing.

The place for the hearing shall be chosen from a list maintained by the Division of suitable hearing sites in the locality. If the Appellant is unable to travel, the hearing may be conducted at his residence.

## § 2.20. Client Access to Records.

Upon the request of the Appellant or his Representative, at a reasonable time before the date of the hearing, as well as during the hearing, the Appellant or his Representative may examine the content of the client's case file, and all documents and records the Agency will rely on at the hearing.

## § 2.21. The Presiding Officer.

The Hearing shall be presided over by a Hearing Officer from the Department.

## § 2.22. The Hearing Officer's Function.

The Hearing Officer shall conduct the hearing, decide on questions of evidence and procedure, question witnesses, and assure that the course of the hearing remains relevant to the issue(s) being appealed. The Hearing Officer shall control the conduct of the hearing, deciding who may participate in or observe the hearing, to assure dignity, decorum, and confidentiality.

## § 2.23. Informality of Hearings.

Hearings shall be conducted in an informal, non-adversarial manner.

## § 2.24. Evidence.

The rules of evidence shall not apply. All relevant, non-repetitive evidence may be admitted.

## § 2.25. Record of Hearing.

All hearings shall be recorded, either by audio recording, stenography, or both. A transcript shall be produced and shall become part of the record.

## § 2.26. Oath or Affirmation.

All witnesses shall be sworn in by the Court Reporter or Hearing Officer.

## § 2.27. Dismissal of Request for Appeal.

A Request for Appeal may be dismissed with prejudice if:

A. The Appellant or his Representative withdraws the Request in writing; or

B. The Appellant or his Representative fails to appear at the scheduled hearing without good cause, and does not reply within ten (10) days after the Hearing Officer mails an inquiry as to whether the Appellant wishes further action on the Appeal.

## § 2.28. Post-hearing Supplementation of the Record.

### A. Medical Assessment.

Following a hearing, a Hearing Officer may order an independent medical assessment as described in § 2.15 of these regulations.

### B. Additional Supplementation.

As part of the consideration of an appeal and consistent with confidentiality requirements, after a hearing a Hearing Officer may communicate with an Appellant and his Representative, an Agency, or any individual, association, business, or government agency which may explain, verify, or supplement the record.

### C. Appellant's Right to Reconvene Hearing or Comment.

1. If an Appellant or his Representative requests at a hearing that the Hearing Officer obtain particular material or information (but not an independent medical assessment as provided in § 2.28 A, such material or information so obtained shall become a part of the record and subparagraphs (2) and (3) of this subsection shall not apply.

2. If evidence obtained pursuant to this section enables a Hearing Officer to resolve an appeal in the Appellant's favor, he may issue a Final Decision without further hearing or comment from the Appellant or his Representative.

3. If evidence obtained pursuant to this section does not enable a Hearing Officer to resolve an appeal in the Appellant's favor, he shall share the additional evidence with the Appellant or his Representative and inform him of the right to have the hearing reconvened to permit the Appellant or his Representative to respond to the additional evidence or to submit written comment on the additional evidence.

a. If the Appellant or his Representative wishes to reconvene the hearing to respond to the additional evidence, or wishes to submit written comment on the additional evidence, he shall file the Request to Reconvene or the written comment within ten (10) days after receiving the additional evidence. Following the reconvened hearing or receipt of comment, the additional evidence shall become a part of the record.

b. If the Appellant or his Representative does not file a Request to Reconvene or written comment

within ten (10) days after receiving the additional evidence, the additional evidence shall become a part of the record.

## § 2.29. Final Decision.

After conducting the hearing and reviewing the record the Hearing Officer shall issue a written Final Decision which either upholds or overturns the Agency action or remands the case to the Agency for further action or consideration consistent with his written instructions. The Final Decision shall include the Hearing Officer's reasoning in reaching the decision.

## PART III. MEDICAL ASSISTANCE APPEALS PANEL.

### Article 1. The Panel.

#### § 3.1. The Panel's Name.

The Panel shall be called the Medical Assistance Appeals Panel.

#### § 3.2. The Panel's Composition.

The Panel shall consist of a Senior Administrative Law Judge and two Administrative Law Judges.

#### § 3.3. Appointment to the Panel.

Panel members shall be appointed by the Director of the Department of Medical Assistance Services and shall serve at his pleasure.

#### § 3.4. The Panel's Function.

Taking into consideration only the record made below, the Panel shall review and decide all appeals properly before it by:

A. listening to oral argument if requested by the Appellant or his Representative; and

B. evaluating the evidence in the record and any written argument submitted by the Appellant; and

C. researching relevant federal and state law, regulations, and policy; and

D. issuing decisions in writing on the questions raised by the appeal.

### Article 2. Notification of Appeal Rights From Final Decisions of Hearing Officers.

#### § 3.5. Notification of Appeal Rights.

The Appellant or his Representative will be informed of

# Emergency Regulations

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the right to representation, the right to initiate an appeal and the time within which to do so, the right to submit written argument, the right to request a hearing for oral argument, and the right to present oral argument on-the-record. This information shall be included with each Final Decision rendered by a Hearing Officer.

## Article 3. Commencement of Appeals From Final Decisions of Hearing Officers.

### § 3.6. What commences an appeal.

A timely filed Notice of Appeal commences an appeal.

### § 3.7. Notice of Appeal.

A written communication from an Appellant or his Representative on a form provided with the Final Decision shall constitute a Notice of Appeal.

## Article 4. Filing.

### § 3.8. Place of Filing Notice of Appeal.

The Notice of Appeal shall be filed with the Division of Client Appeals - Medical Assistance Appeals Panel, Department of Medical Assistance Services.

### § 3.9. Who Can File an Appeal.

A Notice of Appeal may be filed by an Appellant or his Representative.

### § 3.10. Time Limit for Filing.

A Notice of Appeal shall be filed within ten (10) days from the date of receipt of the Final Decision.

### § 3.11. Extension of Time for Filing.

An extension of the 10-day period for filing a Notice of Appeal may be granted for good cause shown. A request for an extension shall be in writing and shall be made before expiration of the time limit for filing the Notice of Appeal. The request for extension shall be filed with the Panel.

### § 3.12. Invalidation.

A. A Notice of Appeal shall be invalidated if:

1. it was not filed within the time limit imposed by § 3.10 or as extended pursuant to § 3.11; or

2. The Notice of Appeal was filed by a person other than the Appellant or his Representative, and was not accompanied by a proper Declaration of Representation, unless the Appellant or his Representative verifies the Notice of Appeal in writing

within ten (10) days after the Panel's request was mailed.

B. An Invalidation shall constitute the Panel's final disposition of the appeal.

## Article 5. Written Argument.

### § 3.13. General.

#### A. Right to Present Written Argument.

An Appellant may file written argument in compliance with these regulations.

#### B. Purpose of Written Argument.

The purpose of written argument is to give the Appellant an opportunity to present reasons why the Final Decision should be reversed, based solely on the evidence in the record.

### § 3.14. Time Limitation.

Written argument by the Appellant, if any, shall be filed within 10 days after the Notice of Appeal was filed.

### § 3.15. Extension.

An extension of the time limit for filing written argument may be granted for good cause shown. A request for an extension shall be in writing and shall be made before expiration of the time limit for filing the written argument. The request for extension shall be filed with the Panel.

### § 3.16. Place of Filing.

Written arguments shall be filed with the Division of Client Appeals - Medical Assistance Appeals Panel, Department of Medical Assistance Services.

### § 3.17. Evidence.

No additional evidence shall be accepted. Written arguments shall be limited to the record certified to the Panel by the Appeal Unit.

## Article 6. Oral Argument.

### § 3.18. General.

#### A. Right to Present Oral Argument.

A hearing for oral argument on-the-record shall be granted if an Appellant or his Representative requests one pursuant to these regulations.

#### B. Purpose of Hearing.

The purpose of the hearing is to receive oral argument on-the-record in opposition to the Final Decision.

## § 3.19. Request for Oral Argument.

An Appellant or his Representative may request a hearing for Oral Argument. A Request for Oral Argument shall be in writing on a Request for Oral Argument form and shall be filed with the Panel within ten (10) days after the Notice of Appeal was filed.

## § 3.20. Place of Hearing.

Hearings shall be held at the Department of Medical Assistance Services' central office in Richmond.

## § 3.21. Scheduling and Notice of Hearing.

### A. General.

To the extent that facilities permit, the timing of hearings will be scheduled at the Appellant's convenience, with consideration of the travel distance.

### B. Notification of Hearing.

When a hearing is scheduled, the person requesting it will be notified of its time and place in Richmond.

### C. Postponement.

A postponement may be granted upon written motion by Appellant or his Representative for good cause shown.

## § 3.22. Function of the Senior Administrative Law Judge.

The Senior Administrative Law Judge shall be the presiding member of the Panel and be responsible for the hearing's conduct. He shall ensure that the course of the oral argument remains relevant to the issues on appeal, that it is limited to the record, and that the participants follow the Panel's format. He shall determine who may attend the hearing to ensure its dignity, decorum, and confidentiality. If the Senior Administrative Law Judge is absent the Director of Client Appeals shall designate one of the Administrative Law Judges to preside at the oral argument.

## § 3.23. Hearing Format.

The Panel may enact internal operating rules pertaining to the hearing's conduct, such as time limits. A copy of internal operating rules shall be provided to Appellants upon receipt of a request for oral argument.

## § 3.24. Recorded Hearing.

The oral argument shall be tape-recorded. A transcript of the recording shall be provided to the Appellant upon request.

## § 3.25. Evidence.

No additional evidence will be accepted. Oral argument shall be limited to the record certified to the Panel by the Appeal Unit.

## Article 7. Disposition.

## § 3.26. Disposition.

### A. Affirmed.

If the Panel votes to affirm the Final Decision it shall either adopt the written Final Decision or issue a separate written opinion in which it states its reasons. This shall constitute the Panel's final disposition of the appeal.

### B. Reversed.

If the Panel votes to reverse the Final Decision it shall issue a written opinion in which it states its reasons.

### C. Remand to the Review Unit.

The Panel may vote to remand the case to the Appeal Unit for further development of the evidence or to apply a specific legal or policy interpretation to the facts already on the record. An order to remand to the Appeal Unit shall be in writing and shall clearly state the Panel's instructions for further development of the evidence, or the legal or policy interpretation to be applied to the facts on record.

## Article 8. Reconsideration.

## § 3.27. When Reconsideration is Accorded.

A decision may be reconsidered by the Panel upon Motion by the Appellant or his Representative alleging error of fact or application of law or policy, or by the Panel on its own motion at any time.

## § 3.28. Filing a Motion for Reconsideration.

A Motion for Reconsideration shall set forth clearly and specifically the alleged error(s) in the Panel's decision. This motion may be filed at any time up to thirty (30) days after the issuance of the Panel's decision.

## § 3.29. Review by Senior Administrative Law Judge.

The Senior Administrative Law Judge shall review the sufficiency of the allegations set forth in the motion and either grant it or deny it. If the Senior Administrative Law Judge is absent, the Director of Client Appeals shall designate one of the Administrative Law Judges to review and rule upon Motions to Reconsider.

## § 3.30. Disposition of Motion for Reconsideration.

# Emergency Regulations

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## *A. Motion Denied.*

*The Appellant shall be notified in writing if the motion is denied. The notice shall include the reason(s) for denial.*

## *B. Motion Granted.*

*The Appellant and the Department will be notified if the Motion is granted. At the time of notification the Appellant or his Representative shall be given a period of fifteen (15) days to present written argument. No oral argument shall be permitted.*

## *C. Disposition.*

*A decision after reconsideration by the Panel shall be issued in accordance with § 3.26 of these regulations.*

# STATE CORPORATION COMMISSION

## STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 19, 1990

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI900031

Ex Parte, in re: Promulgation of  
rules pursuant to Va. Code § 6.1-302  
(Consumer Finance Act)

### ORDER

On or about September 25, 1989, the Commissioner of Financial Institutions, pursuant to delegated authority, disseminated to interested persons notice that contained proposed rules designed to implement the provisions of Va. Code § 6.1-267, and that advised such persons that comments and requests for a hearing on the proposed rules must be received by October 30, 1989. No request for a hearing was received, but a number of written comments were filed.

The proposed rules are intended to standardize and clarify the conditions under which the business of extending open-end credit or the business of mortgage lending may be conducted in licensed consumer finance offices, after application and approval, and prevent violation or evasion of the Consumer Finance Act in connection with either such business.

The Commission, after reviewing the proposed rules and comments received, deemed it appropriate to modify the proposed rules in certain respects and, upon consideration of said rules as modified, is of the opinion and finds that they should be adopted; accordingly, it is

ORDERED that the aforesaid modified rules entitled "Rules Governing Open-End Credit Business in Licensed Consumer Finance Offices" and "Rules Governing Real Estate Mortgage Business in Licensed Consumer Finance Offices", attached hereto and made a part hereof, be, and the same hereby are, adopted and shall become effective February 1, 1990.

AN ATTESTED COPY of this Order and a copy of the aforesaid Rules shall be sent to the Commissioner of Financial Institutions, who shall send a copy of the same to each licensee under the Consumer Finance Act, each person whose application for a license under such Act is pending, and to such other persons as the Commissioner deems appropriate.

### Regulation VI-5

#### Rules Governing Open-End Credit Business in Licensed Consumer Finance Offices

(1) The business of extending open-end credit shall be conducted by a separate legal entity, and not by the

consumer finance licensee.

(2) All governing State and Federal laws shall be observed.

(3) Separate books and records shall be maintained by the licensee and the separate entity, and the books and records of the licensee shall not be commingled with those of the separate entity, but shall be kept in a different location within the office.

(4) The minimum amount of credit which may be extended to any consumer or borrower under an open-end credit agreement shall be at least two hundred dollars (\$200.00) greater than the consumer finance loan ceiling in effect at the time such agreement is made.

(5) Advertising or other information published by the licensee or the separate entity shall not contain any false, misleading or deceptive statement or representation concerning the rates, terms or conditions for loans or credit made or extended by either of them. The separate entity shall not make or cause to be made any misrepresentation as to its being a licensed lender, or as to the extent to which it is subject to supervision or regulation.

(6) The licensee and the separate entity shall not make both a consumer finance loan and an extension of open-end credit to the same borrower or borrowers as part of the same transaction or for the purpose of obtaining a higher interest rate.

(7) Except as authorized by the Commissioner, or by order of the Commission, insurance, other than credit life or credit accident and health insurance, shall not be sold in licensed consumer finance offices in connection with any extension of open-end credit by the separate entity.

(8) When the balance owed under an open-end credit agreement is paid, finance charges will be assessed only to the date of payment.

(9) The expenses of the two entities will be accounted for separately and so reported to the Bureau as of the end of each calendar year.

(10) The balance owed under an open-end credit agreement shall not, in whole or in part, be converted to or included in the amount of a consumer finance loan.

(11) The Bureau shall be given access to the books and records of the separate entity, and shall be furnished such information as it may require in order to assure compliance with these Rules.

(12) The provisions of these Rules supersede all prior Rules Governing Open-End Lending In Licensed Consumer Finance Offices.

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# State Corporation Commission

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## Regulation VI-6

### Rules Governing Real Estate Mortgage Business in Licensed Consumer Finance Offices

(1) The business of making or purchasing loans secured by liens on real estate shall be conducted by a separate legal entity, and not by the consumer finance licensee.

(2) All governing State and Federal laws shall be observed.

(3) Separate books and records shall be maintained by the consumer finance licensee and the separate entity, and the books and records of the consumer finance licensee shall not be commingled with those of the separate entity, but shall be kept in a different location within the office.

(4) The minimum real estate mortgage loan that may be made or purchased shall be at least two hundred dollars (\$200.00) greater than the consumer finance loan ceiling in effect at the time the real estate mortgage loan is made or purchased.

(5) Advertising or other information published by the consumer finance licensee or the separate entity shall not contain any false, misleading or deceptive statement or representation concerning the rates, terms or conditions for loans made by either of them. The separate entity shall not make or cause to be made any misrepresentation as to its being a licensed lender, or as to the extent to which it is subject to supervision or regulation.

(6) The consumer finance licensee and the separate entity shall not make both a consumer finance loan and a real estate mortgage loan to the same borrower or borrowers as part of the same transaction or for the purpose of obtaining a higher interest rate.

(7) The balance owed under a real estate mortgage loan shall not, in whole or in part, be converted to or included in the amount of a consumer finance loan.

(8) Any compensation paid by the separate entity to any other party for the referral of loans, pursuant to an agreement or understanding between the separate entity and such other party, shall be an expense borne entirely by the separate entity. Such expense shall not be charged directly or indirectly to the borrower.

(9) Except as authorized by the Commissioner, or by order of the Commission, insurance, other than credit life or credit accident and health insurance, shall not be sold in licensed consumer finance offices in connection with any mortgage loan made or purchased by the separate entity.

(10) No interest in collateral other than real estate shall be taken in connection with any real estate mortgage loan made or purchased by the separate entity.

(11) The expenses of the two entities shall be accounted for separately and so reported to the Bureau as of the end of each calendar year.

(12) The Bureau shall be given access to the books and records of the separate entity, and shall be furnished such information as it may require in order to assure compliance with these Rules.

(13) The provisions of these Rules supersede all prior Rules Governing Real Estate Mortgage Business In Licensed Consumer Finance Offices.

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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 HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-12-02. Regulations Governing Children's Specialty Services.

#### Governor's Comment:

I concur with the form and content of this proposal. Final approval will be contingent upon a review of the public's comments.

/s/ Gerald L. Baliles  
Date: January 8, 1990

\* \* \* \* \*

Title of Regulation: VR 355-27-01. Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualifications for Noncommercial and Commercial Blood Banks.

#### Governor's Comment:

I concur with the form and content of this proposal. Final approval will be contingent upon a review of the public's comments.

/s/ Gerald L. Baliles  
Date: January 10, 1990

### VIRGINIA HEALTH PLANNING BOARD

Title of Regulation: VR 359-02-03. Regulations for Designating Regional Health Planning Agencies.

#### Governor's Comment:

I suggest two revisions to the proposal. The Board may wish to consider revising Rule 2.2 to permit a regional agency to be affiliated with another organization, so long as functional independence is assured. I also suggest that Rule 2.4 be revised to require a combination of relevant training and experience, rather than mandating post-baccalaureate education for chief executive officers of regional agencies. Final comments will be contingent upon a review of the response to these and the public's comments.

/s/ Gerald L. Baliles  
Date: January 5, 1990

## BOARD FOR RIGHTS OF THE DISABLED

Title of Regulation: VR 602-01-2. Nondiscrimination Under State Grants and Programs.

#### Governor's Comment:

I suggest that the regulations be edited to remove references to materials from the initial discussion document which were not incorporated into the initial regulatory proposal. The Board may wish to more clearly define those to whom the regulations apply, especially taking into consideration groups which receive small amounts of state funds. I recommend that the Board perform a detailed analysis of the impact of compliance with the proposed regulations and ensure that all affected entities fully understand these proposed standards and have been afforded an adequate opportunity to comment.

Final approval will be contingent upon a review of the requested analysis and a review of the comments received on the proposed regulations.

/s/ Gerald L. Baliles  
Date: January 9, 1990

### DEPARTMENT OF TAXATION

Title of Regulation: VR 630-1-1805.1. General Provisions: Padlocking Premises.

#### Governor's Comment:

I concur with the purpose and intent of this proposed regulation. Pending public comment and a review of the clarifying changes suggested by the Office of Attorney General and the Department of Planning and Budget, I recommend approval of this regulation.

/s/ Gerald L. Baliles  
Date: January 6, 1990

### VIRGINIA RACING COMMISSION

Title of Regulation: VR 662-01-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering.

#### Governor's Comment:

The purpose of these regulations is to establish the specific criteria that the Commission will use in considering an application for license. Moreover, the proposal specifies the procedures, facilities, and equipment that a licensee will have to provide in practicing pari-mutuel racing, thus maintaining the integrity and honesty of horse racing in the Commonwealth.

It is vital that the manner in which horse racing with pari-mutuel wagering is operated in Virginia is in fact

# Governor

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maintained with the very highest level of integrity. These proposed regulations appear to confirm the dedication to that principle.

I assume there has been public comment on these proposals, and I look forward to the Commission's response to those recommendations.

/s/ Lawrence Douglas Wilder  
Date: January 23, 1990

## STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-13-03 Underground Storage Tank Financial Requirements.**

### Governor's Comment:

The proposal would help ensure that personal injuries or property damages caused by leaked petroleum underground storage tanks would be remedied by owners, operators or vendors of these tanks. Hence, I concur with the purpose of the proposal pending public comment. However, the agency must ensure that it has sufficient resources to implement the proposal prior to the adoption of the final regulation.

/s/ Gerald L. Baliles  
Date: January 11, 1990

# GENERAL NOTICES/ERRATA

## Symbol Key †

† Indicates entries since last publication of the Virginia Register

### DEPARTMENT OF AGRICULTURE AND CONSUMER 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 Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-04-12. Rules and Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law.** The purpose of the proposed action is to reduce ozone-producing evaporative volatile organic compound emissions, by limiting gasoline volatility during the ozone season (May through September), for the protection of public health and welfare. Such reductions will contribute to the attainment of the National Ambient Air Quality Standards for ozone.

This regulatory initiative is being undertaken in consultation with the Department of Air Pollution Control.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Written comments may be submitted until 5 p.m., February 28, 1990.

**Contact:** W. P. Zentmeyer, Supervisor, Fertilizer and Motor Fuel Section, P. O. Box 1163, Richmond, VA 23209, telephone (804) 786-3511

### AUCTIONEERS BOARD

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Auctioneers Board intends to consider amending regulations entitled: **VR 150-01-02. Auctioneers Board Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations as to the effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the Public Participation Guidelines.

Statutory Authority: §§ 54.1-100 and 54.1-602 of the Code of Virginia.

Written comments may be submitted until March 12, 1990.

**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

### BOARD FOR BRANCH PILOTS

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Branch Pilots intends to consider amending regulations entitled: **VR 535-01-01. Branch Pilot Regulations.** The purpose of the proposed action is to review and seek public comments on this regulation and to amend or repeal as needed.

Statutory Authority: § 54.1-902 of the Code of Virginia.

Written comments may be submitted until February 15, 1990.

**Contact:** Florence R. Brassier, Deputy Director for Regulatory Programs, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8574 or toll-free 1-800-552-3016

### DEPARTMENT OF COMMERCE

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **VR 190-04-1. Regulations Relating to Private Security Services.** The purpose of the proposed action is to solicit public comment on all existing regulations as to the effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the Public Participation Guidelines.

Statutory Authority: § 54.1-1902 of the Code of Virginia.

Written comments may be submitted until March 12, 1990.

**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

# General Notices/Errata

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## DEPARTMENTS OF CORRECTIONS; EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE; AND SOCIAL SERVICES

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse; and Social Services intend to consider amending regulations entitled: **Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children**. The purpose of the proposed action is to establish standards to provide children in residential facilities with at least a minimum level of care. The current effort is intended to amend and clarify those sections of standards which address management of resident behavior (Part V, Articles 22-28). Only those sections of the regulation that address management of resident behavior will be considered for amendment.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 63.1-25 and 63.1-196.4 of the Code of Virginia.

Written comments may be submitted until March 15, 1990.

**Contact:** Rhonda Merhout-Harrell, Assistant Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124

## DEPARTMENT OF FORESTRY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Forestry intends to consider amending regulations entitled: **VR 312-01-02. Standards for Classification of Real Estate as Devoted to Forest Use Under the Virginia Land Use Assessment Law**. The purpose of the proposed action is to establish standards for forest land use taxation and a standardized commitment document for use by the applicant.

Statutory Authority: §§ 58.1-3230 and 58.1-3240 of the Code of Virginia.

Written comments may be submitted until February 15, 1990.

**Contact:** James D. Starr, Chief, Forest Management, P. O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555

## 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 394-01-2. Virginia Tradesmen Certification Standards, 1987 Edition**. The purpose of the proposed action is to amend current standards for local certification of plumbers, building-related mechanical workers, electricians and divisions within those trade areas.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: § 15.1-11.4 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

**Contact:** Robert Gregory, Administrator, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-4857

### 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: **394-01-4. Virginia Uniform Statewide Building Code, Amusement Device Regulations**. The purpose of the proposed action is to protect the health, safety and welfare of amusement device users.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

**Contact:** Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 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. Virginia Statewide Fire Prevention Code**. The purpose of the proposed action is to provide mandatory statewide regulation for protection of life and property from the hazards of fire or explosion.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: §§ 27-95 and 27-97 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

**Contact:** Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 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 394-01-8. Virginia Liquefied Petroleum Gas Regulations.** The purpose of the proposed action is to require safe use and storage of L-P gases in order to protect individuals and property from fire and explosion hazards.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: § 27-87 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

**Contact:** Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 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 394-01-21. Virginia Uniform Statewide Building Code Volume I, New Construction Code.** The purpose of the proposed action is to provide mandatory, statewide uniform regulation for construction of new buildings.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

**Contact:** Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 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 provide mandatory, statewide uniform regulation for maintenance and use of buildings.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

**Contact:** Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 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 promulgating regulations entitled: **VR 394-01-23. Standards Governing Operation of Individual and Regional Code Academies.** The purpose of the proposed action is to promulgate current standards for governing operation of individual and regional code academies.

Statutory Authority: § 36-137 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

**Contact:** Robert Gregory, Administrator, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-4857

### 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 394-01-31. Virginia Uniform Statewide Building Code, Industrialized Building and Manufactured Home Safety Regulations.** The purpose of the proposed action is to provide uniform statewide safety standards for industrialized buildings and manufactured homes.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: § 36-80 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

**Contact:** Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

# General Notices/Errata

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## **LIBRARY BOARD**

### **Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Library Board intends to consider amending regulations entitled: **Requirements Which Must be Met in Order to Receive Grants-In-Aid**. The purpose of the proposed action is to consider changes to the local minimum expenditure requirement and to other criteria libraries must meet in order to receive grant-in-aid.

Statutory Authority: § 42.1-52 of the Code of Virginia.

Written comments may be submitted until February 20, 1990.

**Contact:** Ella Gaines Yates, State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332

## **MARINE RESOURCES COMMISSION**

### **Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Marine Resources Commission intends to consider amending regulations entitled: **Coastal Primary Sand Dunes/Beaches Guidelines**. The purpose of the proposed amendment is to implement the policy set forth in § 62.1-13.21 and to assist localities in the regulation of coastal primary sand dunes and beaches. The guidelines are also used by the public in evaluating the acceptability and consequences of proposed uses or development of these dunes and beaches.

Statutory Authority: § 62.1-13.24 of the Code of Virginia.

Written comments may be submitted until February 1, 1990.

**Contact:** Robert W. Grabb, Chief, Habitat Management Division, P. O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2252

## **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: **VR 460-03-4.1940. Nursing Home Payment System: Revised COPN Limits**. The purpose of the proposed action is to revise the COPN limit for reimbursing nursing home construction costs.

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

Written comments may be submitted until February 28, 1990, to William R. Blakely, Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, 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

## **DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)**

### **† Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider amending regulations entitled: **VR 470-02-02. Mandatory Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children**. The purpose of the proposed action is to regulate the use of strip searches and body cavity searches in residential facilities for children licensed by the department.

The prohibition of strip searches and body cavity searches is being proposed for Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children, unless permitted by other state regulations.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Written comments may be submitted until March 27, 1990.

**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 (804) 371-8977/TDD ☎

## **DEPARTMENT OF PERSONNEL AND TRAINING**

### **Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Personnel and Training intends to consider promulgating regulations entitled: **Guidelines for Public Participation in Regulation Development and Promulgation**. The purpose of the proposed regulation is to establish Department of Personnel and Training guidelines for soliciting and incorporating public participation in the development and promulgation of regulations.

Statutory Authority: §§ 2.1-20.1 and 2.1-20.1:02 of the Code

of Virginia.

Written comments may be submitted until March 9, 1990.

**Contact:** Anthony C. Graziano, Manager of State Benefits, Department of Personnel and Training, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2170

**BOARD OF PHARMACY**

**† Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-1. Board of Pharmacy Regulations.** The purpose of the proposed action is to amend § 1.3 B by deleting the language for a temporary or probationary or reciprocal license and inserting language for an application for an endorsement license \$300.

The proposed change will eliminate the issuance of a temporary license to pharmacists licensed in other states when the amendment is adopted. Licenses will subsequently be issued by endorsement after the applicant has passed a validated state drug law examination which will be administered approximately every three months.

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

Written comments may be submitted until March 7, 1990.

**Contact:** Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911

**BOARD OF PSYCHOLOGY**

**† Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Psychology intends to consider amending regulations entitled: **VR 565-01-2. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to review requirements for technical assistants, requirements for internships, changes in the examination schedule, general education requirements, residency requirements, and possible fee changes.

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

Written comments may be submitted until February 26, 1990.

**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229-5005, telephone (804) 662-9913

**DEPARTMENT OF SOCIAL SERVICES (BOARD OF)**

**† Notice of Intended Regulatory Action**

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled: **VR 615-70-17. Child Support Enforcement Program.** The purpose of the proposed action is to comply with new federal child support regulations. In response to new federal child support regulations and in anticipation of legislative action by the General Assembly in 1990, the department will develop rules to:

- define the department's responsibilities when responding to (i) requests for applications for child support enforcement services from the general public and (ii) referrals of ADC, Medicaid, and Title IV-E Foster Care upon approval of their application for public assistance. This regulation will also define the time requirements for such responses.
- define the department's time requirements for opening a child support case, establishing paternity, establishing a child support obligation, and enforcing a child support obligation.
- establish the method by which putative fathers who voluntarily acknowledge paternity will be advised of their rights and responsibilities regarding child support.
- (i) establish the time requirements for locating absent responsible parents and the frequency with which location services will be provided, and (ii) identify the types of location services that will be provided.
- establish the criteria by which the department will assess and prioritize child support cases.
- establish the conditions under which the department will periodically review child support obligations.
- (i) establish guidelines defining diligent efforts to serve process and (ii) to define the time requirements for such service.
- establish both the criteria by which the department will close child support cases and the time requirements for case closure.

New federal regulations on Child Support Enforcement Program operations were issued August 4, 1989, and become effective October 1, 1990.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until March 13, 1990, to Penelope Boyd Pellow, Division of Child Support Enforcement, 8007 Discovery Drive, Blair Building,



# General Notices/Errata

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Richmond, Virginia 23229-8699.

**Contact:** Margaret J. Friedenber, Legislative Analyst, Department of Social Services, Office of Governmental Affairs, 8007 Discovery Dr., Blair Bldg., Richmond, VA 23229-8699, telephone (804) 662-9217

## STATE WATER CONTROL BOARD

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-16-02. Roanoke River Basin Water Quality Management Plan.** The purpose of the proposed action is to update the Roanoke River Basin Water Quality Management Plan's Upper Roanoke River Subarea to reflect current data and scientific studies; new or revised legislation, procedures, policy and regulations; and the results of facilities planning.

There are approximately 332,612 persons residing in the Subarea and 105 issued VPDES permits. No financial impact to the regulated community is anticipated. The proposed action is authorized by the statutes cited below and is governed by the State Water Control Law; Permit Regulation (VR 680-14-01); Water Quality Standards; the Clean Water Act, 33 USCA Sections 1251 et seq.; and Title 40 Parts 35 and 130 of the Code of Federal Regulations. A copy of these documents may be reviewed or obtained by contacting Mr. Estes at the address below.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 26, 1990.

**Contact:** Wellford S. Estes, State Water Control Board, West Central Regional Office, P. O. Box 7017, Roanoke, VA 24019, telephone (703) 857-7432

## GENERAL NOTICES

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

#### † Notice of Grant Program

The Department of Housing and Community Development (DHCD) has created the Check Off For Housing Program to utilize voluntary contributions by Virginia citizens on their 1988 tax returns. The funds are designated to build or improve housing for elderly, disabled or homeless low income people. Almost \$150,000 is available for the program this year.

The program is designed for partnership with local, public and private organizations in addressing specific projects in their localities. The State will provide funds for materials or labor for local nursing projects that can be started and completed during the month of April. The local project will provide the other resources to complete the project.

Notice is hereby given of the availability of grants to eligible project sponsors. The Department of Housing and Community Development will accept applications from project sponsors until 5 p.m. on February 28, 1990. DHCD expects to announce preliminary funds awards under this program by March 9, 1990.

For program information or an application manual, contact Charlie H. Smith, Jr., Program Administrator, Virginia Department of Housing and Community Development, 205 North Fourth Street, Richmond, VA, or call (804) 786-7891.

## VIRGINIA PORT AUTHORITY

### † Public Notice

Notice is hereby given that the Virginia Port Authority will consider requests for grants to local governments for financial assistance for port facilities which may be allocated during the 1991 fiscal year (7/1/90 - 6/30/91). Requests must be received by the authority no later than March 1, 1990, and must be submitted in accordance with the Virginia Port Authority Policy on Grants to Local Governments for Financial Assistance for Port Facilities. A copy of the Policy on Grants may be obtained from Ms. Elise Corbin, Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia 23510, telephone (804) 683-8042 or (800) 446-8098

## 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: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

### FORMS:

NOTICE OF INTENDED REGULATORY ACTION - RR01  
NOTICE OF COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
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NOTICE OF MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08

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The proposed change will eliminate the issuance of a temporary license to pharmacists licensed in other states when the amendment is adopted. Licenses will subsequently be issued by endorsement after the applicant has passed a validated state drug law examination which will be administered approximately every three months.

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

Written comments may be submitted until March 7, 1990.

**Contact:** Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911

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

Written comments may be submitted until February 26, 1990.

**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229-5005, telephone (804) 662-9913

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AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08

DEPARTMENT OF PLANNING AND BUDGET  
(Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

## ERRATA

### VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

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

Publication: 6:7 V.A.R. 1049 January 1, 1990

Correction to the Proposed Regulation:

Page 1049, Part VII, Work Flow and Analysis, § 7.1, the first line should read "The annual report data" instead of "date."

# CALENDAR OF EVENTS

## Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

### NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

### VIRGINIA CODE COMMISSION

## EXECUTIVE

### DEPARTMENT FOR THE AGING

#### Long-Term Care Ombudsman Program Advisory Council

† **March 29, 1990 - 9:30 a.m.** – Open Meeting  
Department for the Aging, 700 East Franklin Street, 10th Floor, Conference Room, Richmond, Virginia. ☒

Business will include review of revised Advisory Council Guidelines and a report of recent program activities.

**Contact:** Virginia Dize, State Ombudsman, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2271/TDD ☎ or toll-free 1-800-552-3402

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

**May 16, 1990 - 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 adopt a method of sale and standards of fill, as determined by weight, for clams, mussels, oysters, and other

mollusks.

Statutory Authority: § 3.1-926 of the Code of Virginia.

Written comments may be submitted until April 2, 1990.

**Contact:** J. Alan Rodgers, 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

### STATE AIR POLLUTION CONTROL BOARD

† **February 16, 1990 - 9 a.m.** – Open Meeting  
Department of Transportation, 1221 East Broad Street, Front Auditorium, Richmond, Virginia. ☒

This meeting's topics will include regulation development for Voc Emissions Standards, Emission Trading, and Top-Down Bact Policy. The meeting will be followed by a work session on cogeneration issues.

**Contact:** Kathleen Sands, Senior Policy Analyst, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722

### BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

**April 12, 1990 - 10 a.m.** – Public Hearing  
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to repeal existing regulations and adopt new regulations entitled: **VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The purpose of the proposed action is to regulate the practice of architecture, professional engineering, land surveying and landscape architecture, as well as the professional corporations and business entities offering those professional services.

Statutory Authority: § 54.1-404 of the Code of Virginia.

Written comments may be submitted until March 31, 1990.

**Contact:** Bonnie S. Salzman, Assistant Director, Department

of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016

## Board for Architects

**February 22, 1990 - 9 a.m. - Open Meeting**  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from November 8, 1989, meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

## Board for Engineers

**February 13, 1990 - 9 a.m. - Open Meeting**  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from November 16, 1989, meeting; (ii) review applications; (iii) review general correspondence; and (iv) review enforcement files.

**Contact:** Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016

## ARLINGTON COUNTY/CITY OF FALLS CHURCH LOCAL EMERGENCY PLANNING COMMITTEE

**February 15, 1990 - 7:30 p.m. - Open Meeting**  
Arlington County Water Pollution Control Plant, 3401 South Glebe Road, Arlington, Virginia. ☒ (Interpreter for deaf provided if requested)

A regular meeting.

**Contact:** Thomas M. Hawkins, Jr., Chairman, 2100 Clarendon Blvd., Suite 400, Fire Department Administration, Arlington, VA 22201, telephone (703) 358-3365 or (703) 558-2096/TDD ☎

## BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

**February 15, 1990 - 9 a.m. - Open Meeting**  
**February 16, 1990 - 9 a.m. - Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A work session for regulatory review.

**Contact:** Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9111

## STATE BUILDING CODE TECHNICAL REVIEW BOARD

**† February 16, 1990 - 10 a.m. - Open Meeting**  
Fourth Street Office Building, 205 North 4th 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 appeal 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

**March 1, 1990 - 5:30 p.m. - Open Meeting**  
**April 5, 1990 - 5:30 p.m. - Open Meeting**  
Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. ☒

The committee will meet to discuss the requirements of Superfund Amendment and Reauthorization Act of 1986.

**Contact:** Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Dept., P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236

## CHILD DAY-CARE COUNCIL

**March 8, 1990 - 9 a.m. - Open Meeting**  
Koger Executive Center, West End, Blair Building, Conference Rooms A and B, 8007 Discovery Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to discuss issues, concerns and programs that impact licensed child care centers. A public comment period is scheduled at 9 a.m. The contingency snow dates are February 16, 1990, and March 16, 1990.

**Contact:** Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217

# Calendar of Events

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## DEPARTMENT FOR CHILDREN

### Consortium on Child Mental Health

March 7, 1990 - 9 a.m. - Open Meeting  
April 4, 1990 - 9 a.m. - Open Meeting  
May 2, 1990 - 9 a.m. - Open Meeting  
Eighth Street Office Building, 805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia. ☒

A regular meeting.

Contact: Wenda Singer, Chair, Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-2208

## COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

February 16, 1990 - 8:30 a.m. - Open Meeting  
March 16, 1990 - 8:30 a.m. - Open Meeting  
Office of the Coordinator, Interdepartmental Licensure and Certification, 1603 Santa Rosa Drive, Tyler Building, Suite 210, Richmond, Virginia. ☒

A regularly scheduled meeting to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Jr., Coordinator, Interdepartmental Licensure and Certification, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124

## DEPARTMENT OF CONSERVATION AND RECREATION

### Catoctin Scenic River Advisory Board

† February 21, 1990 - noon - Open Meeting  
Sunnybrook Inn, Hollins, Virginia

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or 786-2121/TDD ☒

### Virginia Cave Board

† February 17, 1990 - 1 p.m. - Open Meeting  
Donaldson Brown Continuing Education Center, Virginia Tech Campus, Blacksburg, Virginia

A general meeting.

Contact: Dr. John R. Holsinger, Chairman, ODU, Department of Biological Science, Norfolk, VA 23529-0026, telephone (804) 683-3595

### Falls of the James Scenic River Advisory Board

February 16, 1990 - noon - Open Meeting  
Assistant City Manager's Conference Room, City Hall, 3rd Floor, Richmond, Virginia. ☒

A meeting to review river issues and programs.

### Goose Creek Scenic River Advisory Board

† February 16, 1990 - noon - Open Meeting  
Laurel Brigade Inn, Leesburg, Virginia

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132

## BOARD FOR CONTRACTORS

February 15, 1990 - 10 a.m. - Open Meeting  
Office of the City Manager, Council Chambers, Room 210, Waynesboro, Virginia

The board will meet to conduct a formal hearing:

File Number 88-01375, Board for Contractors v. Melvin R. Marshall.

† February 28, 1990 - 10 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia

The board will meet to conduct a formal hearing:

File Numbers 88-00518 Board for Contractors v. Tony L. Burgess.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524

## VIRGINIA CORN BOARD

March 5, 1990 - 1:30 p.m. - Open Meeting  
March 6, 1990 - 1:30 p.m. - Open Meeting  
Williamsburg Hilton and Conference Center, Williamsburg, Virginia

The board will review project reports on projects that were funded for fiscal 1989-90 and will receive project proposals for fiscal 1990-91.

Contact: W. Rosser Cobb, IV, Secretary, P. O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710 or SCATS 371-2163

COMMUNITY CORRECTIONS RESOURCES BOARD

† February 20, 1990 - 10 a.m. - Open Meeting  
Courthouse, 2nd Floor, Board of Supervisor's Meeting Room, Harrisonburg, Virginia

A meeting to review referrals and conduct business.

Contact: D. Scott Anderson, CID Coordinator, 112 S. Cameron St., Winchester, VA 22601, telephone (703) 665-5633

BOARD FOR COSMETOLOGY

February 18, 1990 - 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 for Cosmetology intends to amend regulations entitled: **VR 235-01-02. Board for Cosmetology Regulations.** The regulation reestablishes a requirement for the cosmetology schools to report the number of hours and performances of a student upon termination for any reason.

Statutory Authority: § 54.1-201 5 of the Code of Virginia.

Written comments may be submitted until February 18, 1990.

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

April 4, 1990 - 9:30 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 240-01-4. Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courtroom Security Officers and Process Service Officers.** The proposed rules set forth optimum tasks and the minimum acceptable level of proficiency for entry level jailors, custodial officers, courtroom security officers and process service officers.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until March 5, 1990, to L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Executive Assistant, Criminal Justice Services Board, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000

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April 4, 1990 - 9:30 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 240-01-12. Rules Relating to Certification of Criminal Justice Instructors.** The proposed amendments revise qualifications, requirements and minimum standards for the certification and recertification of criminal justice instructors.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until March 5, 1990, to L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Executive Assistant, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000

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April 4, 1990 - 10:30 a.m. - Public Hearing  
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Criminal Justice Services intends to adopt regulations entitled: **VR 240-04-1. McGruff House Program Regulations.** These proposed regulations outline procedures for the designation and operation of McGruff House Programs and McGruff Houses.

Statutory Authority: §§ 9-170 and 9-173.4 of the Code of Virginia.

Written comments may be submitted until March 16, 1990.

Contact: Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730

BOARD OF DENTISTRY

March 10, 1990 - 10 a.m. - Open Meeting  
Sheraton-Fredericksburg, I-95, Route 3, Fredericksburg, Virginia



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A legislative committee meeting to discuss regulations.

**Contact:** N. Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9906

## EASTERN SHORE ASAP POLICY BOARD

† February 14, 1990 - 11:30 a.m. - Open Meeting  
The Towne House Restaurant, Onanock, Virginia

A regular business meeting. Committee business and any new material will be considered.

**Contact:** Stephen J. Hearne, Director, Eastern Shore ASAP, Box 433, Accomac, VA 23301, telephone (804) 787-5850

## BOARD OF EDUCATION

February 15, 1990 - 9 a.m. - Open Meeting  
February 16, 1990 - 9 a.m. - Open Meeting  
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. The agenda is available upon request.

**Contact:** Margaret Roberts, Director, Community Relations Office, Department of Education, P.O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2540

## VIRGINIA FARMERS' MARKET BOARD

† March 15, 1990 - 1 p.m. - Open Meeting  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A regular board meeting.

**Contact:** Nancy L. Israel, Farmers' Market Network Program Director, 1100 Bank Street, Washington Bldg., Room 1002, Richmond, VA 23219, telephone (804) 371-6157

## DEPARTMENT OF FORESTRY

March 1, 1990 - 10 a.m. - Public Hearing  
Department of Forestry, Alderman and McCormick Road, Conference Room, Charlottesville, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Forestry intends to amend regulations entitled: **VR 312-01-02. Standards for Classification of Real Estate as Devoted to Forest Use Under the Virginia Land Use Assessment Law.** The purposes of the proposed action

is to provide a standardized form for a written commitment by landowners to preserve forest land use.

Statutory Authority: § 58.1-3229 of the Code of Virginia.

Written comments may be submitted until March 1, 1990.

**Contact:** James D. Starr, Chief, Forest Management, Department of Forestry, P. O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555

## Reforestation of Timberlands Board

† March 1, 1990 - 10 a.m. - Open Meeting  
Department of Forestry, Buckingham-Appomattox State Forest Route 3, Box 133, 12 miles north of Appomattox, Route 636 off Route 24, Dillwyn, Virginia

A semi-annual meeting of the board to review accomplishments and budget.

**Contact:** Phil T. Grimm, Field Operations, Department of Forestry, P. O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555, SCATS 487-1230 or toll-free 1-800-977-6555

## DEPARTMENT OF GAME AND INLAND FISHERIES

† February 15, 1990 - noon - Open Meeting  
† February 16, 1990 - 8:30 a.m. - Open Meeting  
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☒

A working session to discuss long-range planning for the agency.

**Contact:** Nancy B. Dowdy, Board Secretary, 4010 W. Broad St., Richmond, VA, telephone (804) 367-1000/TDD ☎ or toll-free 1-800-252-7717

## HARRISONBURG/ROCKINGHAM LOCAL EMERGENCY PLANNING COMMITTEE

† February 12, 1990 - 3 p.m. - Open Meeting  
Maryland Avenue Fire Station, Harrisonburg, Virginia

A meeting to develop implementation plans for 1990 committee initiatives.

**Contact:** J. M. Russell, Jr., Chairperson, H/R LEPC, Merck & Co., Inc., P. O. Box 7, Elkton, VA 22827-0007, telephone (703) 298-4110

## HAZARDOUS MATERIALS TRAINING COMMITTEE

February 13, 1990 - 10 a.m. - Open Meeting  
Holiday Inn Conference Center, Koger Center South, 1021

Koger Center Boulevard, Richmond, Virginia

The first meeting of the committee to discuss curriculum, course development, and review existing hazardous materials courses.

**Contact:** Larry A. Logan, Chairman, Fire and Emergency Services, 3568 Peters Creek Rd., N.W., Roanoke, VA 24019, telephone (703) 561-8070

## DEPARTMENT OF HEALTH (STATE BOARD OF)

**NOTE: EXTENSION OF WRITTEN COMMENT PERIOD**  
† **March 31, 1990** – 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 Health intends to amend regulations entitled: **VR 355-11-02.02. Regulations Governing the Newborn Screening and Treatment Program.** The rules and regulations governing the newborn screening and treatment program have been revised and amended to include genetic, metabolic, and other diseases of the newborn as specified in §§ 33.1-12 and 33.2-65 et seq. of the Code of Virginia. They specifically clarify the critical time periods for submitting newborn screening tests in an effort to more accurately screen and diagnose newborn diseases.

Statutory Authority: § 32.1-12 and Article 7 (§ 32.1-65 et seq.) of Chapter 2 of the Code of Virginia.

Written comments may be submitted until March 31, 1990.

**Contact:** J. Henry Hershey, M.D., M.P.H., Genetics Director, Maternal and Child Health, 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-7367

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† **April 17, 1990 - 10 a.m.** – Public Hearing  
Roanoke County Board of Supervisors Meeting Room, 3738 Brambleton Avenue, Roanoke, Virginia

† **April 19, 1990 - 10 a.m.** – Public Hearing  
Virginia Beach Council Chamber, City Hall, 2nd Floor, Municipal Center, Court House Drive and North Landing Road, Virginia Beach, Virginia

† **April 20, 1990 - 10 a.m.** – Public Hearing  
James Madison Building, 109 Governor Street, Conference Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-17-01. Commonwealth of Virginia Sanitary Regulations for Marinas and Boat Moorings.** The purpose of the proposed action is to allow the department to grant an

exemption to a marina required to have boat sewage pump-out service, if the service is being provided by another nearby marina.

## STATEMENT

**Purpose:** The purpose of the regulations is to protect public health by preventing the spread of disease. When raw sewage is dumped into the water, a public health hazard is created. The marina program adds protection to the shellfish growing area and plays a vital role in the prevention of further condemnation. In addition to the protection of shellfish from additional contamination sources, more recreational use of the state waters can be safely made for the same reasons.

The boating industry in Virginia is experiencing rapid growth. The VMI Research Laboratories' Marina Regulations Study clearly show that there is an increase of fecal coliforms in and around marinas during periods of high boating activity. From this information, it can clearly be seen that if we do not continue to provide safe sewerage facilities at marinas and other places where boats are moored, there will be further degradation of the waters.

We have experienced some difficulty in obtaining the required number of boat sewage pump-out facilities. The recommended changes in the regulations will aid the department in ensuring that this service is available to boaters. It is important because most boats that have installed toilets have holding tanks approved by the Coast Guard which hold raw sewage and must be ultimately discharged into a treatment system.

**Basis:** The board is empowered and directed to adopt and promulgate all necessary regulations establishing minimum requirements for adequate sewerage facilities at marinas and other places where boats are moored, according to the number of boat slips and persons such marinas and places are designed to accommodate. The provisions of § 32.1-246 are applicable to every such marina and place, regardless of whether such establishment serves food.

The commissioner shall enforce the provisions of § 32.1-246 and regulations adopted thereunder.

No such marina or place shall operate unless in accordance with § 32.1-246 and regulations adopted and promulgated thereunder.

Whenever the commissioner approves the plan for the sewerage facilities of a proposed marina for presentation to the Marine Resources Commission as provided in § 62.1-3 of the Code of Virginia, he shall have the power and duty to enforce compliance with such plan.

**Substance:** The five proposed revisions to the Sanitary Regulations for Marinas and Boat Moorings are:

1. Add a definition for dry storage in relation to

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requirements for sanitary facilities.

Reason: There is a growing number of marinas which provide dry storage for boats resulting in an increased usage of sanitary facilities over and above the level of use projected by numbers of mooring slips.

2. Establish the amount of sewage flow from boat dry storage facilities.

Reason: Design sewage flows established by usage of dry storage boat facilities were not specified in the 1987 Marina Regulations, resulting in nonuniform procedures for approval of on-site sewage disposal systems.

3. Allow flexibility in the amount of sewage flow from marina establishments where water saving devices are being installed.

Reason: The 1987 Regulations did not take into account the sewage flow reductions which take place when permanent water saving devices are used.

4. Exempt marinas from providing boat sewage holding tank pump-out service if they arrange for an agreement with another marina to provide that service to their customers; also, minimum specifications are established for inclusion in the agreement.

Reason: In response to a recommendation from the Attorney General's office, in order to strengthen compliance with and enforcement of the regulations by eliminating the necessity to issue variances where no potential public health hazard is created.

5. Require placarding of pump-out facilities indicating any fees, restrictions and other operating instructions are necessary.

Reason: This was recommended by some of the speakers at the public hearing held on the regulations (which became effective on September 1, 1987) to be used as an enforcement tool and to promote the operation of the pump-out facility.

**Issues of regulations:** The enforcement of the requirement in the regulations for all marinas and other places where boats are moored to provide pump-out facilities has caused some enforcement difficulties. This revision allows the department to grant an exemption to a marina required to have boat sewage pump-out service, if the service is being provided by another nearby marina.

These revisions clarify the dry storage facilities, set sewerage flows and require marina operators to placard pump-out facilities. All of these things will make the regulations easier to enforce.

**Impact:** The proposed revisions will have no negative impact on the regulated community or the Commonwealth. They will allow the marina operator to make agreements with another nearby marina to furnish his customers with pump-out service.

Statutory Authority: § 32.1-246 of the Code of Virginia.

Written comments may be submitted until May 4, 1990.

**Contact:** A. F. Golding, Marina Supervisor, Department of Health, 109 Governor Street, James Madison Bldg., Room 903A, Richmond, VA 23219, telephone (804) 786-1761

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**February 27, 1990 - 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:** G. Edward Dalton, Deputy Director, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6371/TDD ☒

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**March 7, 1990 - 10 a.m. - Public Hearing**  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** These amendments will bring nursing homes under the financial reporting requirements of the council and require an audited consolidated financial statement from each hospital that reports to the council or any corporation that controls a hospital.

Statutory Authority: § 9-169 of the Code of Virginia.

Written comments may be submitted until 3 p.m., March 5, 1990.

**Contact:** G. Edward Dalton, Deputy Director, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371

## BOARD OF HISTORIC RESOURCES

† **February 20, 1990 - 2 p.m. - Open Meeting**  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

A general business meeting.

**Contact:** Margaret T. Peters, Information Officer, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-4276/TDD ☎

## DEPARTMENT OF HISTORIC RESOURCES

### State Review Board

† **February 20, 1990 - 10 a.m.** – Open Meeting  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places:

Blue Ridge Farm, Albemarle County  
Garrison Hall, Albemarle County  
Greer House, Rocky Mount, Franklin County  
La Vue, Spotsylvania County  
Massaponex Church, Spotsylvania County  
Plumb House, Waynesboro  
Roanoke City Firehouse # 6, Roanoke (city)  
Scalby, Clarke County  
Sentry Box, Fredericksburg  
Trinity Church, Hanover County  
Walker House, Albemarle County  
Blackstone Historic District, Nottoway County  
Brentsville Historic District, Prince William County  
Herndon, Fairfax County  
Grove Mount, Richmond County \*  
Second Presbyterian Church, Petersburg \*  
McKinney House, Petersburg \*  
Paxton, Powhatan County \*

\* for National Register only; already listed in Virginia Landmarks Register

**Contact:** Margaret T. Peters, Information Officer, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-4276/TDD ☎

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**March 6, 1990 - 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 as required by SARA Title III.

**Contact:** Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

### Amusement Device Technical Advisory Committee

† **February 15, 1990 - 9 a.m.** – Open Meeting  
Fourth Street Office Building, 205 North Fourth Street, 7th Floor Conference Room, Richmond, Virginia. ☒

A meeting to review and discuss regulations pertaining to the constructions, maintenance, operation and inspection of amusement devices adopted by the Board of Housing and Community Development.

**Contact:** Jack A. Proctor, CPCA, Deputy Director, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219-1747, telephone (804) 786-4752 or (804) 786-5405/TDD ☎

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

**March 2, 1990 - 10 a.m.** – Public Hearing  
City Council Chambers, 215 Church Street, S.W., Roanoke, Virginia. ☒

**March 5, 1990 - 10 a.m.** – Public Hearing  
Human Services Center Auditorium, 5249 Olde Towne Road, Williamsburg, Virginia. ☒

**March 7, 1990 - 10 a.m.** – Public Hearing  
County Administration Building, 1 County Court Complex, Prince William, Virginia. ☒

A hearing to receive public comments regarding the Board of Housing and Community Development's intent to develop 1990 editions of the Uniform Statewide Building Code, Volume I, New Construction Code; Volume II, Building Maintenance Code; Virginia Uniform Statewide Code, Industrialized Building and Manufactured Home Safety Regulations; Virginia Statewide Fire Prevention Code; Virginia Liquefied Petroleum Gas Regulations; Virginia Uniform Statewide Building Code, Amusement Device Regulations; Virginia Tradesmen Certification Standards; Standards Governing Operation of Individual and Regional Code Academies.

**Contact:** Gregory H. Revels, Program Manager, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **February 20, 1990 - 10 a.m.** – Open Meeting  
601 South Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for

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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 office of the authority one week prior to the date of the meeting.

**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986

## COUNCIL ON HUMAN RIGHTS

**March 28, 1990 - 10 a.m. - Public Hearing**  
James Monroe Building, 101 North 14th Street, 1st Floor, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Council on Human Rights intends to adopt regulations entitled: **VR 402-01-02. Regulations to Safeguard Virginia's Human Rights From Unlawful Discrimination.** The purpose of these regulations is to supplement the Virginia Human Rights Act (§ 2.1-714 et seq.) which safeguards all individuals within the Commonwealth from unlawful discrimination.

Statutory Authority: § 2.1-720.6 of the Code of Virginia.

Written comments may be submitted until February 18, 1990, to Sandra D. Norman, P.O. Box 717, Richmond, Virginia 23206.

**Contact:** Lawrence J. Dark, Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2292 or toll-free 1-800-633-5510

## LIBRARY BOARD

† **March 8, 1990 - 9:30 a.m. - Open Meeting**  
Virginia State Library and Archives, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☐

A meeting to discuss administrative matters.

**Contact:** Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332

## COMMISSION ON LOCAL GOVERNMENT

**March 12, 1990 - 10 a.m. - Open Meeting**  
State Capitol, Capitol Square, House Room 1, Richmond,

Virginia. ☐

A regular meeting.

**Contact:** Barbara Bingham, Commission on Local Government, 702 Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508

## LONGWOOD COLLEGE

### Board of Visitors

**February 23, 1990 - 1 p.m. - Open Meeting**  
Lankford Building, Longwood College, Farmville, Virginia. ☐

A meeting to conduct business pertaining to the governance of the institution.

### Executive Committee

**February 23, 1990 - Immediately following full board meeting - Open Meeting**  
Lankford Building, Longwood College, Farmville, Virginia. ☐

A meeting to conduct business pertaining to the governance of the institution.

**Contact:** William F. Dorrill, President, Longwood College, Farmville, VA 23901, telephone (804) 395-2001

## STATE LOTTERY BOARD

† **February 28, 1990 - 10 a.m. - Open Meeting**  
State Lottery Department, 2201 West Broad Street, Conference Room, Richmond, Virginia. ☐

A regular monthly meeting. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

**Contact:** Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433

## MARINE RESOURCES COMMISSION

**February 27, 1990 - 9:30 a.m. - Open Meeting**  
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☐

The commission will meet to hear and decide cases on fishing licensing, oyster ground leasing, environmental permits in wetlands bottomlands, coastal sand dunes and beaches. The commission hears and decides appeals made on local wetlands board decisions.

Fishery management and conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days and is empowered to take specialized marine life harvesting and conservation measures within five days.

Contact: Cathy W. Everett, Secretary to the Commission, 2600 Washington Ave., Room 303, Newport News, VA 23607-0756, telephone (804) 247-8088

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† April 13, 1990 – 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 460-03-3.1100. **State Plan for Medical Assistance Relating to Coverage of Prosthetics Services and Expansion of Dental Services under EPSDT - Amount, Duration, and Scope of Services.** The purpose of the proposed action is to promulgate permanent rules to conform the State Plan for Medical Assistance to the General Assembly's mandate through the 1989 Appropriations Act.

### STATEMENT

**Basis and authority:** Sections 32.1-324 and 32.1-325 of the Code of Virginia grant to the Director of the Department Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews. 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.

Through the 1989 Appropriations Act, the General Assembly approved coverage of expanded dental services under the Early and Periodic Screening, Diagnosis and Treatment program (EPSDT) and of limited prosthetics services. DMAS is currently providing these services under the authority of an emergency regulation which is effective for one year beginning July 1, 1989.

**Purpose:** The purpose of this proposal is to initiate a comment period on the department's limited coverage of prosthetics and expanded dental services under EPSDT.

**Summary and analysis:** Through the 1989 Appropriation Act, the General Assembly approved coverage of expanded dental services under the Early and Periodic Screening,

Diagnosis and Treatment program (EPSDT) and of limited prosthetics services. This proposal affects the Amount, Duration, and Scope of Services Supplemental Plan sections for prosthetics (12c) and dental services (10).

**Prosthetics Coverage:** The existing State Plan language provides coverage of prosthetic devices only for recipients receiving approved Medicaid intensive rehabilitation services. Prosthetic devices under the suggested State Plan change shall provide devices to all Medicaid recipients. These devices will be limited to artificial arms and legs and their necessary supportive attachments prescribed by physicians or other licensed practitioners of the healing arts within the scope of their professional licenses as defined by state law. Suppliers of prosthetic devices will be restricted to those who meet state requirements and have a valid prosthetic device provider agreement with the department.

**Dental Coverage Expansion:** Dental services are provided for recipients under the Early and Periodic Screening, Diagnosis and Treatment program (EPSDT) which is one of the mandatory services that states participating in Title XIX must provide. The EPSDT program provides preventive health care services for eligible recipients from birth through 20 years of age.

The Health Care Financing Administration (HCFA) interprets federal regulation 42 CFR 441.56(c)(2) to mean that in addition to any treatment services included in the State Plan, the state agency must provide, through EPSDT, dental care needed for the relief of pain and infection, restoration of teeth and maintenance of dental health. This interpretation of the federal regulation means that any medically necessary dental treatment must be provided. However, states may place limits on a service based on criteria such as medical necessity or establish utilization control procedures.

The amendment will provide additional coverage for single permanent crowns, removable prosthetic appliances (such as complete and partial dentures), fixed prosthetic appliances (bridges), tooth guidance appliances, medically necessary full banded orthodontics, any necessary surgical preparation (alveoloplasty) for prosthetics, and any other needed dental services not currently covered in the State Plan but identified through an EPSDT screening. A preauthorization review system as is now used for certain covered dental services will be used for determining medical appropriateness of the new services.

The amendment has program benefits which would promote the well-being of children by preventing some harmful occurrences through early intervention. It has the long-range potential of improving self-esteem and prospects of employability, and represents the intent and purpose of the EPSDT Program.

**Impact:** The discussion of the impact of these two service changes is discussed in the order established above.

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**Prosthetic coverage:** No increase in the number of eligible recipients is expected. Based upon the experience of another state's Medicaid agency, it is expected that an additional 642 Medicaid eligible persons will require the service annually at an approximate total cost of \$180,340 (NGF \$90,675 and GF \$89,665) in FY 1990. This funding has been approved in the department's 1989 appropriations.

**Dental coverage expansion:** Based on statistics maintained when the Program covered these services, it was estimated that approximately 3,000 new procedures will be provided to about 2,500 clients, by adding permanent crowns and prosthetic service coverage. Approximately 150 clients would be eligible for orthodontics. The sum of \$1,207,710 (\$599,360 GF and \$608,350 NGF) was allocated in FY 90 for expanded dental services under EPSDT. Approximately 167,000 clients were eligible under EPSDT in 1987 and 47,000 received dental treatment. Expanding the coverage of dental care would increase the number of claims processed by approximately 10,000 claims per year. As these procedures were once covered and can easily be reactivated in the geographic fee file, there is no substantial systems cost. The review of these preauthorized services will be absorbed within current MEL.

Under the authority of the effective emergency regulation, DMAS has already incurred one time costs for printing and mailing notices and manual updates to prosthetics and dental providers.

**Forms:** The Prosthetic Device Preauthorization Request Form will be required of enrolled prosthetics providers. No new forms are required for providers of the Dental Coverage Expansion.

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

Written comments may be submitted until April 13, 1990, to Malcolm O. Perkins, Manager, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, 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

**February 23, 1990 - 9 a.m. - Public Hearing**  
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 2, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to adopt regulations entitled: **VR 465-08-01. Regulations for Certification of Occupational Therapists.** These proposed regulations will establish educational requirements, examination, and application fee for certification to practice as an Occupational

Therapist.

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

Written comments may be submitted until March 15, 1990, to Hilary H. Conner, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925

**March 22, 1990 - 8 a.m. - Open Meeting**

**March 23, 1990 - 8 a.m. - Open Meeting**

**March 24, 1990 - 8 a.m. - Open Meeting**

**March 25, 1990 - 8 a.m. - Open Meeting**

Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 1st Floor, Richmond, Virginia. ☐

The board will meet on March 22, 1990, in open session to conduct general board business and discuss any other items which may come before the board. The board will meet on March 23-25, 1990, to review reports, interview licensees and make decisions on discipline matters.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., Richmond, VA 23229-5005, telephone (804) 662-9925

## Ad Hoc Committee on Optometry

† **March 9, 1990 - 9 a.m. - Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 2, Richmond, Virginia. ☐

The committee will meet to discuss and respond to public comments received on proposed regulations VR 465-07-01 - Certification of Optometrists and prepare recommendations to the board for consideration and adoption.

## Ad Hoc Committee on X-Ray Technicians

**February 23, 1990 - 2 p.m. - Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 1, Richmond, Virginia. ☐

The committee will begin to develop regulations regarding the utilization of x-ray technicians in response to House Documents No. 24 and No. 31.

## Advisory Committee on Acupuncture

**February 28, 1990 - 6 p.m. - Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 4, Richmond, Virginia. ☐

The committee will meet to (i) conduct general

business; (ii) review educational programs, regulations and other state laws; and (iii) discuss such other items which may come before this committee.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

## Informal Conference Committee

† **February 16, 1990 - 9 a.m.** – Open Meeting  
Best Western - Patrick Henry Inn, Williamsburg, Virginia. ☒

† **February 22, 1990 - 9:30 a.m.** – Open Meeting  
† **February 23, 1990 - 9:30 a.m.** – Open Meeting  
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 3, Richmond, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed session pursuant to § 2.1-344 A 6 of the Code of Virginia.

**Contact:** Karen D. Waldron, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-7006

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **February 28, 1990 - 9:30 a.m.** – Open Meeting  
Hanover Community Services Board, Ashland, Virginia. ☒

A regular monthly meeting. Agenda to be published on February 21 and may be obtained by calling Jane Helfrich.

Tuesday evening - Committee meeting - 6 p.m., informal session - 8:30 p.m.

Wednesday - Legislative breakfast - 7:30 a.m., regular session - 9:30 a.m.

**Contact:** Jane Helfrich, Board Administrator, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

### State Human Rights Committee

† **February 20, 1990 - 9 a.m.** – Open Meeting  
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

The State Human Rights Committee has appointed a Subcommittee/Task Force to review the proposed

Regulations to Ensure the Rights of Residents in DMHMRSAS Operated Facilities. All comments on the regulations will also be received.

**Contact:** Elsie D. Little, State Human Rights Director, Office of Human Rights, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988

## Substance Abuse Advisory Council

**February 22, 1990 - 10 a.m.** – Open Meeting  
James Madison Building, 109 Governor Street, 13th Floor Board Room, Richmond, Virginia. ☒

A meeting to discuss issues relative to the planning and delivery of substance abuse services in Virginia.

**Contact:** Wayne Thacker, Director, Office of Substance Abuse Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-3906 or (804) 786-2991/TDD ☒

**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 13, 1990** – Open Meeting

**March 14, 1990** – Open Meeting

Patrick Henry Inn, Best Western, Colonial Williamsburg, Virginia. ☒

The 13th Annual Symposium on Mental Health and the Law to address issues related to mental health and the law. 9 hours in Category 1 CME, 9 CEU and 9 CLE credits applied for.

**Contact:** Carolyn Engelhard, Institute of Law, Psychiatry and Public Policy, Box 100, Blue Ridge Hospital, Charlottesville, VA 22901, telephone (804) 924-5435

## DEPARTMENT OF MINES, MINERALS AND ENERGY

† **March 8, 1990 - 1 p.m.** – Open Meeting  
Division of Mined Land Reclamation, AML Conference Room, 622 Powell Avenue, Big Stone Gap, Virginia. ☒

A meeting to give interested persons an opportunity to be heard in regard to the FY-1990 Virginia Abandoned Mine Land Emergency Grant application to be submitted to the federal Office of Surface Mining.

**Contact:** Roger L. Williams, AML Manager, P. O. Drawer U, 622 Powell Avenue, Big Stone Gap, VA 24219, telephone (703) 523-8206 or toll-free 1-800-552-3831/TDD ☒

## DEPARTMENT OF MOTOR VEHICLES

**April 13, 1990 - 10 a.m.** – Public Hearing  
Department of Motor Vehicles, 2300 West Broad Street, Monticello Room, Room 133, Richmond, Virginia



# Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to amend regulations entitled: **VR 485-60-8401. Evidence Required to Permit Registration of Reregistration of Vehicles for Which Proof of Tax Payment and of State Corporation Commission Registration is Required.** The purpose of the proposed amendment is to eliminate the requirement for the owner of a vehicle, with a registered gross weight of 33,000 pounds or more, to complete a certification of tax paid.

Statutory Authority: §§ 46.2-203 and 46.2-649 of the Code of Virginia.

Written comments may be submitted until April 10, 1990.

Contact: Jerry M. Fern, Program Manager, Motor Carrier Services, Department of Motor Vehicles, P. O. Box 27412, Richmond, VA 23269, telephone (804) 367-0469

## BOARD OF NURSING

† March 26, 1990 - 9 a.m. - Open Meeting

† March 27, 1990 - 9 a.m. - Open Meeting

† March 28, 1990 - 9 a.m. - Open Meeting

Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regular meeting of the board to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement, and other matters under the jurisdiction of the board. On March 26, 1990, at 1:30 p.m., the board will convene at the General Assembly Building, House Room C, 9th and Broad Streets, Richmond, for the purpose of conducting a public hearing on proposed regulations as published in The Virginia Register on February 12, 1990.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or 662-7197/TDD ☎

\* \* \* \* \*

† March 26, 1990 - 1:30 p.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 Board of Nursing intends to amend regulations entitled: **VR 495-01-1. Board of Nursing Regulations.**

## STATEMENT

Statement of Purpose: The purpose of the regulations is to establish the requirements for nursing education programs

in Virginia that prepare persons for licensure as registered or licensed practical nurses or certification as nurse aides; to regulate the licensure of nurses and certification of nurse aides; and to discharge the duties required of the Board of Nursing by §§ 54.1-2400 and 54.1-3005 of the Code of Virginia in the protection of the health, safety, and welfare of the citizens of the Commonwealth.

### Estimated impact:

#### A. Regulated entities.

1. Registered nurses - 60,630
2. Licensed practical nurses - 22,729
3. Certified nurse aides - 13,859
4. Education programs
  - a. For registered nurse license - 34
  - b. For practical nurse license - 49
  - c. For nurse aide certificate - 239

#### B. Projected costs to regulated entities.

There are 54 changes included in the proposed regulations. Of these, 39 have no fiscal impact on the regulated entities since the changes are the result of either editing, deleting, renumbering, restating or revising existing regulations. The remaining 15 changes may result in changes in the costs to regulated entities and the estimated impact is discussed below:

1. Section 2.2 C 1 b requires that a member of a nursing faculty who is responsible for teaching students in a health care agency located outside of Virginia must meet the licensure requirements of the other jurisdiction. It is expected that this requirement is currently being met in the nursing education programs. It is possible that it may be necessary for a small number of faculty members to obtain licensure in another jurisdiction as the result of this change. The estimated cost for initial licensure would be about \$75. Annual renewal fees for states adjoining Virginia are approximately \$15 - \$20.

2. Section 2.2 C 1 e (2) requires every member of the nursing faculty in associate degree and diploma program to hold a graduate degree rather than a majority of the members. A proposed change in § 2.2 C 1 g would exempt those persons who hold nursing faculty positions on the effective date of these regulations from the requirement. To the extent that these persons will eventually have to be replaced or new faculty members added, there may be additional costs involved in the recruitment of qualified faculty and in any differential in salary that may result.

3. Section 2.2 C 1 f (2) requires every member of the nursing faculty in practical nursing programs to hold a baccalaureate degree rather than a majority of the members. The discussion for subdivision 2 above is applicable to this change as well.

4. Section 2.2 C 1 g exempts those persons who hold nursing faculty positions in a board approved nursing education program on the effective date of these regulations from the new requirements. This provision should result in cost savings to the individual, the nursing education program and the board, in that there are currently persons who are employed under exceptions granted by the board and the change will relieve the necessity of requesting and granting exceptions to this group of individuals.

5. Section 2.2 C 1 h (3) authorized the Executive Director of the Board of Nursing to grant approval for requests for exceptions to the requirements for faculty qualifications. This has been the practice of the board by action taken and recorded in the minutes of a regular meeting. Therefore, it is not anticipated that there will be a change in the cost.

6. Sections 2.2 F 4 e and 2.2 F 5 f require that nursing education programs include in the curriculum information about the Virginia practice act and regulations. While there may be a cost for the faculty members to prepare to teach this information, it is anticipated that the benefit of assuring that the students will be exposed to this information may pay dividends over time in improving adherence to law and regulations in practice.

7. Section 3.1 C requires that a candidate who does not take an examination when scheduled must file a new application and fee. There will be no change in the cost, since this has consistently been the policy of the board and is being added to this section for clarity and to assure that the information is presented to the public.

8. Section 5.3, subdivisions 2 through 4 establish reasonable and minimal fees for the biennial renewal of the certificate, for a duplicate certificate fee and a return check charge applicable to certified nurse aides. The fee is consistent with the cost of each. Only the renewal fee is applicable to all certificate holders. The duplicate certificate fee and the return check charge will apply to a small number. The board believes a renewal fee of \$15 for two years will not pose an undue burden even when applied to the certified nurse aide who is usually employed at a relatively low wage.

9. Section 5.4 C 4 requires that instructional personnel be on site when nurse aide students are giving direct care to clients. While there may be an increased cost for those programs that do not currently meet this requirement, the presence of instructional personnel is essential to maintain a safe level of care to the client and the benefit to the public should be viewed as offsetting the cost.

10. Section 5.4 D 2 d adds the requirement to include in the curriculum for nurse aide education programs

the care of cognitively impaired clients. This is a requirement of federal law and is likely to be included in the curriculum currently being offered. The addition to the regulations shows continued recognition on the part of the Board of Nursing of requirements of federal law and guidelines in the regulation of certified nurse aides.

11. Section 5.4 G 3 allows the nurse aide education program to use five of the required 40 hours of skills training in settings other than nursing facilities. The purpose of this change is to recognize that there are pending changes in federal guidelines that will affect those nurse aides who are employed in home health. The Board of Nursing is attempting to anticipate these changes to make the regulations applicable to those persons as necessary. There should be no increased cost and may, in the long run, result in a saving in that the board may avoid having to change the regulations.

12. Section 5.6 A 1 b and c expand the qualifications for certification as a nurse aide to those persons who may be nursing students or may be waiting to repeat the licensing examination or be nurses educated in other countries waiting to take the licensing examination. This change will facilitate allowing these persons to enter the job market in providing care to the citizens of the Commonwealth and should not impose an additional cost. Under existing regulations, there was no provision for these persons to be certified short of taking a board approved nurse aide education program.

13. Section 5.6 C establishes the requirements for reinstating a lapsed certification. It is consistent with the requirements of federal law and guidelines and poses no unanticipated fees.

14. Section 5.7 amplifies the legal authority of the Board of Nursing to deny certification or to discipline the certificate of a certified nurse aide by defining fraud or deceit and unprofessional conduct. There is no anticipated cost to regulated entities.

C. Projected costs to agency for implementation and enforcement.

Implementing and enforcing the new and modified regulations will not increase the operating costs to the board since they can be implemented under existing programs.

D. Source of funds.

The funds related to activities of the Board of Nursing having to do with education, examination and licensure of registered nurses and licensed practical nurses is derived from fees paid by licensees. Funds to support the activities related to the program for the certification of nurse aides are provided under an interagency agreement between the

# Calendar of Events

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Department of Health Professions, the Board of Nursing, the Department of Health and the Department of Medical Assistance Services. A small amount of revenue will be derived from fees charged to certified nurse aides.

## Explanation of need of proposed regulations.

The proposed regulations are needed to enable the Board of Nursing to ensure that those licensed or certified by the board and the educational programs preparing for licensure or certification meet the standards necessary to protect the health, safety and welfare of the citizens of the Commonwealth. Part V of the regulations exist as emergency regulations and must be replaced within a year of their effective date. A section by section review of the proposed changes follows.

A detailed statement about those sections that have been edited, restated or renumbered is not included as the changes have been made for clarity, currentness, consistency with law and do not change the meaning or intent of the individual regulations.

In § 2.2 C subdivision 1 b, the board proposed to require nursing faculty responsible for teaching students outside of Virginia to meet licensure requirements of that jurisdiction. Existing language states that the person "should" hold a license in another state. The board is of the opinion that the proposed language more clearly states the responsibility of the faculty and permits the board to enforce the requirement.

Subdivisions 1 e (2) and 1 f (2) as proposed will respectively require that every faculty member in associate degree and diploma programs hold a graduate degree and that every faculty member in practical nursing programs hold a baccalaureate degree. The existing subdivisions state the requirements to apply to the majority of the members of the nursing faculty in the nursing education programs. The requirements have been difficult for the programs, individual teachers and the board, in that the "majority" or the "minority" change from time to time as teachers leave positions. As exceptions have been requested, there has been a real question as to which or how many of those not meeting the requirements must pursue the required degree in order for the program to maintain approval. The result is the possibility that all teachers do not have to meet the same requirements. The most effective remedy is the proposed change.

Subdivision 1 e (3) is deleted as it is no longer necessary with the proposed change.

Subdivision 1 g is proposed as new and will waive the new requirements for approximately 90 of the total 653 currently employed faculty members. The majority of these teachers have been employed under exceptions and exemptions to the regulations and the

board believes it is in the best interest of all concerned to waive the new requirements for those who hold nursing faculty positions in a board approved nursing education program on the effective date of the proposed regulations.

Subdivision 1 g (3) delegates to the executive director of the board the authority to approve requests for exceptions to the requirements of the regulations for faculty qualifications. This has been the practice of the board by action taken at a regular meeting. The need was identified in a situation where the board had denied a request leaving no appeal process in place. The proposed change allows the board to hear an appeal of an adverse decision made by the executive director.

Section 2.4 F, subdivisions 4 e and 5 f add the requirement to include information about the Virginia nurse practice act and regulations in the curricula in the nursing education programs. The purpose of this change is to require the programs to present to future licensees information about obtaining and maintaining licensure in the Commonwealth.

Section 3.1 C requires a candidate who does not take a scheduled examination to submit a new application and fee in order to be rescheduled. The change reflects current policy of the board and is being added for clarity.

Section 3.2 A proposes provision to license an applicant by endorsement whose license in another jurisdiction is lapsed if it is eligible for reinstatement. The proposed change is made to assure consistency with the law. Sections 54.1-3018 and 54.1-3021 state "has been licensed as a registered nurse" or "has been licensed as a practical nurse" by another jurisdiction. The existing regulation appears to require current licensure in the other jurisdiction.

Sections 5.3 2 through 5.3 4 establish reasonable and minimal fees for the biennial renewal of the certificate, for a duplicate certificate fee and a return check charge applicable to certified nurse aides. These fees were not included in the emergency regulations, but are proposed now based upon study to estimate costs to support proposed fees.

Section 5.4, subsection C 1 b recognizes that the supervision of nursing students in a nursing facility or unit, geriatrics department, chronic care hospital, home care or other long-term care setting is acceptable experience for instructional personnel and expands the numbers of persons available to teach.

Subsection C 4 requires that instructional personnel must be on site when nurse aide students are giving care to clients. The change is needed to protect the client by assuring that the novice has adequate supervision and resources to give safe care.

Subsection D 2 d adds the requirement to include in the curriculum for nurse aide education programs the care of cognitively impaired clients. This requirement of federal law is likely to be included in the curriculum currently being offered. The addition to the regulations shows continued recognition on the part of the Board of Nursing of the requirements of federal law and guidelines in the regulation of certified nurse aides.

Subsection G 3 allows the nurse aide education program to use five of the required 40 hours of skills training in settings other than nursing facilities. The purpose of this change is to recognize that there are pending changes in federal guidelines that will affect those nurse aides who are employed in home health. The Board of Nursing is attempting to anticipate these changes to make the regulations applicable to those persons as may become necessary.

Subsection I has been deleted because its purpose was to provide for the transfer of identified nurse aide education programs in the Commonwealth from recognition by the Department of Health to approval by the Board of Nursing and will be complete prior to the effective date of the proposed regulations.

Section 5.6, subsections A 1 b and c are proposed to provide for recognition of the knowledge and skills of students enrolled in nursing education programs and those awaiting the opportunity to repeat or take the registered nurse or licensed practical nurse licensing examinations. Under the proposals, such individuals could qualify for certification and thus expand the numbers of persons available for employment in nursing facilities in the Commonwealth.

Subsections B 2 and B 4 have been revised to replace "worked in a nursing facility" with "performed nursing related activities for compensation." The change is consistent with federal law and expands the areas where the nurse aide may be employed in order to renew the certification.

Subsection C is added to establish requirements for reinstatement of a lapsed certificate. The language was not included in the emergency regulations since it was not needed initially. It is now a necessary mechanism for more permanent regulations.

Section 5.7 is added to establish the definitions of "fraud," "deceit" and "unprofessional conduct" that may be used in allegations for notices of hearings that may be necessary. The section amplifies the authority of the board to impose disciplinary action on certified nurse aides pursuant to § 54.1-3007 of the Code of Virginia.

Throughout Part V of the proposed regulations, the word "resident" has been changed to "client" in reference to the person for whom the certified nurse

aide provides care. The purpose of the change is to be less limiting in the practice setting. The word resident tends to imply care in a residential setting. It would appear that in the future, certified nurse aides may be providing care in other settings where the term "client" would be more appropriate.

Assurance of clarity and simplicity.

Several of the changes proposed are for the purpose of clarity and simplicity. A number of individuals have reviewed the proposed changes for clarity and simplicity.

Impact on small business.

To the extent that nursing education programs and nurse aide education programs are small businesses, the discussion found in Section II of this Analysis is applicable.

Alternatives considered.

The proposed regulations are presented as the result of a biennial review of existing regulations including the development of regulations to replace emergency regulations found in Part V. The board gave careful attention to comments presented during the review period and considered several alternatives presented by commentors and by staff. The proposed regulations, in the opinion of the board, are the least burdensome alternatives consistent with public protection.

Evaluation schedule.

In accordance with the Public Participation Guidelines, an informational proceeding to receive public comment on existing regulations will be held at least once each biennium. It is anticipated that such a proceeding will be scheduled no later than 1992 to evaluate the effectiveness, efficiency, necessity, clarity, and cost of compliance of the regulations.

Forms and reports mandated.

The proposed regulations do not mandate any new forms or reports.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Written comments may be submitted until April 12, 1990.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909

## BOARD OF NURSING HOME ADMINISTRATORS

February 28, 1990 - 8 a.m. - Open Meeting

March 1, 1990 - 9 a.m. - Open Meeting

# Calendar of Events

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Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

National and state examinations will be given to applicants for licensure for Nursing Home Administrators.

A regularly scheduled board meeting.

**Contact:** Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9111

## DEPARTMENT OF PERSONNEL AND TRAINING

**February 20, 1990** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Personnel and Training intends to adopt regulations entitled: **VR 525-01-02. Commonwealth of Virginia Health Benefits Program.**

Statutory Authority: §§ 2.1-20.1 and 2.1-20.1:02 of the Code of Virginia.

Written comments may be submitted until February 20, 1990.

**Contact:** Anthony C. Graziano, Manager of State Benefits, Department of Personnel and Training, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2170

## BOARD OF PSYCHOLOGY

† **March 1, 1990 - 9 a.m.** – Open Meeting  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to conduct general board business to (i) review applications for licensure, residency, and registration as Technical Assistants; and (ii) discuss regulatory review.

**Contact:** Evelyn B. Brown, Executive Director, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229-5005, telephone (804) 662-9913

## VIRGINIA RACING COMMISSION

† **February 21, 1990 - 9:30 a.m.** – Open Meeting  
Department of Information Technology, 110 South Seventh Street, Auditorium, Richmond, Virginia. ☒

A regular commission meeting.

**Contact:** William H. Anderson, Regulatory Coordinator,

Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

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**February 19, 1990** – 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 Virginia Racing Commission intends to amend regulations entitled: **VR 662-01-02. Regulation Pertaining to Horse Racing with Pari-Mutuel Wagering.** The purpose of the proposed amendment is to request approval of racing days, transfer and acquisition of an interest in a license, appeals of licensing decisions, pari-mutuel wagering, and purse distribution.

Statutory Authority: § 59.1-364 of the Code of Virginia.

Written comments may be submitted until February 19, 1990, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

**Contact:** William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

## REAL ESTATE BOARD

**February 20, 1990 - 11 a.m.** – Open Meeting  
Department of Social Services, Pembroke Office Park, Pembroke IV, Suite 300, Conference Room A, Virginia Beach, Virginia

The board will conduct a formal hearing:

File Number 88-00054, The Real Estate Board v. Cottle, William B.

**February 21, 1990 - 10 a.m.** – Open Meeting  
County Administration Building, Board Chambers, Main Floor, Third Street, Pulaski, Virginia

The board will conduct a formal hearing:

File Number 88-00754, The Real Estate Board v. Thomas K. and Dorothy N. Morton.

† **February 23, 1990 - 10 a.m.** – Open Meeting  
Department of Commerce, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia

The board will conduct a formal hearing:

File Number 88-01978, The Real Estate Board v. Bonnie M. Decker a/k/a Pam Decker.

**February 27, 1990 - 10 a.m.** – Open Meeting  
City Council Conference Room, Municipal Building, 215

Church Avenue, 4th Floor, Roanoke, Virginia

The board will conduct a formal hearing:

File Number 88-00865, The Real Estate Board v. Donald W. Hall and Julia W. Mawver.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8524

## BOARD OF REHABILITATIVE SERVICES

**February 22, 1990 - 9:30 a.m. – Open Meeting**  
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The board will receive department reports, consider regulatory matters and conduct the regular business of the board.

### Finance Committee

**February 21, 1990 - 2 p.m. – Open Meeting**  
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will (i) review monthly financial reports (ii) review budgetary projections, (iii) receive update on status of biennial budget request, and (iv) develop calendar for FY 92 budget development.

### Legislation and Evaluation Committee

**February 21, 1990 - 4 p.m. – Open Meeting**  
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review pending federal and state legislation and develop criteria for evaluation of department programs.

### Program Committee

**February 21, 1990 - 3 p.m. – Open Meeting**  
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review vocational rehabilitation regulation proposals and explore options for developing amendments to current VR regulations. The committee will also review Client Service Program Information, Independent Living Report and WWRC Program Information.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD ☎ or (804) 367-0280/TDD ☎

## DEPARTMENT FOR RIGHTS OF THE DISABLED

### Protection and Advocacy for Mentally Ill Individuals Advisory Council

**February 22, 1990 - 10 a.m. – Open Meeting**  
James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. ☒

A regularly scheduled meeting.

Contact: Barbara Hoban, PAMI Program Manager, Department for Rights of the Disabled, 101 N. 14th St., 17th Floor, Richmond, VA, 23219, telephone (804) 225-2042/TDD ☎ or toll-free 1-800-552-3962/TDD ☎

## STATE BOARD OF SOCIAL SERVICES

**February 14, 1990 - 2 p.m. – Open Meeting**  
**February 15, 1990 - 9 a.m. – Open Meeting (If Necessary)**  
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ☒

A work session and formal business meeting of the board.

Contact: Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9236

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

† **April 15, 1990** – 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 Social Services intends to adopt regulations entitled: **VR 615-01-90. Degree Requirements for Social Work/Social Work Supervision Classification Series.** The purpose of the proposed action is to initiate the requirement of possession of a degree from an accredited college/university for applicants for position vacancies in the Social Work/SW Supervision series.

### STATEMENT

**Basis:** This proposed regulation is issued under authority granted by § 63.1-26 of the Code of Virginia.

**Purpose:** This proposed regulation establishes the possession of a baccalaureate degree in a human services field as a screening mechanism for the further evaluation of an applicant for position vacancies in the Service Program/Service Program Supervision classification series. If an applicant denotes a degree on his application, then the evaluation of the application continues using knowledge, skill, and ability criteria. Possession of a degree does not guarantee an applicant will be certified

# Calendar of Events

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for an interview.

**Impact:** The persons impacted by this proposed regulation are applicants for the following position vacancies:

Social Worker  
Child Protective Services Worker I  
Senior Social Worker  
Child Protective Services Worker II  
Principle Social Worker  
Social Worker Supervisor  
Senior Social Worker Supervisor

Local departments of social services will be positively impacted by the enhancement of credibility of service staff. The public perception of professionalism of the above workers will be elevated.

Statutory Authority: § 63.1-26 of the Code of Virginia.

Written comments may be submitted until April 15, 1990, to Eddie L. Perry, Human Resources Director Senior, 8007 Discovery Dr., Richmond, Virginia 23229.

**Contact:** Peggy Friedenber, Agency Regulatory Liaison, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217

\* \* \* \* \*

† **March 26, 1990 - 10 p.m.** – Public Hearing  
Blair Building, 8007 Discovery Drive, Conference Room A and B, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: **VR 615-48-02. Employment Services Program Policy.** The purpose of the proposed action is to amend Employment Services Program Policy to include provisions of the Job Opportunities and Basic Skills (JOBS) program. These amendments address provisions presented to the department as both optional and mandatory.

## STATEMENT

**Basis:** Title II of the Family Support Act of 1988, Title IVA and IVF of the Social Security Act and Title 63.1, Chapters 6.2 and 6.3 of the Code of Virginia.

**Purpose:** The purpose of the amendments is to allow for provision of the Job Opportunities and Basic Skills (JOBS) Training Program under the Family Support Act of 1988.

**Substance:** These regulations describe the eligibility and participation requirements for the Employment Services Program and designate allowable program components and services to be operated by local agencies.

**Issues:** There are six issues addressed in these regulations:

1. The policy allowing 18 or 19 year olds without a high school degree or its equivalent to participate in training or work activities instead of education recognizes the individual participant's employment needs and provides mechanisms to address these specified needs.

2. The policy that individuals 20 to 24 years of age, who do not have a high school diploma or its equivalent, must participate in educational activities expands the age group from the federally mandated age of under 20 years old. However, it recognizes that circumstances exist in which individuals may not benefit from further educational activities, but may be better served through other employment and training activities.

3. Current policy allows individuals working 30 or more hours per week to be exempt from participation in the Employment Services Program. This policy has been expanded to include a provision that the employment must be at minimum wage or higher and the individual remains a program participant for 90 days following job entry. The department recognizes the need for individuals to have not only a job, but one which will make them self-sufficient and reduce their welfare dependency.

4. Postsecondary education is an alternative education activity to assist participants to obtain unsubsidized employment that will lead to self-sufficiency.

5. Work supplementation (Grant Diversion) will continue to be offered as an optional component.

6. The addition of on-the-job training as an optional component allows the Employment Services Program to report participation for recipients who receive this services through the Job Training Partnership Act.

**Estimated impact:** The proposed amendments are necessitated by the JOBS regulations, 45 CFR, Part 205. Collectively, they offer more flexibility to local agencies in the delivery of employment programs and services. They offer more tailored services to participants recognizing individual circumstances and special education, training and employment needs. In essence, the provisions impact the mix of services available within local areas. It is anticipated that the provisions will not increase administrative responsibilities or costs.

**Fiscal impact:** These optional amendments in and of themselves have no fiscal impact. They drive the program design and policy and will operate within the resources made available to the JOBS Program.

Statutory Authority: Title IVA and IVF of the Social Security Act and § 63.1-25 of the Code of Virginia.

Written comments may be submitted until April 12, 1990, to Madeleine Guerin, Department of Social Services, 8007

Discovery Drive, Richmond, Virginia 23229-8699.

**Contact:** Margaret J. Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9182

## VIRGINIA SOIL AND WATER CONSERVATION BOARD

**March 5, 1990** – Written comments may be submitted until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to amend regulations entitled: **VR 625-03-00. Flood Prevention and Protection Assistance Fund.** This regulation is intended to provide administration of the Flood Prevention and Protection Fund and to provide guidance and assistance to local public bodies applying for a loan or grant.

Statutory Authority: § 10.1-603.18 of the Code of Virginia.

Written comments may be submitted until 3 p.m., March 5, 1990, to Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, Virginia 23219.

**Contact:** L. S. Button, Jr., Manager, Bureau of Dam Safety and Floodplain Management, Department of Conservation and Recreation, 203 Governor St., Suite 238, Richmond, VA 23219, telephone (804) 371-7536

## VIRGINIA SOYBEAN BOARD

† **March 14, 1990 - 1:30 p.m.** – Open Meeting

† **March 15, 1990 - 1:30 p.m.** – Open Meeting

Williamsburg Hilton and Conference Center, Williamsburg, Virginia

The board will review project reports on projects that were funded for fiscal 1989-90 and will receive project proposals for fiscal 1990-91.

**Contact:** W. Rosser Cobb, IV, Executive Secretary, P. O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710 or SCATS 371-2163

## DEPARTMENT OF TAXATION

**February 20, 1990 - 2 p.m.** – Public Hearing  
Department of Taxation, Central Office Training Room, 2200 West Broad Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-2-335. Individual Income Tax: Virginia Tax**

**Reform Credit.** The purpose of the proposed action is to inform individual income taxpayers of the correct procedures for claiming the Virginia Tax Reform Credit enacted by the 1989 General Assembly.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until February 20, 1990.

**Contact:** Janie E. Bowen, Director, Tax Policy Division, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010

## COMMONWEALTH TRANSPORTATION BOARD

† **February 14, 1990 - 2 p.m.** – Open Meeting  
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

† **February 15, 1990 - 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 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, telephone (804) 786-9950

## TREASURY BOARD

**February 21, 1990 - 9 a.m.** – Open Meeting

† **March 21, 1990 - 9 a.m.** – Open Meeting

James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ☒

A regular monthly meeting.

**Contact:** Laura Wagner-Lockwood, Senior Debt Manager, Department of the Treasury, P. O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4931

## BOARD OF VETERINARY MEDICINE

**February 14, 1990 - 8:30 a.m.** – Open Meeting  
Kingsmill Resort and Conference Center, 1010 Kingsmill Road, Randolph Room, Williamsburg, Virginia. ☒ (Interpreter for deaf provided if requested)



# Calendar of Events

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A meeting to conduct general board business and formal hearings.

**Contact:** Terri H. Behr, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9915

## VIRGINIA MILITARY INSTITUTE

### Board of Visitors

† **March 31, 1990 - 8 a.m.** – Open Meeting  
Virginia Military Institute, Smith Hall Board Room, Smith Hall, Lexington, Virginia. ☒

A regular Spring meeting of the VMI Board of Visitors to (i) review committee reports; (ii) visit academic departments; and (iii) adopt 1990-91 Operating Budget.

**Contact:** Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206

## VIRGINIA RESOURCES AUTHORITY

† **February 13, 1990 - 10 a.m.** – Open Meeting  
Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia

The board will meet to (i) approve minutes of the meeting of January 9, 1990; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** Shockley D. Gardner, Jr., 909 E. Main St., Suite 707, Mutual Bldg., Richmond, VA 23219, telephone (804) 644-3100 or FAX number (804) 644-3109

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Advisory Committee on Services

† **April 28, 1990 - 11 a.m.** – Open Meeting  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee meets quarterly to advise the board on matters related to services for blind and visually handicapped citizens of the Commonwealth.

**Contact:** Barbara G. Tyson, Executive Secretary, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3350, toll-free 1-800-622-2155 or (804) 371-3140/TDD ☎

## Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

† **February 27, 1990 - 2 p.m.** – Open Meeting  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒

A regular monthly meeting.

**Contact:** Glen R. Slonneger, Jr., Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3340/TDD ☎

## VIRGINIA VOLUNTARY FORMULARY BOARD

**March 6, 1990 - 10:30 a.m.** – Open Meeting  
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

A meeting to review (i) public hearing comments; (ii) correspondence and (iii) other information submitted by pharmaceutical manufacturers for products being considered for inclusion in or deletion from the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-4326

## VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

**February 14, 1990 - 10 a.m.** – Open Meeting  
Jefferson-Sheraton Hotel, Richmond, Virginia

**February 15, 1990 - 10 a.m.** – Open Meeting  
James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

February 14, 1990 - 10 a.m. - committee meetings.  
1:30 p.m. - business session  
3:15 p.m. - work session

February 15, 1990 - 10 a.m. - meeting with the Virginia Board of Education.

**Contact:** George S. Orr, Jr., Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Road, Richmond, VA 23237, telephone (804) 275-6218

## STATE WATER CONTROL BOARD

**February 12, 1990 - 2 p.m.** – Public Hearing  
Newport News City Council Chambers, City Hall, 2400 Washington Avenue, Newport News, Virginia

**February 26, 1990 - 10:30 a.m.** – Public Hearing  
Rockbridge Regional Library, 128 South Main Street, Lexington, Virginia

March 19, 1990 - 3 p.m. - Formal Hearing  
General Assembly Building, Capitol Square, Senate Room  
B, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-01. Standards with General, Statewide Application.** The proposed amendment would add a new section, VR 680-21-01.15 - Dioxin for Surface Waters, to the Water Quality Standards.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until March 5, 1990, to Doneva Dalton, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Durwood Willis, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 367-6714

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February 22, 1990 - 2 p.m. - Public Hearing  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-16-16. Richmond-Crater Interim Water Quality Management Plan.** The purpose of the proposed amendment is to provide a basis for long-term implementation of a Combined Sewer Overflow Control Plan for the City of Richmond.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until February 22, 1990, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Curt Linderman, Piedmont Regional Office, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-1006

March 19, 1990 - 9 a.m. - Open Meeting

March 20, 1990 - 9 a.m. - Open Meeting  
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, Office of Policy Analysis, P. O. Box 11143, Richmond, VA 23230, telephone (804) 367-6829

COUNCIL ON THE STATUS OF WOMEN

† March 13, 1990 - 8 p.m. - Open Meeting  
The Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

Meetings of the standing committees of the council.  
† March 14, 1990 - 9 a.m. - Open Meeting  
The Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

A regular meeting of the council to conduct general business and to receive reports from the council standing committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9200

LEGISLATIVE

Notice to Subscribers

Legislative meetings held during the Session of the General Assembly are exempt from publication in The Virginia Register of Regulations. You may call Legislative Information for information on standing committee meetings. The number is (804) 786-6530.

CHRONOLOGICAL LIST

OPEN MEETINGS

February 12  
† Harrisonburg/Rockingham Local Emergency Planning Committee

February 13  
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for - Board for Engineers  
Hazardous Materials Training Committee  
† Virginia Resources Authority

February 14  
† Eastern Shore ASAP Policy Board  
Social Services, State Board of  
† Transportation Board, Commonwealth  
Veterinary Medicine, Board of  
Vocational Education, Council on

February 15

# Calendar of Events

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Arlington County/City of Falls Church Local  
Emergency Planning Committee  
Audiology and Speech Pathology, Board of  
Contractors, Board for  
Education, Board of  
† Game and Inland Fisheries, Department of  
† Housing and Community Development, Board of  
- Amusement Device Technical Advisory Committee  
Social Services, State Board of  
† Transportation Board, Commonwealth  
Vocational Education, Council on

## February 16

† Air Pollution Control Board, State  
Audiology and Speech Pathology, Board of  
† Building Code Technical Review Board, State  
Children, Coordinating Committee for  
Interdepartmental Licensure and Certification of  
Residential Facilities for Children  
Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
† - Goose Creek Scenic River Advisory Board  
Education, Board of  
† Game and Inland Fisheries, Department of  
† Medicine, Board of  
- Informal Conference Committee

## February 17

† Conservation and Recreation, Department of  
- Virginia Cave Board

## February 20

† Corrections Resources Board, Community  
† Historic Resources, Board of  
† Historic Resources, Department of  
- State Review Board  
† Housing Development Authority, Virginia  
† Mental Health, Mental Retardation and Substance  
Abuse Services, Department of  
- State Human Rights Committee  
Real Estate Board  
Taxation, Department of

## February 21

† Conservation and Recreation, Department of  
- Catoctin Scenic River Advisory Board  
† Racing Commission, Virginia  
Real Estate Board  
Rehabilitative Services, Board of  
- Finance Committee  
- Legislation and Evaluation Committee  
- Program Committee  
Treasury Board

## February 22

Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
- Architects, Board for  
† Medicine, Board of  
- Informal Conference Committee  
Mental Health, Mental Retardation and Substance

Abuse Services, Department of  
- Substance Abuse Advisory Council  
Rehabilitative Services, Board of  
Rights of the Disabled, Department for  
- Protection and Advocacy for Mentally Ill  
Individuals Advisory Council

## February 23

Longwood College  
- Board of Visitors  
- Executive Committee  
Medicine, Board of  
- Ad Hoc Committee on X-Ray Technicians  
† - Informal Conference Committee  
† Real Estate Board

## February 27

Health Services Cost Review Council  
Marine Resources Commission  
Real Estate Board  
† Visually Handicapped, Department for the  
- Interagency Coordinating Council on Delivery of  
Related Services to Handicapped Children

## February 28

† Contractors, Board for  
† Lottery Board, State  
Medicine, Board of  
- Advisory Committee on Acupuncture  
† Mental Health, Mental Retardation and Substance  
Abuse Services Board, State  
Nursing Home Administrators, Board of

## March 1

Chesterfield County, Local Emergency Planning  
Committee of  
Nursing Home Administrators, Board of  
† Psychology, Board of

## March 5

Corn Board, Virginia  
Housing and Community Development, Department of

## March 6

Corn Board, Virginia  
Hopewell Industrial Safety Council  
Voluntary Formulary Board, Virginia

## March 7

Children, Department for  
- Consortium on Child Mental Health  
Housing and Community Development, Department of

## March 8

Child Day-Care Council  
† Library Board  
† Mines, Minerals and Energy, Department of

## March 9

† Medicine, Board of  
- Ad Hoc Committee on Optometry

- March 10**  
Dentistry, Board of
- March 12**  
Local Government, Commission on
- March 13**  
Mental Health, Mental Retardation and Substance Abuse Services, Department of  
- 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  
† Women, Council on the Status of
- March 14**  
Mental Health, Mental Retardation and Substance Abuse Services, Department of  
- 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  
† Soybean Board, Virginia  
† Women, Council on the Status of
- March 15**  
† Farmers' Market Board, Virginia  
† Soybean Board, Virginia
- March 16**  
Children, Coordinating Committee for Interdepartmental Licensure and Certification of Residential Facilities for Children
- March 19**  
Water Control Board, State
- March 20**  
† Forestry, Department of  
- Reforestation of Timberlands Board  
Water Control Board, State
- March 21**  
† Treasury Board
- March 22**  
Medicine, Board of
- March 23**  
Medicine, Board of
- March 24**  
Medicine, Board of
- March 25**  
Medicine, Board of
- March 26**  
† Nursing, Board of
- March 27**
- † Nursing, Board of
- March 28**  
† Nursing, Board of
- March 29**  
† Aging, Department for the  
- Long Term-Care Ombudsman Program Advisory Council
- March 31**  
† Virginia Military Institute  
- Board of Visitors
- April 4**  
Children, Department for  
- Consortium on Child Mental Health
- April 5**  
Chesterfield County, Local Emergency Planning Committee
- April 28**  
† Visually Handicapped, Department for the  
- Advisory Committee on Services
- May 2**  
Children, Department for  
- Consortium on Child Mental Health

## PUBLIC HEARINGS

- February 12**  
Water Control Board, State
- February 20**  
Taxation, Department of
- February 22**  
Water Control Board, State
- February 23**  
Medicine, Board of
- February 26**  
Water Control Board, State
- March 1**  
Forestry, Department of
- March 2**  
Housing and Community Development, Department of
- March 7**  
Health Services Cost Review Council, Virginia
- March 26**  
† Nursing, Board of

# Calendar of Events

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† Social Services, Department of

**March 28**

Human Rights, Council on

**April 4**

Criminal Justice Services Board

**April 12**

Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for

**April 13**

Motor Vehicles, Department of

**April 17**

† Health, Department of

**April 19**

† Health, Department of

**April 20**

† Health, Department of

**May 16**

Agriculture and Consumer Services, Department of