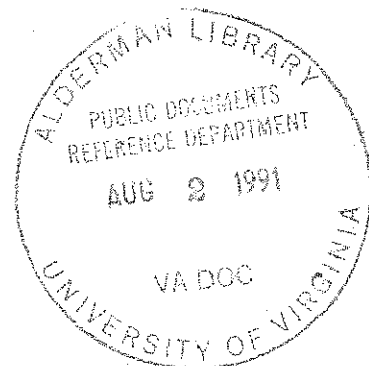


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THE VIRGINIA REGISTER

OF REGULATIONS

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July 29, 1991

1991

Pages 3333 Through 3548

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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July 1991 through September 1992

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Aug. 21	Sept. 9
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Symbol Key

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

CHILD DAY-CARE COUNCIL

Title of Regulation: VR 175-02-01. Minimum Standards for Licensed Child Care Centers.

Statutory Authority: §§ 63.1-202 and 63.1-202.1 of the Code of Virginia.

NOTICE: The board proposes to REPEAL these regulations and the following two new regulations are to be promulgated to replace this regulation.

* * * * *

Title of Regulation: VR 175-08-01. Minimum Standards for Licensed Child Care Centers, Nursery Schools, and Child Day Care Camps Serving Children of Preschool Age or Younger.

Statutory Authority: §§ 63.1-202 and 63.1-202.1 of the Code of Virginia.

Public Hearing Date:

September 16, 1991 - 3:30 p.m.

September 17, 1991 - 3:00 p.m.

September 19, 1991 - 3:00 p.m.

(See Calendar of Events section for additional information)

Summary:

This regulation lists the standards that child care centers, nursery schools, and child day care camps serving children of preschool age or younger must meet to be licensed by the Department of Social Services. The following areas are addressed in the regulation: (i) administration, (ii) personnel, (iii) physical plant, (iv) staffing and supervision, (v) program, (vi) special care provisions and emergencies, and (vii) special services.

VR 175-08-01. Minimum Standards for Licensed Child Care Centers, Nursery Schools, and Child Day Care Camps Serving Children of Preschool Age or Younger.

PART I. INTRODUCTION.

Article 1. Definitions.

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

"Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator is responsible for supervising the program director or may, if appropriately qualified, concurrently serve as the program director.

"Adult" means any individual 18 years of age or over.

"Age groups"

"Infant" means children from birth to 16 months.

"Toddler" means children from 16 months up to two years.

"Preschool" means children from two years up to the age of eligibility to attend public school.

"School age" means children from the age of eligibility to attend public school and older.

"Age of eligibility to attend public school" means five years old by September 30.

"Aide" means the individual designated to be responsible for helping the program leader/child care supervisor in supervising children and in implementing the activities and services for children.

Note: Position titles used in these standards are descriptive only and do not preclude the use of other titles by centers.

"Camp" means a child day care camp.

"Center" means a child care center, before school and after school day care program, nursery school, and child day care camp or any combination located on the same premises.

"Character and reputation" means findings have established, and knowledgeable and objective people agree, that the individual (i) maintains business/professional, family, and community relationships which are characterized by honesty, fairness, truthfulness, and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage, and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

Proposed Regulations

"Child" means any individual under 18 years of age.

"Child care center" means any "facility operated for the purpose of providing care, protection, and guidance to two or more children separated from their parents or guardian during a part of the day only."

Exceptions (§ 63.1-195 of the Code of Virginia):

1. "A private family home offering care to five or fewer children";
2. "A group family day care home";
3. "A public school or private school unless the commissioner determines that such school is operating a child care center outside the scope of regular classes";
4. "A recreation program operated primarily for recreational development and instruction at a public or private school or facility unless the commissioner determines that such program is child care outside the scope of regular recreational programs";
5. "A Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services";
6. Exemption as set out in § 63.1-196.3 of the Code of Virginia: A child care center operated or conducted under the auspices of a religious institution may be exempted from licensure by filing specified information with the department.

"Child day care camp" means a "facility operated seasonally or year-round offering programs or services to two or more children separated from their parents or guardian during part of the day only, which provides care, protection, and guidance and emphasizes outdoor activities. A camp is subject to licensure if its sessions cover a period in excess of 14 consecutive days or if the same children are eligible to attend two or more sessions covering a period not in excess of 14 consecutive days with fewer than six days between sessions" (§ 63.1-195 of the Code of Virginia).

Exemption: As set out in § 63.1-196.3 of the Code of Virginia, a child day care camp operated or conducted under the auspices of a religious institution may be exempted from licensure by filing specified information with the department.

"Child with a developmental delay" means a child who manifests atypical development or behavior which is demonstrated by one or more of the following:

1. A typical quality of performance and function in one or more developmental areas;

2. Significant gaps within or between the developmental areas;

3. Behavior patterns that interfere with the acquisition of developmental skills.

Infants and toddlers are considered developmentally delayed when they are at least 25% below their chronological or adjusted age in one or more of the developmental areas. For infants and toddlers born prematurely (gestation 34 weeks), the child's adjusted age is used to determine developmental status. Chronological age is used once the child is 18 months.

Developmental areas include cognitive development, physical development (including fine motor, gross motor, vision, and hearing), language or speech development, psycho-social development, and self-help skills.

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

"Contract employee" means an individual who enters into an agreement to provide specialized services for a specified period of time.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.

"Developmentally appropriate" means a philosophy which applies a knowledge of child development to the curriculum, the environment, adult-child interactions, and staff-parent interactions, and which recognizes the age span of the children within the group, as well as the needs of the individual child.

"Evening care" means care provided in a center between the hours of 7 P.M. and 1 A.M., inclusively.

"Fall zone" means the area underneath and surrounding equipment that requires a protective surface. It shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use.

"Field trip" means excursions away from the facility including walks away from the facility.

"Program leader" or "child care supervisor" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children.

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

Proposed Regulations

"Nursery school" means a child care center in which:

1. The center offers care, protection, guidance, and education to two or more children age two to five years of age who are separated from their parents;
2. These children attend two or more times a week for two or more hours each time;
3. These children attend not more than four hours a day for children two through four years of age and not more than six and one-half hours a day for children five years of age; and
4. The center may offer an additional, enrichment program for up to two hours once a week.

Note: Nursery schools do not include family day care homes and private family homes offering care to five or fewer children.

Exemption: As set out in § 63.1-196.3 of the Code of Virginia, a nursery school operated or conducted under the auspices of a religious institution may be exempted from licensure by filing specified information with the department.

"Overnight care" means care provided in a center between the hours of 1 A.M. and 5 A.M., inclusively.

"Parent" means the biological or adoptive parent(s) or legal guardian(s) of a child enrolled or in the process of being enrolled in a center.

"Physician" means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

"Program director" means the primary, on-site director/coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the management of the supervision of all staff who work with children and the orientation, training, and scheduling of all staff who work directly with children, whether or not the program director personally performs these functions.

Exception: The administrator may perform staff orientation/training or program development functions if the administrator meets the qualifications in § 3.6 of these regulations and a written delegation of responsibility specifies the duties of the program director.

"Programmatic experience in the group care of children" means time spent working directly with children in a group, in a child care situation which is located away from the child's home (i.e., Sunday school, vacation Bible school, scouts, etc.).

"Speciality camps" means those centers which have an educational or recreational focus on one subject which

may include, but is not limited to, dance, drama, music, sports.

"Sponsor" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to licensure.

"Staff" means administrative, activities, service, and volunteer personnel including the licensee when the licensee is an individual who works in the facility.

"Volunteers" means persons who come to the center less than once a week and are not counted toward the required number of staff.

"Volunteer personnel" means persons who work at the center once a week or more often or who are counted in the required ratio of staff to children.

Article 2. Legal Base.

§ 1.2. Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia describes the responsibility of the Department of Social Services for the regulation of residential and day care programs, including child care centers, before school and after school day care programs, nursery schools, and child day care camps.

§ 1.3. Section 63.1-202 of the Code of Virginia requires the Child Day-Care Council to prescribe standards for certain activities, services, and facilities for child care centers, before school and after school day care programs, nursery schools, and child day care camps.

Article 3. Purpose.

§ 1.4. The purpose of these minimum standards is to protect children who are separated from their parents during a part of the day by:

1. Ensuring that the activities, services, and facilities of centers are conducive to the well-being of children, and
2. Reducing risks in the child care environment.

Article 4. Applicability.

§ 1.5. These minimum standards apply to child care centers serving children of preschool age or younger including nursery schools and child day care camps as defined in 1.1 of these standards.

PART II. ADMINISTRATION.

Proposed Regulations

Article 1. Sponsorship.

§ 2.1. Each center shall have a clearly identified sponsor which shall be identified by its legal name in accordance with state requirements.

§ 2.2. The names and addresses of individuals who hold primary financial control and officers of the sponsor/governing body shall be disclosed fully to the Department of Social Services.

§ 2.3. The sponsor, represented by the individual proprietor, partners, officers, and managers delegated authority to act for a sponsor shall be of good character and reputation and shall not have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

Article 2. Operational Responsibilities.

§ 2.4. As required in § 63.1-198 of the Code of Virginia, the sponsor shall afford the commissioner or his agents the right at all reasonable times to inspect the facility(ies), all of his financial books and records, and to interview his agents, employees, and any child or other person within his custody or control.

§ 2.5. A certified financial statement prepared for the facility by a certified public accountant shall be submitted to the department before initial licensure.

§ 2.6. The license shall be posted in a place conspicuous to the public, near the main entrance of the building(s) or the main office.

§ 2.7. The operational responsibilities of the licensee shall include, but not be limited to, the following:

1. To develop a written statement of the purpose, scope, and philosophy of the services to be provided by the center and written policies under which the center will operate;

2. To ensure that the center's activities, services, and facilities are maintained in compliance with these minimum standards; with the terms of the current license issued by the department; with other relevant federal, state, and local laws and regulations; and with the center's own policies and procedures; and

3. To identify in writing the individual(s) responsible for the day-to-day operations and implementation of both these regulations and the facility's policies.

§ 2.8. No center "shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made...an advertisement of any sort regarding services or anything so offered to the public, which ... contains any promise, assertion, representation, or

statement of fact which is untrue, deceptive, or misleading" (§ 63.1-196 of the Code of Virginia).

§ 2.9. The center shall maintain public liability for bodily injury with a minimum limit of at least \$500,000 each occurrence/\$500,000 aggregate or have equivalent self insurance which is in compliance with local codes. Evidence of insurance coverage shall be made available to the department's representative upon request.

§ 2.10. A school accident health insurance program for children enrolled shall be available for the parent to purchase.

§ 2.11. The center shall develop an annual plan for injury prevention. This plan shall be based on documentation of injuries and a review of the activities and services.

§ 2.12. The center shall develop a playground safety plan which shall include:

1. Provision for active supervision by staff; and
2. Positioning of staff on the playground to help meet the safety needs of children; and
3. Schedule and method to maintain the required resilient surface.

§ 2.13. Hospital operated child care centers may temporarily exceed their licensed capacity during a natural disaster if:

1. The center has developed a plan with defined limits for its emergency operation, and
2. The center has received prior approval of the department. The department may monitor the center during this time and impose additional requirements for the safety of children or withdraw the approval to exceed the capacity.

Article 3. Policies and Procedures.

§ 2.14. Before a child's admission and before staff are allowed to supervise children, parents and staff shall be provided the following:

1. Operational information:
 - a. The center's purpose, scope, philosophy, and any religious affiliations;
 - b. The hours and days of operation, specific hours during which special activities are offered, and holidays or other times closed;
 - c. The procedures for admission and registration of children and removal of children from the rolls, including the amount of notice required from the

Proposed Regulations

parent and the center before removal from the rolls;

d. Fees and tuition including whether participation in the accident or school insurance is mandatory;

e. The program and services provided and the ages of children accepted;

f. Provisions for children with a developmental delay and any special services offered if special needs children are accepted;

g. Organizational chart or other description of established lines of authority for persons responsible for center management within the organization;

h. Reasons for the center to terminate enrollment of the child; and

i. Licensing information found in Appendix I.

2. Arrival and departure for children:

a. Procedures for caring for a child who may arrive after any scheduled start time of the center;

b. Procedures to confirm absence of a child from the center when the child attends more than one care or educational arrangement a day;

c. Policy governing a parent picking up a child after closing hours and procedures if the child is not picked up;

d. Policy for release of children from the center only to responsible persons for whom the center has written authorization; and

e. Procedures for protecting children from traffic and other hazards during arrival and departure and when crossing streets.

3. Program and activities:

a. Procedures about accepting and storing children's personal belongings;

b. Discipline policies including acceptable and unacceptable discipline measures;

c. Food policies; and

d. Transportation safety policies and procedures when provided.

4. Health and emergencies:

a. Procedures for identifying where attending children are at all times including field trips;

b. Procedures for storing and giving children's medications;

c. Procedures for action in case of lost or missing children, ill or injured children, medical emergencies, and natural disasters, including but not limited to fire, flood, or other severe weather; and

d. Procedures for reporting child abuse.

Article 4. Records, Logs, and Reports.

§ 2.15. General record keeping.

A. All children's records and personnel records shall be treated confidentially with access restricted to officials under the authority of the Code of Virginia. Children's records may also be available to the custodial parent.

B. Records, logs, and reports shall be kept current.

C. All records, logs, and reports on children and staff required by these standards shall be maintained and accessible for two years after termination of enrollment or employment unless specified otherwise.

§ 2.16. Children's records.

Each center shall maintain and keep at the facility a separate record for each child which shall contain the following information:

1. Name, nickname (if any), sex, and birth date of the child;

2. Name, home address, and home phone number of each parent who has custody;

3. When applicable, work phone number and place of employment of each parent who has custody;

4. Name and phone number of child's physician;

5. Name, address, and phone number of two designated people to call in an emergency if a parent cannot be reached;

6. Names of persons authorized to pick up the child. Appropriate custodial paperwork shall be on file when the parent requests the center not to release the child to the other parent;

7. Allergies and intolerance to food, medication, or any other substances, and actions to take in an emergency situation;

8. Chronic physical problems, special abilities, or developmental delays, if any;

9. Health information as required by §§ 2.26 through

Proposed Regulations

2.28 of these regulations;

Exception: When a center is located in the same building where a child attends school and the child's record has a statement verifying the school's possession of the health record, the center is not required to maintain duplicates of the school's health record for that child

10. Name of any additional programs or schools that the child is concurrently attending and the grade or class level;

11. Admission date; and

12. Enrollment termination date when applicable.

§ 2.17. Staff records.

Staff records shall be kept for paid staff and volunteer personnel which shall include the following:

1. Name, address, birth date, job title, and date of employment/volunteering;

2. Documentation that two or more references as to character and reputation as well as competency were checked before employment or volunteering. If a reference check is taken over the phone, documentation shall include date(s) of contact, name of person(s) contacted, the firm(s) contacted, results, and signature of person making call.

Exception: Reference checks are not required for:

a. Staff hired before April 1, 1986, in centers initially licensed before July 1, 1992, and

b. Staff who began work before July 1, 1992, in centers that were initially licensed after July 1, 1992.

3. A criminal record check as required by the Regulation for Criminal Record Checks; and

Note: A criminal record check is required for volunteers, except for parent volunteers as defined in the Regulation for Criminal Record Checks, who at any time would be alone with, in control of, or supervising one or more children outside the physical presence of a paid facility staff member.

4. Name, address, and telephone number of a person to be notified in an emergency;

5. Written information to demonstrate that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position;

6. First aid and other certification as required by the responsibilities held by the staff member;

7. Health information as required by §§ 2.29 through 2.31 of these regulations;

8. Information about any chronic health problems, drug reactions, allergies, medication taken, and any other health concerns;

9. Date of termination when applicable.

§ 2.18. The center shall keep a written log of the following:

1. Children in attendance each day;

2. Medication given to children as required by § 7.17 subdivisions 1 through 4;

3. Children's accidents or injuries as required in § 7.32 subdivisions 1 through 7;

4. Quarterly asbestos inspections as required in § 4.2 C 2; and

5. Emergency evacuation practice drills as required in § 7.26.

§ 2.19. Reports shall be filed and maintained as follows:

1. The center shall inform the commissioner's representative within two working days of the circumstances surrounding the following incidences:

a. Death of a child, and

b. Missing child when local authorities have been contacted for help.

2. Any suspected incidence of child abuse shall be reported in accordance with 63.1-248.3 of the Code of Virginia.

Article 5.

Admissions and Termination Procedures.

§ 2.20. A written agreement between the parent and the center shall be in each child's record at the time of the child's admission. The agreement shall be signed by the parent and include:

1. An authorization for emergency medical care should an emergency occur when the parent cannot be located immediately, and

2. A statement that the center will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible.

§ 2.21. When applicable, written permission from the parent authorizing the child's participation in the center's transportation and field trips shall be in the child's record.

§ 2.22. The phone number of the center shall be given to the parent upon the child's enrollment.

§ 2.23. Before enrolling a child with a developmental delay, the center shall verify the child's independent skill level to assure that adequate care can be provided by the center. An assessment shall include guidance from the child's parent(s) and a professional familiar with the child or his developmental delay.

§ 2.24. When a center decides to terminate the enrollment of a child, the center shall provide the parent in writing the reason(s) for termination.

§ 2.25. Before the admission of a preschool or younger child, there shall be a personal interview at the facility with a staff person, the parent, and the child unless there are unusual circumstances which do not allow the child to be present for the initial interview. The purpose of the interview shall be to provide the opportunity for the parent and staff to share information and agree about the admission of the child.

Article 6. Health for Children and Staff

§ 2.26. Immunizations for children.

A. Regulations by the State Board of Health for the immunization of school children require documentation of all age appropriate immunizations prescribed in the regulations before each child's admission to a center licensed by this Commonwealth.

Exemptions (§ 22.1-271.2C of the Code of Virginia and § 3.03 of the Regulations for the Immunizations of School Children.): Documentation of immunizations is not required for any child whose (i) parent submits an affidavit to the center, on the form entitled "Certification of Religious Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices, or (ii) physician or a local health department states on a MCH 213B Form that one or more of the required immunizations may be detrimental to the child's health.

B. Updated information on immunizations received shall be obtained once every six months for children under the age of two years.

C. Updated information on immunizations received shall be obtained once between each child's fourth and sixth birthdays.

§ 2.27. Physical examinations for children.

Each child shall have a physical examination by or under the direction of a physician before admission or within one month after admission. The schedules for examinations prior to admission for children are listed below:

1. Within two months prior to admission for children six months of age and younger;

2. Within three months prior to admission for children aged seven months through 18 months;

3. Within six months prior to admission for children aged 19 months through 24 months;

4. Within 12 months before admission for children two years of age through five years of age; and

5. Within two years before admission for children six years of age and above.

Exceptions.

1. Children transferring from a facility licensed by the Virginia Department of Social Services, certified by a local department of public welfare/social services, or approved by a licensed family day care system:

a. If the initial report or a copy of the initial report of immunizations is available to the admitting facility, no additional examination is required.

b. If the initial report or a copy of the initial report is not available, a report of physical examination and immunization is required in accordance with §§ 2.26 and 2.27.

2. (§ 22.1-270 D of the Code of Virginia): Physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.

§ 2.28. Form and content of immunizations and physical examination reports for children.

A. The current form required by the Virginia Department of Health shall be used to report immunizations received and the results of the required physical examination. See Appendix II for a copy of this form. Exception: When the current Health Department form has not been used such as, but not limited to, when a child transfers from another state, other documentary proof of the child having received the required examination and immunization shall be accepted. Documentary proof may include, but not be limited to, an International Certificate of Immunization, another state's immunization form, or a physician's letterhead.

B. Each report shall include the date of the physical examination and dates immunizations were received.

C. Each report shall be signed by a physician, his designee, or an official of a local health department.

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§ 2.29. Tuberculosis examination for staff.

A. Each staff member, including the licensee, administrator, and volunteer personnel, shall obtain and submit a statement that he is free of tuberculosis in a communicable form. The statement shall be submitted no later than three working days after employment and shall:

1. Be dated within 30 days before or three working days after employment of the individual;
2. Include the type(s) of test(s) used and the results; and
3. Include the signature of the physician, the physician's designee, or an official of a local health department. Exception: When a staff member terminates work at one licensed facility or public or private school and begins work at a licensed center with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the licensed center.

B. The tuberculosis examination shall be repeated as required by a licensed physician or the local health department.

C. Any staff member who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall within one month after exposure or development receive an evaluation in accordance with § 2.29 A B of these regulations.

§ 2.30. When there are indications that the safety of children may be jeopardized by the physical health or mental health of a staff member or volunteer, a report of examination of this person by a physician or, if appropriate, a clinical psychologist skilled in the diagnosis and treatment of mental illness shall be obtained. The request for obtaining an examination may come from the licensee, administrator, or department.

§ 2.31. If a staff member's or volunteer's examination or test results indicate that his physical or mental condition may jeopardized the safety of children or prevent his performance of duties, the staff member shall not be allowed contact with children or food served to children. The staff member may return when his condition is cleared to the satisfaction of the physician or clinical psychologist as evidenced by a signed, dated statement from the physician or clinical psychologist.

PART III. PERSONNEL.

Article 1. General Qualifications.

§ 3.1. No staff shall have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

§ 3.2. All staff shall understand and be sensitive to the varying capabilities, interests, needs, and problems of children in care.

§ 3.3. All staff shall be:

1. Of good character and reputation;
2. Capable of carrying out assigned responsibilities;
3. Willing and able to accept training and supervision;
4. Able to communicate effectively both orally and in writing as applicable to the job responsibility; and
5. Able to understand and apply the minimum standards in this booklet which relate to their respective responsibilities.

§ 3.4. All staff who work directly with children shall have the abilities to:

1. Communicate with emergency personnel and understand instructions on a prescription bottle;
2. Communicate effectively and appropriately with the age group to whom the staff person is assigned;
3. Communicate effectively with parents;
4. Provide a stimulating and safe environment for the age group to whom the staff person is assigned; and
5. Use materials, activities, and experiences to encourage children's growth and development.

Article 2. Qualifications by Job Responsibility.

§ 3.5. All staff who work in multiple positions within the center shall meet the qualifications for each position. Note: Personnel titles used in the standards are descriptive only. Centers are not required to use the same titles. The program director may have responsibilities for several centers at one site.

§ 3.6. Administrators.

Administrators performing some of the responsibilities of the program director shall be at least 21 years of age and shall possess:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children.
2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children.

§ 3.7. There may be one program director for several types of centers at one site or there may be one program director for each type of center at one site. If a program director is responsible for a center with school age children and a center with children of preschool age or younger, the qualifications applicable to both school age and preschool age and younger shall apply.

§ 3.8. Program directors for centers with children of preschool age or younger.

A. Program directors hired or promoted before July 1, 1992, shall have until July 1, 1994, to meet the qualifications of § 3.8 B. Program directors hired or promoted after July 1, 1992, shall meet the qualifications of § 3.8 B immediately.

B. Program directors for centers with children of preschool age or younger shall be at least 21 years of age and possess:

1. A graduate degree in a child related field from an accredited college or university and six months of programmatic experience in the group care of children; or

2. An endorsement or bachelor's degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children; or

3. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to group care of children and one year of programmatic experience in the group care of children; or

4. Two years of programmatic experience in the group care of children, of which one year of this experience shall be in a staff supervisory capacity, and at least one of the following educational backgrounds:

a. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university; or

b. One year early childhood certificate; or

c. A Child Development Associate credential.

§ 3.9. Back-up for program directors.

A. For centers operating eight hours or more per day, if the program director is regularly present in the facility fewer than four hours per day, there shall be an officially designated person who shall assume the responsibility in the absence of the program director and meet the qualifications of § 3.8. In addition, if the program operates multiple shifts for working parents, a program director shall be regularly present for at least four hours of each

shift or have a back-up program director who shall assume responsibility in the absence of the director and meet the qualifications of § 3.8. The grandfather clause as stated in § 3.8 A shall also apply to back-up program directors.

B. For centers operating eight hours or less per day, if the program director is regularly present in the facility less than 50% of the hours of operation, there shall be an officially designated person who shall assume responsibility in the absence of the program director and meet the qualifications of § 3.8. The grandfather clause stated in § 3.8 A shall also apply to back-up program directors.

§ 3.10. Program leaders/child care supervisors.

Program leaders/child care supervisors shall be at least 18 years of age and have a high school diploma or G.E.D. In addition, program leaders/child care supervisors who are hired or promoted after July 1, 1992, and who work with children of preschool age or younger shall meet the program director qualifications in § 3.8 or possess:

1. An endorsement or bachelor's degree in a child related field from an accredited college or university; or

2. Forty-eight semester hours or 72 quarter hours of college credit from an accredited college or university of which 12 semester hours or 18 quarter hours are in subjects relating to group care of children and six months of programmatic experience in the group care of children; or

3. A one year early childhood certificate from an accredited college or university and six months of programmatic experience in the group care of children; or

4. A Child Development Associate credential; or

5. One year of programmatic experience in the group care of children and participation in a staff training plan least 10 hours. The training plan shall reflect developmentally appropriate practices and be conducted within six months of employment at the center.

§ 3.11. Aides.

Aides shall be at least 16 years of age and shall meet the general qualifications, health, orientation training, and staff development requirements for the applicable position.

§ 3.12. Volunteer personnel.

Volunteer personnel shall meet the qualifications for the applicable position.

§ 3.13. Volunteers.

Proposed Regulations

The duties of volunteers shall be clearly defined.

§ 3.14. Volunteers who work with children of preschool age or younger shall be at least 14 years of age.

Article 3.

Staff Orientation Training and Development.

§ 3.15. Orientation training.

Before assuming job responsibility, all staff shall receive the following training and shall certify in writing that all the required training was received:

1. Job responsibilities and who they report to;
2. The policies and procedures listed in subdivisions 1 through 4 of § 2.14 that relate to the staff member's responsibility;
3. The center's playground safety plan unless the staff member will have no responsibility for playground activities or equipment;
4. Confidential treatment of personal information about children in care and their families; and
5. The minimum standards in this booklet which relate to the staff member's responsibilities.

§ 3.16. Staff development.

A. The center shall have a plan for staff development.

B. Staff development activities to meet §§ 3.16 C and 3.17 shall:

1. Be related to children and the function of the center;
2. Consist of some sources outside the center which may include but not be limited to audio and visual tapes, conferences, and workshops;
3. Be from someone with verifiable expertise or experience when conducted as in-service training;
4. Include annually the topics of safety for children, child development and discipline, and playground supervision for staff; and
5. Include, for program directors of centers serving one or more children with a developmental delay and for staff who work directly with one or more children with a developmental delay, training related to the child's developmental delay, main-streaming, and special accommodations. For program directors the training shall be from sources with verifiable expertise and come from outside resources such as college courses, workshops, or training sessions.

C. In addition to first aid and orientation training required elsewhere in these regulations, employed staff who work directly with children shall annually attend eight hours of staff development activities.

§ 3.17. In addition to first aid and orientation training required elsewhere in these regulations, employed staff who work directly with children shall annually attend twelve hours of staff development activities.

3.18. There shall be at least one staff member on duty at all times who has obtained instruction in performing the daily health observation of children. This instruction shall be obtained from a physician, registered nurse, or health department medical personnel at a three year interval.

PART IV. PHYSICAL PLANT.

Article 1.

Approval from Other Agencies.

§ 4.1. Requirements prior to initial licensure

A. Before issuance of initial license and before use of newly constructed, renovated, remodeled, or altered buildings or §§ of buildings, written documentation of the following shall be provided by the applicant or licensee to the licensing representative:

1. Inspection and approval of the building(s) from the local building official; and
2. Inspection and approval from the local health department, or approval of a plan of correction, for meeting requirements for:
 - a. Water supply;
 - b. Sewerage disposal system; and
 - c. Food service, if applicable.

Exception: Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered to have met the requirements of § 4.1 A 1 when housing a center serving children two and a half years of age or older.

B. If a building was under construction before 1978, a written statement from a Virginia licensed asbestos inspector and management planner shall be submitted before initial licensure in order to comply with § 63.1-198.01 of the Code of Virginia. The statement shall include:

1. Verification that the building in which the child care center is located was inspected for asbestos according to the Survey Standards for the Inspection of Child Care Centers for the Presence of Asbestos

Proposed Regulations

effective January 1989;

2. The date(s) of the inspection;
3. Whether asbestos was found in the building;
4. Signature of the licensed asbestos inspector and management planner, including the Virginia Department of Commerce license numbers.
5. If asbestos is found or assumed and not removed, the statement shall include:

- a. The location of any significant asbestos hazard areas;
 - b. Response actions recommended by the inspector; and
 - c. Verification of completion of the management plan.
- c. If asbestos was found in the building, before a license will be issued the prospective licensee shall:

1. Submit to the department a signed, written statement that:
 - a. The recommendations of the operations and maintenance plan will be followed;
 - b. Appropriate staff will receive the necessary training; and
 - c. Documentation of required quarterly inspections will be completed.

2. Send written notification to the parents, department, and other adult occupants of the building about the presence and location of the asbestos containing material as well as the advisement that the asbestos inspection report and operation and maintenance plan are available for review. A copy of this notification shall be submitted to the department.

Exception: The asbestos requirements of § 4.1 B C do not apply to child care centers located in a public school building or a state owned building since the asbestos requirements of these buildings are regulated by other agencies.

§ 4.2. Requirements subsequent to initial licensure.

A. Every twelve months, written documentation shall be obtained and provided to the licensing representative of inspection and approval from the appropriate fire prevention official that the center's facility complies with the Statewide Fire Prevention Code.

B. Subsequent to initial licensure, and as required by the local health department, written documentation shall be

provided of any additional inspections and approvals, or approvals of a plan of correction, for meeting:

1. Water supply;
2. Sewerage disposal system; and
3. Food service, if applicable

C. For those buildings where asbestos containing materials are found or assumed and not removed:

1. The administrator or a designated staff member shall take the required asbestos training as specified in the operations and maintenance plan for the facility.
2. The administrator or a designated staff member who has received the required asbestos training shall conduct quarterly inspections of all asbestos containing materials and document the date and the findings of these inspections.

3. New parents and new adult occupants of the building shall be provided written notification of the presence and location of asbestos in the building and be advised that the asbestos inspection report and operations and maintenance plan are available for their review. A copy of this written notification shall be maintained at the facility for review by the department's representative.

D. For those buildings where asbestos containing materials have been found or assumed and asbestos has been removed, the center shall maintain at the facility documentation of that removal for review by the department's representative.

Article 2. General Requirements.

§ 4.3. The facility's areas and equipment, inside and outside, shall be:

1. Maintained in clean and sanitary condition;
2. Maintained in conditions that are safe and free of hazards such as but not limited to sharp points or corners, splinters, protruding nails, loose rusty parts, and objects small enough to be swallowed; and
3. Maintained in operable condition.

§ 4.4. The facility's areas shall be accessible to all children served.

§ 4.5. Heating provisions.

A. A heating system shall be provided. The heating system shall meet the following specifications:

Proposed Regulations

1. It shall be approved by the appropriate building official;

2. Heating shall not be provided by stoves;

3. It shall be installed to prevent accessibility of children to the system; and

4. It shall have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury.

Exception: In case of emergency, portable electric or kerosene heaters may be used if they have been previously inspected and approved by the appropriate building official.

B. In areas used by children, the temperature shall be maintained no lower than 68°F.

§ 4.6. Fans or other cooling system shall be used when the temperature of areas used by children exceeds 85°F.

§ 4.7. Provisions for water shall be as follows:

1. Drinking water fountains or individual disposable cups, or both, shall be provided. Drinking water shall be available and accessible at all times.

2. Where portable water coolers are used, they shall be of easily cleanable construction, maintained in a sanitary condition, kept securely closed, and so designed that water may be withdrawn from the container only by water tap or faucet. Individual disposable cups shall be provided.

§ 4.8. Building equipment shall include, but not limited to, the following:

1. Outside lighting provided at entrances and exits used by children before sunrise or after sundown;

2. A working, nonpay telephone;

3. First aid kits; and

4. Provision for locking medication as described in § 7.16.

§ 4.9. Hazardous substances and other harmful agents.

A. No center shall be located where conditions exist that would be hazardous to the health and safety of children.

B. Hazardous substances such as cleaning materials, insecticides, and pesticides shall be kept away from food preparation and storage areas and in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to the children.

C. Hazardous substances shall be stored in the original container unless this container is of such a large size that its use would be impractical.

D. If hazardous substances are not kept in original containers, the substitute containers shall clearly indicate their contents and shall not resemble food or beverage containers.

E. Cosmetics, medications, or other harmful agents of staff members shall not be stored in areas, purses or pockets that are accessible to children.

F. Hazardous art and craft materials, such as those listed in Appendix III, shall not be used with children.

§ 4.10. In areas used by children of preschool age and younger, the following shall apply:

1. Steps with three or more risers shall have:

a. Handrails within the normal handgrasp of the children or

b. A banister with vertical posts, between the handrail and each step, which can be safely grasped by the children. The distance between the posts shall be no greater than three and one half inches.

2. Poisonous plants shall not be allowed in the facility or the outdoor activity area. When children are away from the center site, staff shall take precautions to prevent children from being poisoned by ingestion of or contact with plants.

3. Fans, when used, shall be secured and out of reach of children.

4. All electrical outlets shall have protective caps or other equivalent, approved, protective devices and of a size that can not be swallowed by children.

Article 3. Indoor Areas.

§ 4.11. There shall be 25 square feet of indoor space available to each child when activities are conducted.

Exception: Centers licensed on July 1, 1992, may continue to operate at its current capacity until July 1, 1994.

§ 4.12. Areas not routinely used for children's activities shall not be calculated as available activity space. Space not calculated shall include, but not be limited to, offices; hallways; restrooms; kitchens; storage rooms/closets; and space occupied by equipment which is not used in or does not contribute to the children's activities.

§ 4.13. A place away from the children's activity area shall be designated for children who are ill, injured, tired, or emotionally upset.

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§ 4.14. When allowed, staff smoking shall occur only in enclosed rooms that are separate from children.

§ 4.15. Activity space shall be arranged so that when playing on the floor, children at each developmental stage shall be protected from children at more advanced developmental stages.

§ 4.16. Space in areas used by infants shall be calculated separately from space for older children. One of the following methods to calculate available activity space for infants shall be used:

1. Centers shall have a minimum of 25 square feet of available activity space per infant when space occupied by cribs and changing tables is deducted from the calculation of available activity space or
2. Centers shall have a minimum of 35 square feet of available activity space per infant when space occupied by cribs and changing tables is included in the calculation of available activity space.

Article 4. Restroom Areas and Furnishings.

§ 4.17. Each restroom provided for children shall:

1. Be within a confined area;
2. Be accessible and within the building used by the children;
3. Have toilet(s) that are all flushable;
4. Have sink(s) that are all equipped with running water which does not exceed 120°F; and
5. Be equipped with soap, toilet paper, and disposable towels.

§ 4.18 For restrooms available to boys, urinals may be substituted for not more than one-half the required number of toilets, provided the center has at least two toilets.

§ 4.19 An adult size toilet with privacy shall be provided for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them on a routine basis.

§ 4.20. Requirements for centers with children who are not toilet trained.

A. Centers that serve children, regardless of age, who are not toilet trained shall provide a diapering area located in the area for children or in a room which opens directly into the area for children. The diapering area shall have at least the following:

1. A sink with heated and cold running water;

2. A changing table or counter equipped with a nonabsorbent surface for changing diapers;

3. A leakproof storage system for diapers that is not hand generated; and

4. A covered receptacle for soiled bed linens.

B. For every 10 children in the process of being toilet trained there shall be at least one toilet chair, or one child-sized toilet, or at least one adult sized toilet with a platform or steps and an available adapter seat. These items shall either be located in the area used for the majority of the day by the children being toilet trained or the immediately accessible area. To be considered immediately accessible, the diapering area shall be located in a room which opens directly into the area for children.

C. When only toilet chairs are used, there shall be a toilet located in an area or room in which the door is not more than 10 feet from the area used for the majority of the day by the children being toilet trained.

§ 4.21. Restroom areas shall have at least one toilet and one sink for every 15 preschool age children. When sharing restroom areas with other programs, the children in the other programs shall be included in the toilet and sink ratio calculations. The toilet and sink ratio appropriate to the younger age group shall apply. The younger age group ratio is one toilet and one sink for every 15 children.

§ 4.22. When child size toilets, urinals, and low sinks are not available in restrooms used by children of preschool age and younger, one or more platform or set of steps shall be available so that children may use adult size toilets and sinks without help or undue delay.

Article 5. Outdoor Areas.

§ 4.23. Centers may have until July 1, 1994, to meet §§ 4.24 through 4.37 if §§ 5.11 through 5.20 of the 1989 version of the Minimum Standards for Licensed Child Care Centers are met. Please see Appendix IV for §§ 5.11 through 5.20 of the 1989 regulations.

§ 4.24. The outdoor play area shall provide a minimum of 75 square feet of space per child in the area at any one time.

§ 4.25. Playgrounds shall be located or designed in a way to protect children from hazardous situations.

§ 4.26. Resilient surfacing shall be placed under all fixed playground equipment with moving parts or climbing apparatus to create a fall zone.

§ 4.27. The resilient surfacing areas shall consist of one of the following:

Proposed Regulations

Critical Equipment Heights (in feet) for Various Types and Depths of Resilient Material

Material	Uncompressed Depth			Compressed Depth
	6 inch	9 inch	12 inch	9 inch
Wood Mulch	7 ft	10 ft	11 ft	10 ft
Double Shredded Bark Mulch	6 ft	10 ft	11 ft	7 ft
Uniform Wood Chips	6 ft	7 ft	*12 ft	6 ft
Fine Sand	5 ft	5 ft	9 ft	5 ft
Coarse Sand	5 ft	5 ft	6 ft	4 ft
Fine Gravel	5 ft	7 ft	10 ft	6 ft
Medium Gravel	5 ft	5 ft	6 ft	5 ft

* greater than

§ 4.28. Where a fall zone exists, the resilient surfacing shall be:

1. Immediately under equipment;
2. Extended to a minimum of six feet from the perimeter of the equipment;
3. Extended one additional foot beyond the requirement of subdivision 2 of § 4.28. for each foot of equipment height above six feet; and
4. Extended six feet in both directions of the motion of swings starting from a point 42 inches beyond the seat at its maximum attainable angle.

§ 4.29. All zones shall be free of all obstacles.

§ 4.30. Ground footings or supports shall be in-ground below ground level.

§ 4.31. Equipment used by children shall:

1. Have no accessible openings that are greater than three and one half inches and less than nine inches;
2. Have closed S-hooks when provided; and
3. Have no protrusions, sharp points, shearing points, or pinch points.

§ 4.32. All swing seats shall be made of flexible material except for special swing equipment for a child with a development delay.

§ 4.33. Sandboxes with bottoms which prevent drainage shall be covered when not in use.

§ 4.34. For children of preschool age and younger, horizontal clearances between swings shall be at least 16 inches.

§ 4.35. For children of preschool age and younger, unoccupied swing seats shall be between 12 to 15 inches from the ground.

§ 4.36. For children of preschool age and younger, slides and climbing equipment with platforms which are 20 inches or more from the ground shall have guardrails or protective barriers of at least 29 inches to prevent falls.

§ 4.37. Centers licensed for the care of infants and toddlers shall provide a separate playground area for these children which has at least 25 square feet of unpaved surface per infant/toddler on the outdoor area at any one time. This unpaved surface shall be suitable for crawling infants and for toddlers learning to walk. This space may be counted as part of the 75 square feet required in § 4.24.

PART V. STAFFING AND SUPERVISION.

Article 1. Supervision of Staff and Volunteers.

§ 5.1. All aides, volunteer personnel, and volunteers shall be under the individual supervision of a staff member who meets the qualifications of a program leader/child care supervisor or program director.

§ 5.2. Each person serving in the positions of a program director, back-up program director, or program leader/child care supervisor shall not be responsible for the individual supervision of more than two aides at any one time.

§ 5.3. When with children, aides and volunteers under the age of 18 years shall be sight supervised by a staff member who meets the qualifications of a program leader/child care supervisor or program director.

§ 5.4. When with children, contract employees shall be sight supervised by a staff member unless the contract employee meets the personnel, health, and orientation training requirement for the applicable position.

Article 2. Supervision of Children.

§ 5.5. During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the administrator or an adult appointed by the licensee or designated by the administrator.

§ 5.6. There shall be at least two staff in each building of the center and on field trips at all times when one or more children are present. One of these shall meet the qualifications of a program leader/child care supervisor or program director.

§ 5.7. In each grouping of children at least one staff member who meets the qualifications of a program leader/child care supervisor or program director shall be regularly present.

§ 5.8. Children shall be within sight and sound

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supervision of staff at all times, except that staff need only be able to hear a child who is using the restroom. Staff shall check on a child who has not returned from the restroom after five minutes.

§ 5.9. When the outdoor activity area is not adjacent to the center, there shall be at least two staff on the outdoor activity area whenever one or more children are present.

§ 5.10. Staff shall greet each child upon arrival at the center and oversee each child's departure from the center.

§ 5.11. No toddler or infant shall be left unattended while around water or while on an unconfined surface above floor level.

Article 3. Staff to Children Ratio Requirements.

§ 5.12. Staff shall be counted in the required staff to children ratios only when they are directly supervising children.

§ 5.13. Volunteers younger than 16 years of age shall be counted as a child in the staff to children ratio requirements.

§ 5.14. When children are regularly in ongoing mixed age groups, the staff to children ratio applicable to the youngest child in the group shall apply to the entire group.

§ 5.15. If the assessment of a child's developmental delay as required by § 2.24 does not indicate a 90% independent skill level, the ratio needs for specific activities shall be developed using appropriately adapted versions of the staff supervision form.

§ 5.16. During the designated rest period, the ratio of staff to children may be double the number of children to each staff required in subdivisions 1 through 4 of § 5.17, if:

1. A staff person is within sight and sound of the resting/sleeping children;
2. All staff counted in the overall rest period ratio are within the facility and available to assure safe evacuation in an emergency; and
3. An additional person is present at the center to help, if necessary.

§ 5.17. In each grouping of children, the following ratios of staff to children are required wherever children are in care:

1. For children from birth to the age of 16 months: one staff member for every four children;

2. For children 16 months old to two years: one staff member for every five children;

3. For children from two years to four years: one staff member for every 10 children; and

4. For children from four years to the age of eligibility to attend public school: one staff member for every 12 children.

§ 5.18. In each grouping of preschool children at nursery schools, the following ratios of staff shall be followed at all times instead of the ratios required by § 5.17:

1. For two-year-old children: one staff member for every eight children, and

2. For children from three years to the age of eligibility to attend public school: one staff member for every 10 children.

PART VI. PROGRAMS.

Article 1. Daily Schedule.

§ 6.1. There shall be a predictable sequence to the day but the schedule shall be flexible, based on children's needs.

§ 6.2. For centers operating more than two hours per day or more than two hours per session per day, outdoor activity shall be provided daily, weather allowing, according to the following:

1. If the center operates between two and five hours per day or per session, there shall be at least 15 minutes of outdoor activity per day.
2. If the center operates five hours or more per day or per session, there shall be at least one hour of outdoor activity per day which shall be divided between morning or afternoon.

Exception: Outdoor activity is not required on days when an all day field trip occurs.

§ 6.3. Staff shall provide opportunities for children to engage in self-chosen tasks and activities and allow children to learn from self-directed problem-solving and experimentation.

Exception: The requirements of § 6.3 do not apply to speciality camps.

§ 6.4. The daily schedule which describes the typical sequence of daily activities shall be posted in a place conspicuous to parents and staff.

§ 6.5. There shall be a flexible schedule for infants based

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on their individual needs.

§ 6.6. Centers operating five or more hours per day shall have a designated rest period for preschool children and toddlers in attendance at the time of the rest period.

§ 6.7 For centers operating five or more hours per day, the following requirements for preschool children and toddlers during the designated rest period shall apply:

1. The rest period shall be at least one hour but no more than two hours unless children are actually sleeping;
2. Cots, beds, or rest mats shall be used during the rest period; and
3. After the first 30 minutes of a rest period, nonsleeping children shall be allowed to participate in quiet activities, which may include, but not be limited to, books, records, puzzles, coloring, or manipulatives.

Article 2. Activities.

§ 6.8. The daily activities shall be developmentally appropriate and promote the individual child's physical, intellectual, emotional, and social well-being and growth.

§ 6.9. To promote emotional development, the center shall provide for:

1. Opportunities for individual self-expression;
2. Recognition that each child is an individual;
3. Respect for personal privacy; and
4. Respect for each child's cultural, ethnic, and family background as well as the child's primary language or dialect.

§ 6.10. To promote social development, the center shall provide:

1. Guidance to children in developing and working out ways of getting along with one another;
2. Staff interaction with children in ways which emphasize and foster attitudes of mutual respect between adults and children; and
3. Staff behavior which demonstrates respect for all other persons as individuals and appreciation of cultural and ethnic diversity.

§ 6.11. The center shall provide for the self direction of the children by:

1. Allowing children opportunities to choose activities according to personal desires and interests and to

move freely from one activity to another;

2. Encouraging children to do things independently and to help with daily routines as appropriate to the child's developmental level but to be available to comfort and help when needed; and

3. Supporting children's friendships and providing children opportunities to be involved in decision making about group and individual activities.

Exception: Subdivisions 1 through 3 of § 6.11 is not applicable to speciality camps.

§ 6.12. A variety of children's activities shall be provided that allow for group and individual involvement and child and staff initiation.

§ 6.13. When a child with a developmental delay is enrolled, there shall be activities available that are both compatible with the child's developmental delay and are attractive to other children as well.

§ 6.14. For children who cannot move without help, staff shall offer to change the places and position of the child and the selection of toys or objects available to the child at least every 30 minutes or more frequently depending on the individual needs of the child.

§ 6.15. The center shall provide a balance of active and quiet activities except for speciality camps.

§ 6.16. Children of all ages shall be allowed to rest or sleep as needed on cribs, cots, mats, or beds, as appropriate.

§ 6.17. In addition to the requirements of § 6.8, the program for preschool children shall promote curiosity and exploration.

§ 6.18. Activities and experiences for preschool children, which are explained in Appendix V, shall include, but not be limited to:

1. Art activities;
2. Rhythm, movement, and music;
3. Language and communication experiences;
4. Sensory experiences and exploration of the environment;
5. Construction;
6. Social living;
7. Water and sand play;
8. Small motor activities; and

9. Large motor activities.

Exception: Subdivisions 1 through 9 of § 6.18 is not applicable to speciality camps.

§ 6.19. For toddlers, the center shall provide daily equipment and opportunities for sensory and perceptual experiences, large and small motor development, and language development.

§ 6.20. Activities and experiences for toddlers, which are explained in Appendix VI, shall include, but not be limited to:

1. Art activities;
2. Rhythm, movement, and music;
3. Language and communication experiences;
4. Sensory experiences and exploration of the environment;
5. Construction;
6. Social living;
7. Water and sand play;
8. Small motor activities; and
9. Large motor activities.

Exception: Subdivision 1 through 9 of § 6.20 is not applicable to speciality camps.

§ 6.21. Staff shall encourage language development by one-to-one face-to-face conversations giving toddlers time to initiate and respond; labeling and describing objects and events; helping children put feelings into words; and expanding on toddler language.

§ 6.22. Staff shall express affection, support toddler's growing independence such as dressing and eating, and making choices in activities and routines.

§ 6.23. Staff shall support toddler's developing self-control by expressing feelings with words, giving positively worded directions, and modeling and redirecting behavior.

§ 6.24. Parents of toddlers shall receive daily verbal feedback about:

1. Daily activities;
2. Physical well-being; and
3. Developmental milestones.

§ 6.25. For infants, the center shall provide daily equipment and opportunities for sensory and perceptual

experiences, large and small motor development, and language development.

§ 6.26. Staff shall promptly respond to infants' needs for food and comfort.

§ 6.27. Play spaces shall:

1. Offer opportunities for least restrictive environment;
2. Offer a diversity of experiences for the infant; and
3. Provide frequent opportunities to creep, crawl, toddle, and walk.

Note: Play spaces may include but not be limited to cribs, infant seats, infant swings, high chairs, and floor area.

§ 6.28. An awake infant not playing on the floor or ground shall be provided a change in play space at least every 30 minutes, and more often as determined by the needs and demands of the individual infant.

§ 6.29. An infant who falls asleep in a play space other than his own crib, cot, mat, or bed shall be moved to his own crib, cot, mat, or bed.

§ 6.30. Stimulation shall be regularly provided for infants in a variety of ways including being held, cuddled, talked to, and played with by staff.

§ 6.31. For each infant, the center shall post a daily record which can be easily seen by both the parent and by the staff working with the children. The record shall include the following information:

1. The amount of time the infant slept;
2. The amount of food consumed and the time;
3. A description and the time of bowel movements; and
4. Developmental milestones.

§ 6.32. Resting or sleeping infants and toddlers shall be individually checked at least every 30 minutes.

Article 3. Parental Involvement.

§ 6.33. The center shall be open for parents to visit and observe their child(ren) at any time.

§ 6.34. The center shall encourage parental involvement on a volunteer basis in appropriate center activities.

§ 6.35. Staff shall share information with parents about their child's health, development, behavior, adjustment, and needs.

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§ 6.36. The requirements of § 6.35 about sharing information shall be done regularly, frequently, and in person for parents of children of preschool age and younger.

Article 4. Equipment and Materials.

§ 6.37. All furnishings, equipment, and materials shall be of a developmentally appropriate size for the child using it.

§ 6.38. The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be developmentally appropriate for the children and shall include equipment and materials which:

1. Are in sufficient supply to avoid excessive competition among the children and to avoid long waits for use of the materials and equipment;
2. Provide for a variety of experiences and appeal to the individual interests and abilities of children;

Exception: § 6.38 2 is not applicable to speciality camps.

3. Are accessible to children for the activities required by these standards;
4. Allow children to use small and large muscles for imaginative play and creative activities; and
5. Allow equal opportunity for children with a developmental delay to participate without isolation, if applicable; and
6. Include cross cultural materials.

§ 6.39. Storage space for play materials and equipment used by the children shall be accessible to children either independently or with help and provision shall be made for a place for each child's personal belongings.

§ 6.40. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

§ 6.41. All disposable products shall be used once and discarded.

§ 6.42. Disposable dishes and utensils shall be sturdy enough to contain food without leakage and to prevent harm and injury to children.

§ 6.43. In each classroom grouping of children of preschool age or younger, at least one area, shelf, or cupboard space where materials can be readily and freely chosen by children during active play periods shall be available.

§ 6.44. Equipment and play materials shall include, but

not be limited to balls, busy boards, books, rattles, mobiles, dolls, play mats, soft blocks, nesting and stacking toys, squeeze toys, music boxes, and mirrors placed where children can see themselves.

§ 6.45. Playpens and walkers shall not be used.

§ 6.46. No more than one child at a time shall occupy a crib, cot, rest mat, or bed.

§ 6.47. Cribs, cots, rest mats, and beds shall be marked or identified in some way for use by a specific child.

§ 6.48. Double decker cribs, cots, or beds, or other sleeping equipment which is stacked shall not be used.

§ 6.49. When one or more children are scheduled to enter or leave the center while other children are resting or sleeping, the cribs, cots, rest mats, or beds shall be placed so that the resting or sleeping children are not disturbed by children coming or going.

§ 6.50. Occupied cribs, cots, rest mats, and beds shall be at least 2-1/2 feet from any heat source in use.

§ 6.51. Cots, beds, or rest mats shall be placed so that children can get on and off their cots, beds, or rest mats without being hampered in their movement.

§ 6.52. There shall be at least 15 inches of space between sides and ends of occupied cots, beds, and rest mats.

Exception: Fifteen inches of space are not required where cots, beds, or rest mats touch the wall or where screens are placed between cots or beds as long as one side is open at all times to allow for passage.

§ 6.53. If rest mats are used, they shall have comfortable cushioning and be sanitized between each use.

§ 6.54. Cribs shall be used for children under 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot.

§ 6.55. Cribs shall meet the following requirements:

1. There shall be no more than six centimeters or 2-3/8 inches of space between slats;
2. The corner posts shall be less than 1/16 of an inch higher than the end panel;
3. Mattresses shall fit snugly next to the crib; and
4. Cribs with end panel cut-outs shall be of a size not to cause head entrapment.

§ 6.56. No cribs shall be placed where cords from blinds or curtains are in reach of infants or toddlers.

§ 6.57. There shall be at least:

1. Twelve inches of space between the sides and ends of occupied cribs except where they touch the wall, and

2. Thirty inches of space between service sides of occupied cribs and other furniture when that space is the walkway for staff to gain access to any child in any crib; and

§ 6.58. Crib sides shall always be up and the fastenings secured when a child is in the crib, except when staff is giving the child immediate attention.

§ 6.59. Pillows shall not be used by children under two years of age.

§ 6.60. No toys shall be hung over or attached to cribs.

§ 6.61. Linens

A. Linens for cribs, cots, rest mats, or beds shall consist of a top cover and a bottom cover or a one-piece covering which is open on three edges.

B. Linens shall be assigned for individual use.

C. Linens shall be maintained in clean and sanitary condition and shall be washed at least weekly except for crib sheets which shall be cleaned daily.

D. When pillows are used, they shall be assigned for individual use and covered with pillow cases.

E. Mattresses when used shall be covered with a waterproof material which can be easily sanitized.

Article 5. Discipline.

§ 6.62. Discipline shall be constructive in nature and include techniques such as:

1. Using limits that are fair, consistently applied, and appropriate and understandable for the child's level;

2. Providing children with reasons for limits;

3. Giving positively worded directions;

4. Modeling and redirecting children to acceptable behavior;

5. Helping children to constructively express their feelings and frustrations to resolve conflict; and

6. Arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior.

§ 6.63. There shall be no physical punishment or disciplinary action administered to the body such as, but not limited to, spanking; roughly handling a child; forcing

a child to assume an uncomfortable position (e.g., standing on one foot, keeping arms raised above or horizontal to the body); forcing exercises on children, restraining to restrict movement through binding or tying; enclosing in a confined space, box, or similar cubicle; or using exercise as punishment.

§ 6.64. A child shall not be shaken at any time.

§ 6.65. Staff shall not be verbally abusive which would include, but not be limited to, threats, belittling remarks about any child, his family, his race, his religion, or his cultural background, or other statements that are frightening or humiliating to the child.

§ 6.66. When disciplining a child, staff shall not:

1. Force, withhold, or substitute food;

2. Force or withhold naps; or

3. Punish a child for toileting accidents.

§ 6.67. When separation is used as a discipline technique, it shall be brief and appropriate to the child's developmental level and circumstances. The isolated child shall be in a safe, lighted, well-ventilated place and shall be within hearing and vision of a staff member.

It is recommended that if separation is enforced by an adult, it should not exceed one minute for each year of the child's age. Separation is not recommended for use with infants.

§ 6.68. No child, for punishment or any other reason, shall ever be confined in any space that the child cannot open, such as but not limited to closets, locked rooms, latched pantries, or containers.

§ 6.69. Staff shall not give a child authority to punish another child nor shall staff consent to a child punishing another child.

§ 6.70. Staff shall follow the center's policy on acceptable and unacceptable discipline methods.

§ 6.71. Behavior problems of children of preschool age and younger shall be dealt with promptly.

Article 6. Swimming and Wading Activities.

§ 6.72. Staff and supervision.

A. The staff child ratios required by subdivisions 1 through 4 of § 5.17 and subdivisions 1 and 2 of § 5.18 shall be maintained while children are participating in swimming/wading activities. The designated water safety instructor or senior lifesaver shall not be counted in the staff to children ratios.

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B. If a pool, lake, or other swimming area has a water depth of more than two feet, a water safety instructor or senior life saver holding a current certificate shall be on duty supervising the children participating in swimming/wading activities at all times when one or more children are in the water. The certification shall be obtained from an organization such as, but not limited to, the American Red Cross, the YMCA, or the Boy Scouts.

C. A minimum of two staff members of the center shall be on duty supervising the children during swimming/wading activities when one or more children are in the water.

§ 6.73. Pools and equipment.

A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:

1. The manufacturer's specifications for operating the pool shall be followed and any local ordinance and any Department of Health requirements for swimming pools shall be followed;

2. All pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official;

3. Outdoor swimming pools shall be enclosed by safety fences and gates which shall be kept locked when the pool is not in use;

4. Entrances to swimming pools shall be locked when the pool is not in use; and

5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming/wading site.

B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked.

C. All piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be indicated on the deck or planking.

D. If children are allowed to swim at a lake or other body of water larger than a pool, there shall be a rescue boat available at all times which is equipped with a reach pole and a lemon line or buoy.

E. If portable wading pools are used, they shall be emptied of dirty water and filled with clean water for each day's use and more frequently as necessary.

§ 6.74. General.

a. The center shall have emergency procedures and

written safety rules for swimming or wading that are:

1. Posted in the swimming area when the pool is located on the premises of the center;

2. Given to staff involved in swimming/wading activities;

3. Given to parents of children participating in swimming/wading activities; and

4. Explained to children participating in swimming/wading activities.

B. Staff shall have a system for accounting for all children in the water.

C. Each child's swimming skills shall be determined before the child is allowed in water above the child's shoulder height.

D. Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.

E. Children who are not toilet trained shall not use portable wading pools.

PART VII.

SPECIAL CARE PROVISIONS AND EMERGENCIES.

Article 1.

Preventing the Spread of Disease.

§ 7.1. If a child arrives at the center with the signs or symptoms listed in § 7.3, the child shall not be allowed to attend for that day.

§ 7.2. Staff with training as required in § 3.18 shall observe daily each child for signs and symptoms of illness.

§ 7.3. Unless otherwise instructed by the child's health care provider, that child shall be excluded if:

1. He has signs of illness and a temperature over 100°F or

2. He has a communicable disease as delineated in the current Communicable Disease Chart recommendations for the exclusion of sick children. (Refer to Appendix VII).

§ 7.4. If a child needs to be excluded according to § 7.3, the following shall apply:

1. Arrangements shall be made for the child to leave the center as soon as possible after the signs or symptoms are noticed, and

2. The child shall remain in the designated quiet,

private area until leaving the center.

§ 7.5. When a child at the center has been exposed to a reportable communicable disease, the parent shall be informed.

§ 7.6. Children's hands shall be washed with soap and water before eating meals or snacks, after toileting, and after any contact with body fluids.

§ 7.7. Staff hands shall be washed with soap or germicidal cleansing agent and water after helping a child with toileting, after any contact with body fluids, and before feeding or helping children with feeding.

§ 7.8. When a child's clothing or diaper becomes wet or soiled, it shall be changed immediately.

§ 7.9. Children not toilet trained.

A. The child's genital area shall be thoroughly cleaned with a disposable wipe during each diapering.

B. Staff shall wash their hands with soap or germicidal cleansing agent and water after each diaper change.

C. Disposable diapers shall be used for children in diapers unless the child's skin reacts adversely to disposable diapers. If cloth diapers are used, there shall be separate step-on diaper pails for the cloth and disposable diapers.

D. Toilet chairs shall be emptied promptly and sanitized after each use.

E. Changing tables shall be used only for changing diapers or cleaning children.

F. Diapers shall be changed on an appropriate non-absorbent surface which shall be washed with soap and warm water or a germicidal cleansing agent after each use.

G. Tables used for children's activities or meals shall not be used for changing diapers.

Article 2. Medication.

§ 7.10. Prescription and nonprescription medication shall be given to a child according to the center's medication policies and only with written authorization from the parent.

§ 7.11. The center's medication policies shall address methods for administering medication and shall include:

1. Any general restrictions of the center;
2. Duration of the parent's authorization for medication, provided that it shall expire or be

renewed after 10 work days; and

3. Methods to prevent use of outdated medication.

§ 7.12. The medication authorization shall be available to staff during the entire time it is effective.

§ 7.13. All medication shall be labeled with the child's name, the name of the medication, the dosage amount, and the time(s) to be given.

§ 7.14. Prescription medication shall be in the original container with the prescription label attached.

§ 7.15. When needed, medication shall be refrigerated. When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.

§ 7.16. All medication, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children. If a key is used, the key not be accessible to the children.

§ 7.17. Centers shall keep a log of medication given children which shall include the following:

1. Child to whom medication was administered;
2. Amount and type of medication administered to the child;
3. The day and time the medication was administered to the child; and
4. Staff member administering the medication.

§ 7.18. Medication shall be returned to the parent as soon as the medication is no longer being administered.

Article 3. Specialized Staff Training.

§ 7.19. First aid training.

There shall be at least one staff member on the premises during the centers hours of operation and also one person on all field trips who is trained in first aid. This person shall be available to children and meet one of the following qualifications for first aid training:

1. Has a current first aid certificate by the American Red Cross; or
2. Has a current first aid certificate by the National Safety Council; or
3. Has successfully completed, within the past three years, a first aid course equivalent to the curriculum which has been approved by the State Board of

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Health; or

4. Be a R.N. or L.P.N. with a current license from the Board of Nursing.

Article 4.

First Aid and Emergency Supplies.

§ 7.20. A first aid kit shall be on each floor of each building used by children and wherever children are in care.

§ 7.21. The required first aid kit(s) shall include at a minimum:

1. Scissors
2. Tweezers
3. Gauze pads
4. Adhesive tape
5. Band-aids, assorted types
6. An antiseptic cleansing solution
7. An anti-bacterial ointment
8. Syrup of ipecac or activated charcoal preparation (to be used only upon the advice of the physician or the Poison Control Center)
9. Thermometer
10. Triangular bandages and
11. The first aid instructional manual

§ 7.22. Each first aid kit shall be stored so that it is not available to children but is easily available to staff.

§ 7.23. The following emergency supplies shall be required:

1. Chemical cooling agents, zip-lock bags, and sponges readily available for icing down contusions, sprains, and breaks;
2. A working, battery-operated flashlight on each floor of each building of the facility that is used by children; and
3. One working, battery-operated radio in each building of the facility used by children and any camp location without a building.

Article 5.

Procedures for Emergencies.

§ 7.24. The center shall have an emergency evacuation plan that addresses staff responsibility with respect to:

1. Sounding of fire alarms and notification of local authorities;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, and checking to ensure complete evacuation of the building(s);
3. Fire containment procedures, e.g., closing of fire

doors or other barriers; and

4. Other special procedures developed with local authorities.

§ 7.25. Emergency evacuation procedures shall be posted in a location conspicuous to staff and children on each floor of each building of the center.

§ 7.26. The center shall implement these emergency evacuation procedures through monthly practice drills and shall maintain a log of the dates of the monthly drills for one year. For centers offering multiple shifts, the evacuation procedures shall be divided evenly among the various shifts.

§ 7.27. A generic emergency number such as 911 shall be posted in a conspicuous place near each telephone. If a generic number is not available, the following numbers shall be posted near each phone:

1. A physician or hospital;
2. An ambulance or rescue squad service;
3. The local fire department;
4. The local police department; and

§ 7.28. The number of a regional poison control center shall be posted in a conspicuous place near each phone.

§ 7.29. The center shall develop a plan for action in case of a missing or injured child which shall address:

1. Stabilization of injured child;
2. Immediate notification of parents and emergency services; and
3. Transportation of injured child if necessary.

§ 7.30. If an ambulance service is not readily available within 10-15 minutes, transportation shall be available at all times in case of emergency.

§ 7.31. The center or other appropriate official shall notify the parent immediately if a child is lost, experiences a serious accident, needs emergency medical care, or dies. The center shall notify the parent at the end of the day of any known minor accidents or injuries.

NOTE: Examples of a serious accident might include unconsciousness; broken bones; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice. Examples of a minor accident might include a small scratch, cut or scrape; minor bruise or discoloration of the skin.

§ 7.32. The center shall maintain a written log of children's injuries in which entries are made the day of

occurrence. The log shall include the following:

1. Date and time of injury;
2. Name of injured child;
3. Type of injury;
4. Circumstances of the injury;
5. Names of staff present during the injury;
6. Treatment; and
7. Method of notifying parents.

PART VIII. Special Services.

Article 1. Nutrition and Food Services.

§ 8.1. Centers shall serve appropriate snacks or meals, or both, based on the hours of operation and time of the day.

§ 8.2. If children arrive before 8 A.M., breakfast shall be available.

§ 8.3. Lunch shall be served to children arriving from a half-day, morning kindergarten program who have not yet eaten lunch.

§ 8.4. There shall be at least 1-1/2 hours between each meal and snack but no more than three hours between meals and snacks.

§ 8.5. Drinking water or other beverage not containing caffeine shall be offered at regular intervals to non-verbal children.

§ 8.6. In environments of 80°F or above, constant attention shall be given to the fluid needs of all children. Children in such environments shall be encouraged to drink fluids.

§ 8.7. When food is provided by the center, the following shall apply:

1. Centers providing care to the same children more than four hours a day shall comply with the nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA) or the meal patterns in Appendix VIII.

2. Centers offering both meals and snacks shall serve on various days each week at least three sources of vitamin A and at least three sources of vitamin C. Appendix IX lists sources of vitamin A and vitamin C.

3. A variety of nutritious foods shall be served.

4. A menu listing all foods to be served for all meals and snacks during the current one-week period shall be:

- a. Dated;
- b. Posted in a location conspicuous to parents or given to parents;
- c. Indicate any substituted food; and
- d. Kept on file for six weeks at the center.

5. Powdered milk shall be not be used except for cooking.

§ 8.8. When food is brought from home, the following shall apply:

1. The food shall not be subject to rapid deterioration or spoilage;

2. The center shall give parents the USDA requirements and a list of suggested non-perishable food. Appendix VIII has the requirements of USDA.

3. The food shall be clearly labeled in a way that identifies the owner;

4. The center shall have extra food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and

5. All unused portions of food shall be discarded and not served again.

§ 8.9. If a catering service is used, it shall be approved by the local health department. A copy of the current contract shall be made available to the department's representative upon request. Food not prepared in an approved food processing establishment shall be prohibited (e.g. home canned food).

§ 8.10. Food during cookouts.

- a. All food shall be prepared in a clean and sanitary manner.

- b. Unused, perishable food shall be discarded and not served again.

§ 8.11. Meals for children of preschool age and younger who attend more than four hours a day shall be provided by the center unless the child is on infant formula, commercially prepared baby food, or a special diet for religious or health reasons.

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§ 8.12. Children of preschool age and younger shall be encouraged to feed themselves.

§ 8.13. Staff shall sit with preschool children and toddlers during meal and snack times.

§ 8.14. Foods easily causing choking, such as but not limited to hard candy, popcorn, raisins, seeds, nuts, uncut hot dogs, and uncut grapes, shall not be served to children three years of age or younger.

§ 8.15. High chairs, infant carrier seats, or feeding tables shall be used for children under 12 months who are not held while being fed.

§ 8.16. All meals and snacks for children from birth through one year shall meet the nutritional needs of children.

§ 8.17. The record of each child on formula shall contain:

1. The brand of formula, and
2. The child's feeding schedule.

§ 8.18. Infants shall be fed on demand unless parents provide other written instruction.

§ 8.19. Prepared infant formula shall be refrigerated and clearly labeled in a way that identifies the child.

§ 8.20. Bottle fed infants who cannot hold their own bottles shall be picked up and held when fed. Bottles shall not be propped.

§ 8.21. No child shall be allowed to drink or eat while walking around.

§ 8.22. Formula, bottled breast milk, and prepared baby food not consumed by an infant may be used by that same infant later in the same day, if dated and stored in the refrigerator; otherwise, it shall be discarded or returned to the parent at the end of the day.

§ 8.23. A one-day's emergency supply of disposable bottles, nipples, and commercial formulas appropriate for the children in care shall be maintained at the facility.

§ 8.24. Mothers shall be allowed to breast-feed their infants at the facility.

§ 8.25. Unless written instructions from a physician indicate differently, staff shall feed semisolid food with a spoon.

§ 8.26. Children using infant seats or high chairs shall be carefully supervised during snacks or meals. When a child is placed in an infant seat or high chair the protective belt shall be fastened securely.

§ 8.27. Infant formula shall not be heated in a microwave.

Article 2. Transportation and Field Trips.

§ 8.28. If the center transports children to the site of the center, the center shall assume responsibility for the child between the place where the child boards the vehicle and the center site, while at the center, and from the time the child leaves the center site until the child is delivered to a designated location or to a responsible person designated by his parent.

§ 8.29. Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be enclosed and provided with door locks;
2. The vehicle's seats shall be attached to the floor;
3. The vehicle shall be insured with at least the minimum limits set by the Virginia State Statutes; and
4. The vehicle shall meet the safety standards set by the Division of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children.

§ 8.30. The driver of the vehicle shall:

1. Have a valid driver's license, appropriate to the type of vehicle operated, during all times of vehicle operation, and
2. Be at least 18 years of age.

§ 8.31. The center shall ensure that during transportation of children:

1. Virginia state statutes about safety belts and child restraints are followed;
2. The number of passengers in the vehicle are limited to the manufacturer's recommended capacity;
3. The children remain seated and each child's arms, legs, and head remain inside the vehicle;
4. Doors are closed properly and locked;
5. At least one staff member or the driver always remain in the vehicle when children are present;
6. The telephone numbers for obtaining emergency help as stated in subdivision 1 through 4 of §§ 7.27 and 7.28 are in the vehicle and available to staff;
7. The name, address, and phone number of the center and an additional emergency contact number is in the vehicle and available to staff; and

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8. A list of the names of the children being transported is kept in the vehicle.

§ 8.32. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.

§ 8.33. When necessary to cross streets, children shall cross streets at corners or crosswalks.

§ 8.34. The staff to children ratios of subdivisions 1 through 4 of § 5.17 and subdivision 1 and 2 of § 5.18 shall be followed during transportation of children and on all field trips.

§ 8.35. At least one staff member in the vehicle and on field trips shall be trained in first aid according to subdivisions 1 through 4 of § 7.19 and shall be instructed on procedures to follow if the vehicle breaks down.

§ 8.36. A first aid kit with the supplies mentioned in subdivisions 1 through 11 of 7.21 and chemical cooling agents, for icing down contusions, sprains, and breaks shall be in the vehicle and available to staff.

§ 8.37. The center shall make provisions for providing children on field trips with adequate food and water.

§ 8.38. If perishable food is taken on field trips, the food shall be stored in insulated containers with ice packs to keep the food cold.

§ 8.39. Before leaving on a field trip, a schedule of the trip's events and locations shall be left at the center site.

§ 8.40. There shall be an established plan of communication between staff at the center site and staff who are away from the center site transporting children or on a field trip.

§ 8.41. The center shall develop and implement procedures to assure that all children return to the facility after a field trip.

§ 8.42. Staff shall follow the center's transportation safety policy.

§ 8.43. Parental permission for transportation and field trips shall be secured at least 24 hours before the scheduled activity. If a blanket permission is used instead of a separate written permission, the following shall apply:

1. The schedule of activities away from the facility shall be posted;
2. Parents shall be notified of the field trip; and
3. Parents shall be given the opportunity to withdraw their children from the field trip.

Article 3. Animals and Pets.

§ 8.44. Animals that are kept on the premises of the center shall be vaccinated against diseases which present a hazard to the health of children.

§ 8.45. Animals which are, or are suspected of being, ill or infested with external lice, fleas and ticks or internal worms shall be removed from contact with children.

§ 8.46. If a child is bitten by an animal, an attempt shall be made to confine the animal for observation or laboratory analysis for evidence of rabies. The site of the bite shall be washed with soap and water immediately, and the child's physician or local health department shall be contacted as soon as possible for medical advice. The center shall report the animal bite incident to the local health department.

§ 8.47. Manure shall be removed from barns, stables and corrals at least once a day and stored and disposed of in a manner to prevent the breeding of flies.

Article 4. Evening and Overnight Care.

§ 8.48. Resting.

A. For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours and are not required to sleep in cribs.

B. For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children who are not required to sleep in cribs.

C. For overnight care which occurs for a child on a weekly or more frequent basis, beds with mattresses shall be used.

D. In addition to § 6.61 about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.

§ 8.49. In centers providing overnight care, an operational tub or shower with heated and cold water shall be provided.

§ 8.50. When bath towels are used, they shall be assigned for individual use.

§ 8.51. Activities

A. Activities for children in evening or overnight care shall include, as time allows, age-appropriate activities as described in subdivision 1 through 9 of §§ 6.18, § 6.19 through § 6.23 and §§ 6.25 through § 6.29.

B. Quiet activities and experiences shall be available

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immediately before bedtime.

§ 8.52: For children receiving evening and overnight care, the provider shall offer a regularly, scheduled evening meal and snack.

LICENSING INFORMATION FOR PARENTS ABOUT CHILD CARE PROGRAMS

Appendix I (7/92)

The Commonwealth of Virginia helps assure parents that child care programs that provide protection and guidance for any part of a 24 hour day are safe and healthful for children. Title 63.1, Chapter 10 of the Code of Virginia gives the Department of Social Services authority to license these programs. While there are some legislative exceptions to licensure, licensed programs include child care centers, before school and after school child care programs, nursery schools, child day care camps, family day care systems, and group family day care homes. The state may also voluntarily register small family day care homes.

Standards for licensed child care programs address certain health precautions, adequate play space, a ratio of children per staff member, equipment, program, and record keeping. Criminal records checks and specific qualifications for staff and most volunteers working directly with children are also required. Standards require the facility to meet applicable fire, health, and building codes.

Compliance with standards is determined by announced and unannounced visits to the program by licensing staff within the Department of Social Services. In addition, parents or other individuals may register a complaint about a program which will be investigated if it violates a standard.

Three types of licenses may be issued to programs. Conditional licenses may be issued to a new program to allow up to six months for the program to demonstrate compliance with the standards. A regular license is issued when the program substantially meets the standards for licensure. A provisional license, which can not exceed six months, is issued when the program is temporarily unable to comply with the standards. Operating without a license when required constitutes a misdemeanor which, upon conviction, can be punishable by a fine of up to \$100 or imprisonment of up to 12 months or both for each day's violation.

If you would like additional information about the licensing of child care programs or would like to register a complaint, please contact the Regional Office of Social Services closest to you.

No. Virginia Regional Office
320 Hospital Drive
Warrenton, Virginia 22186
(703) 347-6340

Central Regional Office
Wythe Building, Suite 130
1604 Santa Rosa Road
Richmond, Virginia 23229
(804) 662-9743

Piedmont Regional Office
Commonwealth of Virginia Building
210 Church Avenue, S.W., Suite 100
Roanoke, Virginia 24011-1779
(703) 982-7920

Eastern Regional Office
Pembroke Office Park
Pembroke IV Office Building
Suite 300
Virginia Beach, Virginia 23462
(804) 473-2100

COMMONWEALTH OF VIRGINIA

APPENDIX II

PART I PERSONAL DATA

NAME: LAST FIRST M.I. (NICENAME) BIRTH DATE: MO DAY YR
 SEX: MALE FEMALE RACE: CHILD'S SOCIAL SECURITY #:
 PARENT OR GUARDIAN: LAST FIRST M.I. WORK PHONE:
 HOME ADDRESS: ZIP HOME PHONE:
SCHOOL DATA
 SCHOOL SCHOOL DIVISION STUDENT I.D. NUMBER SCHOOL YEAR/ GRADE
HEALTH HISTORY
 LIST ANY SERIOUS ILLNESSES, ACCIDENTS, OPERATIONS, NUTRITIONAL, DENTAL, MENTAL OR EMOTIONAL PROBLEMS OR HANDICAPPING CONDITIONS:
 1. IS CHILD RECEIVING CONTINUING MEDICAL CARE: YES NO
 2. IS CHILD TAKING ANY MEDICATION REGULARLY: YES NO
 3. IS CHILD USING ANY MEDICAL DEVICE: YES NO
 SIGNED: PARENT OR GUARDIAN DATE:
PHYSICAL EXAMINATION
 HT: WT: B/P: URINALYSIS:
 HEARING: W/O GLASSES: R: L: HEMOGLOBIN:
 VISION: W/ GLASSES: R: L: TUBERCULIN
 COLOR DISCRIMINATION: R: L: (IF GIVEN)
 OTHER:
 NORMAL EVALUATION
 IF NOT, DESCRIBE ABNORMAL OR HANDICAPPING CONDITIONS: RECOMMENDATIONS:
 1. 1.
 2. 2.
 3. 3.
 SIGNED: PHYSICIAN DATE

PART II CERTIFICATION OF IMMUNIZATION*

IMMUNIZATIONS	VACCINE DOSES ADMINISTERED					RELIGIOUS EXEMPTION
DIPHTHERIA	1) / /	2) / /	3) / /	4) / /	5) / /	§22.1-271.2.C(4) of the Code allows a child an exemption from required immunizations if the parent or guardian notifies the school's administrative staff that the child has been vaccinated against diphtheria, tetanus and pertussis (DTP) or measles and mumps (MM) or both. Any failure to notify shall be a violation of the Code. (Effective 6/30/92) (Form LHM-11 which must be obtained in any case of exemption from immunization, should contain appropriate notice of such exemption to school officials.)
TETANUS	1) / /	2) / /	3) / /	4) / /	5) / /	
PERTUSSIS (DTP)	1) / /	2) / /	3) / /	4) / /	5) / /	
DIPHTHERIA TETANUS (Td)	1) / /	2) / /	3) / /	4) / /	5) / /	
TETANUS (Td)	1) / /	2) / /	3) / /	4) / /	5) / /	
POLIOMYELITIS (OPV)	1) / /	2) / /	3) / /	4) / /	5) / /	MEDICAL EXEMPTION <input type="checkbox"/> DTP <input type="checkbox"/> Td <input type="checkbox"/> OPV <input type="checkbox"/> Measles <input type="checkbox"/> Rubella <input type="checkbox"/> Mumps As specified in §22.1-271.2.C(3) of the Code, I certify that administration of the vaccines designated above would be detrimental to this student's health. The vaccine(s) is (are) specifically contraindicated because: This contraindication is <input type="checkbox"/> permanent (or) <input type="checkbox"/> temporary and expected to preclude immunization until: Signature of Physician or Health Department Official: _____ Date: _____
MEASLES	Mo Day Yr	Serological Confirmation of Immunity Mo Day Yr				
RUBELLA	Mo Day Yr	Serological Confirmation of Immunity Mo Day Yr				
MUMPS	Mo Day Yr	Child entered school before August 1, 1991 <input type="checkbox"/> YES				
MEASLES, MUMPS, RUBELLA (MMR)	Mo Day Yr					

I certify that this student has received at least one dose of each of the vaccines required by the State Board of Health for attending school and that this student has a plan for the completion of the immunization requirements.

Signature of Physician or Health Department Official: _____ Date: _____

I certify that this student is adequately immunized in accordance with the minimum requirements for attending school prescribed by the State Board of Health as shown on the reverse of this form.

Signature of Physician or Health Department Official: _____ Date: _____

*Please see instructions on the back of this form.
Form MCH 2136
7/92

Virginia Register of Regulations

INFORMATION AND INSTRUCTIONS FOR COMPLETING CERTIFICATION OF IMMUNIZATION (PART II)

A. INFORMATION AND INSTRUCTIONS FOR PARENTS AND PHYSICIANS:

Printed to the right are the immunization schedules recommended by the American Academy of Pediatrics for immunizing children. These recommendations are the accepted medical practice standards for the immunization of all children. While recognizing that the minimum immunization requirements, printed below, are not the ideal; nevertheless, the State Board of Health has determined that these minimum immunization requirements are adequate for the purposes of attending school.

B. INSTRUCTIONS TO PHYSICIANS:

Please provide complete information in Part II, if the exact dates are not known, please record the approximate dates of administration. The exact dates (month, day and year) on which measles vaccine and rubella vaccine were administered must be recorded unless it is clear that this student was immunized at 12 months of age or older in which case only the month and year need be recorded. Please indicate in the place provided whether or not this student was immunized against measles using a live virus vaccine (Edmonston B Strain was distributed by Merck, Sharp & Dohme (Rubiovax Lyovac, Attenuvax, M-R-Vax II, M-M-R II); Pfizer Labs (Pizor-vax Measles-1); Lederle (M-Vac); Phioqs-Rosante (Measles Virus Vaccine, Live, Attenuated, Canine Kidney); Eli Lilly (Measles Virus Vaccine, Live, Attenuated), Schwartz Strain was distributed by Dow Pharmaceuticals (Lugent).) Although serologic evidence of measles and/or rubella is an acceptable alternative to vaccine administration, it is not recommended that measles or rubella testing be used routinely as a means of providing documentary proof of protection because of the unnecessary expense this would entail. In most cases, reinimmunization of any student would be the preferred method of establishing documentary proof rather than serologic testing.

MINIMUM IMMUNIZATIONS REQUIRED OF NEW STUDENTS BY THE STATE BOARD OF HEALTH AS A PREREQUISITE FOR SCHOOL ATTENDANCE

3 Doses of DTP* with one dose received after the fourth birthday, if any of these three doses must be administered on or after the seventh birthday, Td should be used instead of DTP.

3 Doses of trivalent OPV† with one dose received after the fourth birthday.

1 Dose of live virus measles (rubella) vaccine received at 12 months of age or older; this vaccine must have been received after 1968 if the fact that it was a live virus vaccine cannot be confirmed.

1 Dose of rubella vaccine received at 12 months of age or older.

1 Dose of mumps vaccine received at 12 months of age or older for students entering school on or after August 1, 1981.

*DTP means diphtheria and tetanus toxoids and pertussis vaccine.

†Td means tetanus and diphtheria toxoids.

•OPV means oral polio vaccine.

Timing	Preferred Schedule	Recommended Schedules			Comments
		Alternatives		DTP #3	
		#1	#2		
First visit	DTP #1, OPV #1, Tuberculin Test (PPD)	MMR, PPD	DTP #1, OPV #1, PPD	DTP #1, OPV #1, MMR, PPD	MMR should be given no younger than 15 mo old.
1 mo after first visit	MMR	DTP #1, OPV #1	MMR, DTP #2	DTP #2	
2 mo after first visit	DTP #2, OPV #2	—	DTP #2, OPV #2	DTP #2, OPV #2	
3 mo after first visit	(DTP #3)	DTP #2, OPV #2	—	—	In preferred schedule, DTP #3 can be given if OPV #3 not to be given until 15-18 mo.
4 mo after first visit	DTP #3 (OPV #3)	—	(OPV #3)	(OPV #3)	OPV #3 optional for areas (or high immunization of polio (e.g., some southwestern states).
5 mo after first visit	—	DTP #3 (OPV #3)	—	—	
10-18 mo after first visit	DTP #4, OPV #3 or OPV #4	DTP #4, OPV #3 or OPV #4	DTP #4, OPV #3 or OPV #4	DTP #4, OPV #3 or OPV #4	
Preschool	DTP #5, OPV #4 or OPV #5	DTP #5, OPV #4 or OPV #5	DTP #5, OPV #4 or OPV #5	DTP #5, OPV #4 or OPV #5	Preschool dose is necessary if DTP #4 or #5 given after fourth birthday.
16-18 yr old	Td	Td	Td	Td	Repeat every 10 y.

†Approved with comments from the Board of the Committee on Immunization Practices, 1500 K Street, N.W., Washington, D.C. 20005, August 1, 1981.
•Alternatives #1 can be given in those areas where 15 months old is necessary in the community.
•Alternatives #2 should be reserved for those states where it is required as a prerequisite for post-natal entry.
DTP - Diphtheria and tetanus toxoids with pertussis vaccine.
OPV - Oral polio vaccine (live virus vaccine).
MMR - Measles, mumps and rubella vaccine (live virus vaccine).
MMR - Measles, mumps and rubella vaccine (live virus vaccine).
Td - Adult tetanus toxoid with diphtheria and pertussis antigens.
For all products used, consult manufacturers for storage, handling and administration. Storage should be according to manufacturer's instructions. Do not use if the product is past its expiration date. The product should be stored in a cool, dry place.

ART MATERIALS: RECOMMENDATIONS FOR CHILDREN UNDER 12*

DO NOT USE
Dusts and Powders

SUBSTITUTES

1. Clay in dry form. Powdered clay, which is easily inhaled, contains free silica and possible asbestos. Do not sand dry clay pieces or do other dust-producing activities.

2. Ceramic glazes or copper enamels.

3. Cold water, fiber-reactive dyes or other commercial dyes.

4. Instant paper maches (create inhalable dust and some may contain asbestos fibers, lead from pigments in colored printing inks, etc).

5. Powdered tempera colors (create inhalable dusts and some tempera colors contain toxic pigments, preservatives, etc.).

6. Pastels, chalks or dry markers that create dust.

1. Order talc-free, premixed clay (e.g. Amaco white clay). Wet mop or sponge surfaces thoroughly after using clay.

2. Use water-based paints instead of glazes. Artwork may be water-proofed with acrylic based mediums.

3. Use vegetable and plant dyes (e.g. onionskins, tea, flowers) and food dyes.

4. Make paper mache from black and white newspaper and library or white paste, or use approved paper maches.

5. Use liquid paints or paints the teacher pre-mixes.

6. Use crayons, oil pastels or dust-less chalks.

Solvents

1. Solvents (e.g., turpentine, shellac, toluene, rubber cement thinner) and solvent-containing materials (solvent-based inks, alkyd paints, rubber cement).

2. Solvent-based silk screen and other printing inks.

3. Aerosol sprays.

4. Epoxy, instant glue, airplane glue or other solvent-based adhesives.

5. Permanent felt tip markers which may contain toluene or other toxic solvents.

1. Use water-based products only.

2. Use water-based silk screen inks, block printing or stencil inks containing safe pigments.

3. Use water-based paints with brushes or spatter techniques.

4. Use white glue, school paste, and preservative-free wheat paste.

5. Use only water-based markers.

Article 3. Outdoor Activity Area

Toxic Metals

1. Stained glass projects using lead came, solder, flux, etc.

1. Use colored cellophane and black paper to simulate lead.

2. Arsenic, cadmium, chrome, mercury, lead, manganese, or other toxic metals which may occur in pigments, metal filings, metal enamels, ceramic glazes, metal casting, etc.

2. Do not use these ingredients. Use approved materials only.

Miscellaneous

1. Photographic chemicals.

1. Use blueprint paper and make sun grams, or use Polaroid cameras.

2. Casting plaster. Creates dust and casting hands and body parts has resulted in serious burns.

2. Teacher can mix plaster in a separate ventilated area or outdoors for plaster casting.

3. Acid etches and picking baths.

3. Should not use techniques employing these chemicals.

4. Scented felt tip markers. These teach children bad habits about eating and sniffing art materials.

4. Use water-based markers.

From Data Sheet - Art Materials: Recommendations for Children Under 12, Center for Safety in the Arts.

*Section 63.1-195 of the Code of Virginia defines a child as "any natural person under eighteen years of age."

- 5.11 Centers shall use a clean, safe outdoor activity area, either adjoining or accessible to the center, which shall provide a minimum of 75 square feet of space per child on the outdoor area at any one time.
- 5.12 Centers licensed for the care of infants and toddlers shall provide at least 25 square feet of unpaved surface per infant/toddler on the outdoor area at any one time. This unpaved surface shall be suitable for crawling infants and for toddlers learning to walk. This space may be counted as part of the 75 square feet required in 5.11.
- NOTE: Space covered by sand in sand boxes or play areas may be counted toward the 25 square feet of unpaved surface.
- 5.13 Asphalt, concrete, or similar hard surface shall not be the only outdoor surface.
- 5.14 Where natural shade is not available, the center shall make provision for creating a shaded area or areas.
- 5.15 Resilient surfaces shall be placed under slides and climbing equipment more than four feet high and all swing sets to help absorb the shock if a child falls off the equipment. Resilient surfaces include, but are not limited to, sand, mulch, pea gravel, shredded tires, and rubberized surfaces.
- 5.16 Where swings are provided, they shall have soft or flexible seats such as, but not limited to, nylon or rubber belting rather than hard wooden, metal, or fiberglass seats.
- 5.17 Ground supports for slides, swing sets, and climbing equipment shall be covered with material(s) which would protect children from injury.
- 5.18 Where slides are provided, the lower ends shall be no more than 15 inches above the ground.
- 5.19 For outdoor activity areas used by toddlers and preschool children, the climbing portion of slides and climbing equipment shall not be more than seven feet high.
- 5.20 Outside sand in self-contained boxes with bottoms which prevent drainage shall be covered when not in use.

APPENDIX V

PRESCHOOL ACTIVITIES

The following activities and experiences for preschool children shall include but not be limited to:

1. Art Activities -- For example: painting and drawing; use of scissors and paper; use of paste, clay, fingerprints; use of collage materials.
2. Rhythm and Music -- For example: listening to, dancing to, singing along with records/tapes; use of instruments such as rattles, bells, shakers, sandpaper blocks, triangles, drums, horns; singing and reciting songs, rhymes, finger plays.
3. Language and Communication Experiences -- For example: book and story reading; story-telling; viewing film strips; listening to recorded stories; group discussion; show and tell; use of flannel boards; interaction with peers and adults.
4. Sensory Experiences and Exploration of the Environment -- For example: discussion and observation of plants, leaves, weather; observation of and caring for animal and marine life; water play; nature walks; use of toys that stimulate the sense of touch, sight, taste, hearing, and smell; use and observation of wood, soil, sand; field trips into the community; visitors to the classroom.
5. Construction -- For example: building with blocks, interlocking logs, wooden dowels, wheels with multiple holes; play with nesting and stacking toys, pyramid rings/squares; woodworking.
6. Social Living -- For example: play with child-size household items; imaginative play through the use of dress-up clothes; play with dolls and doll houses, block people, wooden zoo and farm animals; use of puppets and play store items.
7. Water and Sand Play -- For example: play with water, sawdust, rice, beans, pebbles, soil; use of pails and shovels, measuring cups and spoons, funnels, pouring devices; availability of hose for siphoning; sponges.
8. Fine Motor Activities -- For example: use of puzzles, manipulatives, beads, peg boards, mosaics, parquetry boards, spools; play with small balls, lacing boards, sorting toys; building with dominoes; modeling with clay; use of an abacus; use of interlocking blocks, cubes, geometric shapes, rings.
9. Gross Motor Activities -- For example: climbing; balancing on steps, balance board; playing hopscotch; jumping rope; riding on or rolling transportation toys; throwing bean bags, rubber and nontoxic balls; play with punching bags; digging; reaching.

Note: Many activities provide the opportunity to combine several of the interest areas above. For example, a center may make a collage of fall leaves combining 1 and 4. Many of the manipulative and fine motor activities could be the same, etc.

APPENDIX VI

TODDLER ACTIVITIES

The following activities and experiences for toddlers shall include but not be limited to:

1. Art Activities -- For example: painting and drawing; use of large crayons, paint brushes and paper; use of paste, play dough; fingerprints; use of collage materials.
2. Rhythm and Music -- For example: listening to, dancing to, singing along with records/tapes; use of instruments such as rattles, bells, shakers, sandpaper blocks, triangles, drums, horns; singing and reciting simple songs, rhymes, finger plays.
3. Language and Communication Experiences -- For example: book and story reading; story-telling; listening to recorded stories; use of flannel boards; use of pictures such as children, families, or familiar objects.
4. Sensory Experiences and Exploration of the Environment -- For example: observation of and caring for animal and marine life; nature walks; use of toys that stimulate the sense of touch, sight, taste, hearing, and smell such as small jars, sound shakers, feely boards; use and observation of wood, soil, sand.
5. Construction -- For example: building with small unit blocks, lightweight blocks, large interlocking blocks.
6. Social Living -- For example: use of dolls and play animals; play with dress up clothes, child size household items, puppets, mirrors, phones; play with block people, wooden zoo and farm animals.
7. Water and Sand Play -- For example: play with water, sand, and other nonfood material with equipment for scooping and digging such as pails, shovels, cups, spoons, and funnels; availability of hose for siphoning; sponges.
8. Fine Motor Activities -- For example: use of large peg boards, balls, stacking toys, shape sorter, stacking cubes, nesting/stacking toys, huge pegboards, simple puzzles.
9. Gross Motor Activities -- For example: climbing, pushing and pulling toys; play on low climbing structures; play with simple riding toys, wagons, balls, bean bags.

Note: Many activities provide the opportunity to combine several of the interest areas above. For example, a center may make a collage of fall leaves combining 1 and 4. Many of the manipulative and fine motor activities could be the same, etc.

Proposed Regulations

APPENDIX VIII

CHILD CARE FOOD PROGRAM MEAL PATTERNS

This chart lists the amounts and types of food to be served to children 1 year old and older.

MEAL COMPONENTS	AGES 1 - 2	AGES 3 - 5	AGES 6 - 12
BREAKFAST			
Milk	1/2 cup	3/4 cup	1 cup
Juice or Fruit or Vegetable	1/4 cup	1/2 cup	1/2 cup
Bread or Bread Alternate	1/2 slice	1/2 slice	1 slice
Including cereal, cold dry	1/4 cup or	1/3 cup or	3/4 cup or
or cereal, hot cooked	1/3 ounce	1/2 ounce	1 ounce
	1/4 cup	1/4 cup	1/2 cup
SNACK (SUPPLEMENT)			
Select 2 out of 4 components			
Milk	1/2 cup	1/2 cup	1 cup
Juice or Fruit or Vegetable	1/2 cup	1/2 ounce	3/4 cup
Heat or Heat Alternate	1/2 ounce	1/2 ounce	1 ounce
Bread or Bread Alternate	1/2 slice	1/2 slice	1 slice
Including cereal, cold dry	1/3 cup or	1/3 cup or	3/4 cup or
or cereal, hot cooked	1/3 ounce	1/2 ounce	1 ounce
	1/4 cup	1/4 cup	1/2 cup
LUNCH OR SUPPER			
Milk	1/2 cup	3/4 cup	1 cup
Heat or Poultry or Fish	1 ounce	1 1/2 ounces	2 ounces
or egg	1	1	1
or Cheese	1 ounce	1 1/2 ounce	2 ounces
or cooked dry beans or peas	1/4 cup	3/8 cup	1/2 cup
or peanut butter and other "butters"	2 Tbsp.	3 Tbsp.	4 Tbsp.
nuts and seeds	1/2 ounce*	3/4 ounce*	1 ounce*
Vegetable and/or Fruits (2 or more total)	1/4 cup	1/2 cup	3/4 cup
Bread or Bread Alternate	1/2 slice	1/2 slice	1 slice

Milk includes whole milk, lowfat milk, skim milk, cultured buttermilk, or flavored milk made from these types of fluid milk which meet State or local standards.

Bread Alternate may also include an equivalent serving of items such as a roll, biscuit, muffin, cooked enriched or whole-grain rice, macaroni, noodles, or other pasta products.

*Nuts and seeds may be credited towards meeting only 50% of the meat/meat alternate requirement.

Communicable Disease Reference Chart For School Personnel

Disease	Incubation Period	Signs and Symptoms	Diagnosis	Control
Chickpox (Varicella)	From 2 to 3 weeks, usually 13 to 17 days.	Sudden onset with slight fever and rash eruption which become vesicular (small blisters) within a few hours. Rash is more extensive on the trunk and limbs, only few on face. Rash is itchy and lasts for 2 to 3 weeks.	Characteristic rash and fever.	Case: Exclude from school for 7 days after onset of symptoms. Contact: Those who are pregnant and not immunized should be kept to safe hospital care.
5th Disease (Erythema Infectiosum)	From 6 to 14 days.	Most often without fever. Rash first noticed by a red reddening at the site of exposure of the face which fades and reappears, subsequently spreading to 2-3 areas of the body.	Characteristic rash.	Case: Exclude from school until physical exam is normal. Contact: School exclusion not indicated.
German Measles (Rubella)	From 14 to 21 days, usually 15 to 18 days.	Mild symptoms: slight fever, rash of variable character lasting 2 to 3 weeks. Rash is more extensive on the trunk and limbs, only few on face. Rash is itchy and lasts for 2 to 3 weeks.	Characteristic rash and fever.	Case: Exclude from school for 7 days after onset of symptoms. Contact: Those who are pregnant and not immunized should be kept to safe hospital care.
Hepatitis A (Infectious Hepatitis)	From 15 to 30 days, usually 20 to 28 days.	Fever, loss of appetite, nausea, abdominal discomfort and weakness followed by jaundice. Many asymptomatic children seen without jaundice occur, especially in children.	Characteristic rash and fever.	Case: Exclude from school until physical exam is normal. Contact: School exclusion not indicated.
Impetigo Contagiosa	Unknown.	Small, round, pus-filled blisters on the face, neck, arms, and legs. Blisters break and crust over. Healing from center outwards. Pruritic (itchy) and contagious.	Characteristic rash and fever.	Case: Exclude from school until physical exam is normal. Contact: School exclusion not indicated.
Measles (Rubeola)	Usually 14 days.	Sudden onset of fever, running, cough and stiff neck. Inguinal lymph nodes enlarged. Rash is more extensive on the trunk and limbs, only few on face. Rash is itchy and lasts for 2 to 3 weeks.	Characteristic rash and fever.	Case: Exclude from school until physical exam is normal. Contact: School exclusion not indicated.
Meningitis, Meningococcal	From 2 to 10 days, usually 3 to 4 days.	Sudden onset of fever and intense headache. Disruption and coma often appear early. Characteristic meningitis (neck) stiffly usually follows. Often mild despite prompt diagnosis and treatment.	Characteristic rash and fever.	Case: Exclude from school until physical exam is normal. Contact: School exclusion not indicated.
Poliovirus (Infectious Poliomyelitis)	Usually 5 to 6 weeks.	Incubation period of 3 to 6 weeks. Sudden onset of fever, malaise, headache, and stiff neck. Rash is more extensive on the trunk and limbs, only few on face. Rash is itchy and lasts for 2 to 3 weeks.	Characteristic rash and fever.	Case: Exclude from school until physical exam is normal. Contact: School exclusion not indicated.
Scarlet Fever	From 2 to 5 days, usually 1 to 3 days.	Sudden onset of fever, sore throat, and rash. Rash is more extensive on the trunk and limbs, only few on face. Rash is itchy and lasts for 2 to 3 weeks.	Characteristic rash and fever.	Case: Exclude from school until physical exam is normal. Contact: School exclusion not indicated.
Shingles (Herpes Zoster)	From 1 to 2 days, usually 1 to 3 days.	Diagnosis, fever and often numbness and cramps. In severe cases the rash may contain blisters.	Characteristic rash and fever.	Case: Exclude from school until physical exam is normal. Contact: School exclusion not indicated.
Whooping Cough (Pertussis)	Usually 7 days, usually 10 to 14 days, and sometimes 21 days.	Characteristic cough with inspiratory whoop and apnea. Rash is more extensive on the trunk and limbs, only few on face. Rash is itchy and lasts for 2 to 3 weeks.	Characteristic rash and fever.	Case: Exclude from school until physical exam is normal. Contact: School exclusion not indicated.

APPENDIX IX

SOME FOODS WITH VITAMIN A AND VITAMIN C

Vitamin A		*Excellent Sources	
Vegetables		Fruits	Meats
Asparagus	Spinach	*Apricots	Liver
*Broccoli	*Squash-winter	*Cantaloupe	
*Carrots	*Sweetpotatoes	Cherries, red sour	
Chili peppers (red)	Tomatoes	Papaya	
Kale	Tomato Juice,	Peaches, (not canned)	
*Mixed vegetables	paste or puree	Plums, purple (canned)	
*Peas & carrots	*Turnip greens	Prunes	
Pumpkin	Vegetable juices	Pumpkin	
		Watermelon	

Vitamin C		
Vegetables		Fruits
Asparagus	Peppers, sweet	Cantaloupe
Broccoli	Potatoes, white	Grapefruit
Brussels sprouts	Spinach	Grapefruit juice
Cabbage	Sweetpotatoes	Oranges
Cauliflower	Tomatoes	Orange juice
Chili peppers	Tomato Juice,	Raspberries
Collards	paste or puree	Strawberries
Kale	Turnip greens	Tangerines
Okra	Turnips	

DIVISION OF LICENSING PROGRAMS
 VIRGINIA DEPARTMENT OF SOCIAL SERVICES
 INITIAL APPLICATION FOR A LICENSE TO OPERATE A CHILD CARE CENTER

This application shall be signed by the individual responsible for operation of the child care center(s) or, if the center(s) is/are to be operated by a board, by an officer of the board or person designated authority by the board. It shall be filed 60 days before opening date. The licensing study will begin when a completed application is received.

Application is hereby made for one or more licenses to operate one or more child care centers pursuant to Section 63.1-195 of the Code of Virginia. (If there is more than one center location to be licensed by this application, please copy and complete Sections II and III of this form as many times as needed.)

Name of Center: _____

Type of Center (please check all that apply):

Child Care Center for Preschool or Younger Children

Child Care Center for School Age Children

Nursery School

Child Day Care Camp

Center Location: _____

Street or Route No. City State Zip

Mailing Address: _____

Street or Route No. City State Zip

In making this application, the applicant:

1. Is in receipt of and has read a copy of the licensing statute and the minimum standards applicable to the type of center to be operated.
2. Certifies that it is his intent to comply with the aforementioned minimum standards and statutes and to remain in compliance with them if he is so licensed.
3. Grants permission to the Department of Social Services and its authorized agents to make all necessary investigation of the circumstances surrounding this application and any statement made herein, including financial status, inspection of the facility(ies), review of records, and interviewing his agents, employees, and any child or other person within his custody or control. The applicant understands that, following licensure, authorized agents of the department will make announced and unannounced visits to the center(s) to determine its compliance with standards and to investigate any complaints received.
4. Understands that I will be requested to supply reports from the local health department, and appropriate fire prevention officials and I may be requested to supply a Certificate of Occupancy from the local building official.
5. Understands that an application for a license is subject to either issuance or denial. In the event of denial, it is understood that the applicant has appeal rights which are explained in the General Procedures regulation.
6. Understands that a license is required for each center site and the application fee is calculated according to the capacity at each site.

032-05-512/9 (7/92)

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

INITIAL APPLICATION
CHILD CARE CENTER

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7. Is aware that it is a misdemeanor for any person to operate a child care center defined in Section 63.1-195 of the Code of Virginia without a license.
8. Has to the best of his knowledge and belief, given to the Department of Social Services and its authorized agents on this form and during any pre-application conference information which is true and correct. The applicant agrees to supply true and correct information requested during all subsequent investigations.

Directions: Please provide all requested information. If completing this form for centers located at different sites, please copy and complete Sections II and III of this form as many times as needed.

I. SPONSORSHIP AND GENERAL INFORMATION

A. Center(s) is/are to be operated by _____
 Individual Corporation Public Agency
 Partnership Association

B. Name of sponsor if not an individual proprietorship: _____
 Address: _____
 Telephone: () _____
 Name and title of contact person (if applicable) _____

C. For centers sponsored by either corporations, unincorporated associations, or public agencies:

1. List all officers and members of the Board

President or Chairperson: _____ Telephone Number: () _____
 Address: _____
 (City) (State) (Zip Code)

Office	Name	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

D. References

List the names and addresses of three persons who are not related to the applicant(s) and who can knowledgeably and objectively certify to the applicant's(s') character and reputation. For center(s) sponsored by corporations, unincorporated associations, or public agencies provide three references for each officer of the Board. Attach an extra page, if necessary.

(Date)

(Name of Applicant (Individual or Organization))

by: _____
 (Signature)

(Applicant's Mailing Address
if different from the center)

(Name and Title)

(City, State, Zip Code)
 ()
 (Business Telephone)

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

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INITIAL APPLICATION
CHILD CARE CENTER

Name of Individual Owner, Partner, or Officer of the Board: _____

References	Phone Numbers	Addresses
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)

Name of Individual Owner, Partner, or Officer of the Board: _____

References	Phone Numbers	Addresses
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)

Name of Individual Owner, Partner, or Officer of the Board: _____

References	Phone Numbers	Addresses
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)

Name of Individual Owner, Partner, or Officer of the Board: _____

References	Phone Numbers	Addresses
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)

F. How many center sites do you want licensed by this application? _____

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

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INITIAL APPLICATION
CHILD CARE CENTER

II. INFORMATION FOR EACH CENTER SITE

Directions: As necessary, please make copies of this section of the form and complete for each center site.

A. Name of Center		B. Phone Number of Center (Area Code)	
C. Name of Administrator		D. Name of Center Director	

E. Directions to the Center:

F. Asbestos
Section 63.1-198.01 of the Code of Virginia, requires asbestos inspections in child care centers based on the date of construction of the building(s) housing your center(s). Written statements required by the minimum standards applicable to your center must be submitted before a license can be issued.

When was your center built? Before 1978 (requires asbestos inspection)
 In 1978 or after (does not require DSS asbestos review.)

If your center is located in a public school building or state owned building, you are exempt from DSS asbestos review. Is your center located in a public school building or state owned building?

Yes No

Please provide this information for each separate building of your child care center.

Note: If you operate a nonprofit school on site for children five years of age and older, the complete asbestos inspection must be submitted to the Department of Education (804) 225-2035. Written statements as noted above must be submitted to DSS if the building was constructed before 1978.

INITIAL APPLICATION
CHILD CARE CENTER

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

G. Hours of Operation and Requested, Licensed Capacity

	Hours of Operation (days and times)	Months Operated During the Year	Requested Licensed Capacity	Age Range
Child Care Center Preschool or Younger				
School Age				
Nursery School				
Camp				

H. What is your total, requested licensed capacity (the number of children that can be present at any one time)? _____

I. Proposed Enrollment by Age Groups and Type of Care Offered. Please indicate if multiple sessions during a one week time period are offered (i.e. morning nursery school and afternoon nursery school).

	Infants and Toddlers (birth to 16 mos.)	Infants and Toddlers (16 mos. to 2 yrs.)	Preschool (2 and 3 yr. olds)	Preschool (4 to age of eligibility to attend school)	School Age
Child Care Center Preschool or Younger					
School Age					
Nursery School					
Camp					

J. Do you plan to accept children with disabilities in a mainstream setting? Yes
 No

K. State the purpose and scope of your services (EXAMPLES: What will be the major goal of your center(s)? What will be the emphasis and philosophy of your center(s) to carry out this goal? What are the specific services to be provided as part of your center(s) and how do these services vary according to the age group in care?):

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

INITIAL APPLICATION
CHILD CARE CENTER

Directions: As necessary, please make copies of this section of the form and complete for each center site.

Name of Center: _____

III. STAFF INFORMATION .

Location of Center: _____

List all employees and volunteers. If staff is not yet hired, indicate positions to be used, anticipated hours of employment, etc.

Staff Member	Date of Employment	Position	Education/Related Experience (Indicate highest grade, diploma or degree and related experience)	Weekly Work Schedule (Specify actual hours worked each day)	Age Group For Which Responsible

IV. ATTACHMENTS

A. Required Attachments

1. Attach the appropriate fee(s) for application processing.
2. For each site, floor plans indicating exact dimensions of rooms to be used, including
 - a) room length and width;
 - b) functions of each room;
 - c) toilet facilities, including number of basins and toilets; and
 - d) isolation arrangements and position of any fixed equipment and furniture.
3. For each site, sketch of available outdoor play area including exact dimensions and the location of any fixed play equipment.

Note: Floor plans and sketch of available outdoor play areas are not required if plans have previously been submitted for functional design approval and no changes have been made to the plan.

- | | | |
|---|--------------------------|--------------------------|
| | Not | |
| | Applicable | |
| 4. a) For centers operated by a partnership: | <u>Attached</u> | <u>Not Applicable</u> |
| Articles of Partnership | <input type="checkbox"/> | <input type="checkbox"/> |
| b) For centers operated by an association: | | |
| (1) Copy of Constitution, or | <input type="checkbox"/> | <input type="checkbox"/> |
| (2) Copy of By-Laws | <input type="checkbox"/> | <input type="checkbox"/> |
| c) For centers operated by a corporation: | | |
| Copy of Charter or certificate of authority to transact business in the Commonwealth | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Certified financial statement prepared for your facility by a certified public accountant. | | |

6. A written statement regarding the sponsorship and organization of the center(s), with information showing who is responsible for policy making, operation and management decisions.
7. Samples of all forms developed, such as application form, agreement form, etc., if different from the model forms provided by the Department of Social Services.
8. Sample menu for one month if food is provided by the center.
9. A list of indoor and outdoor play equipment available to children.
10. A copy of the daily activity schedule(s) for the center(s).
11. A copy of all brochures and policies required by the minimum standards applicable to your center.

B. Optional Attachments

Attachments requested in this section may be provided now or during the initial on-site inspection. Review of these attachments before the on-site visit may shorten the amount of time needed for the visit. It is your option when to provide the information.

1. Evidence of insurance coverage.
2. Certificate of Occupancy.
3. Written statements about asbestos (if applicable according to the minimum standards).

DIVISION OF LICENSING PROGRAMS
 VIRGINIA DEPARTMENT OF SOCIAL SERVICES
 RENEWAL APPLICATION FOR A LICENSE TO OPERATE A CHILD CARE CENTER

This application shall be signed by the individual responsible for operation of the child care center(s) or, if the center(s) is/are to be operated by a board, by an officer of the board or person designated authority by the board. It shall be filed 60 days before the expiration of the current license. The licensing study will begin when a completed application is received.

Application is hereby made for one or more licenses to operate one or more child care centers pursuant to Section 63.1-195 of the Code of Virginia. (If there is more than one center location to be licensed by this application, please copy and complete Sections II and III of this form as many times as needed.)

Name of Center: _____

- Type of Center (please check all that apply):
- Child Care Center for Preschool or Younger Children
 - Child Care Center for School Age Children
 - Nursery School
 - Child Day Care Camp

Center Location: _____

Street or Route No.	City	State	Zip
---------------------	------	-------	-----

Mailing Address: _____

Street or Route No.	City	State	Zip
---------------------	------	-------	-----

In making this application, the applicant:

1. Is in receipt of and has read a copy of the licensing statute and the minimum standards applicable to the type of center to be operated.
2. Certifies that it is his intent to comply with the aforementioned minimum standards and statutes and to remain in compliance with them if he is so licensed.
3. Grants permission to the Department of Social Services and its authorized agents to make all necessary investigation of the circumstances surrounding this application and any statement made herein, including financial status, inspection of the facility(ies), review of records, and interviewing his agents, employees, and any child or other person within his custody or control. The applicant understands that, following licensure, authorized department will make announced and unannounced visits to the center(s) to determine its compliance with standards and to investigate any complaints received.
4. Understands that I will be requested to supply reports from the local health department and appropriate fire prevention officials.
5. Understands that an application for a license is subject to either issuance or denial. In the event of denial, it is understood that the applicant has appeal rights which are explained in the General Procedures regulation.
6. Understands that a license is required for each center site and the application fee is calculated according to the capacity at each site.

032-05-225/8 (7/92)

7. Is aware that it is a misdemeanor for any person to operate a child care center defined in Section 63.1-195 of the Code of Virginia without a license.
8. Has to the best of his knowledge and belief, given to the Department of Social Services and its authorized agents on this form and during any pre-application conference information which is true and correct. The applicant agrees to supply true and correct information requested during all subsequent investigations.

(Date) _____

 (Name of Applicant (Individual or Organization))

by: _____
 (Signature)

 (Name and Title)

 (Applicant's Mailing Address if different from the center)

 (City, State, Zip Code)

 (Business Telephone)

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

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RENEWAL APPLICATION
CHILD CARE CENTER

Directions: Please provide all requested information. If completing this form for centers located at different sites, please copy and complete Sections II and III of this form as many times as needed.

I. SPONSORSHIP AND GENERAL INFORMATION

A. Center(s) is to be operated by Individual Corporation Public Agency
 Partnership Association

B. For centers sponsored by either corporations, unincorporated associations, or public agencies:

List all officers and members of the Board

President or Chairperson: _____ Telephone Number: _____ (_____) _____

Address: _____ (City) _____ (State) _____ (Zip Code)

Office	Name	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

C. How many center sites do you want licensed by this application? _____

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

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RENEWAL APPLICATION
CHILD CARE CENTER

II. INFORMATION FOR EACH CENTER SITE

As necessary, please make copies of this section of the form and complete for each center site.

A. Name of Center		B. Phone Number of Center (Area Code)	
C. Name of Administrator		D. Name of Center Director	

E. Hours of Operation and Requested, Licensed Capacity

	Hours of Operation (days and times)	Months Operated During the Year	Requested Licensed Capacity	Age Range
Child Care Center Preschool or Younger				
School Age				
Nursery School				
Camp				

F. What is your total, requested licensed capacity (the number of children that can be present at any one time)? _____

G. Current Enrollment By Age Groups and Type of Care Offered. Please indicate if multiple sessions during a one week time period are offered (i.e. morning nursery school and afternoon nursery school).

	Infants and Toddlers (birth to 16 mos.)	Infants and Toddlers (16 mos. to 2 yrs.)	Preschool (2 and 3 yr. olds)	Preschool (4 to age of eligibility to attend school)	School Age
Child Care Center Preschool or Younger					
School Age					
Nursery School					
Camp					

H. How many children with disabilities do you care for in a mainstream setting for each center? _____

Proposed Regulations

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

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RENEWAL FORM
CHILD CARE CENTER

Directions: As necessary, please make copies of this section of the form and complete for each center site.

Name of Center: _____ **III. STAFF INFORMATION**

Location of Center: _____

List all employees and volunteers.

STAFF MEMBER	DATE OF EMPLOYMENT	POSITION	EDUCATION/RELATED EXPERIENCE (Indicate highest grade, diploma or degree and related experience)	WEEKLY WORK SCHEDULE (Specify actual hours worked each day)	AGE GROUP FOR WHICH RESPONSIBLE

RENEWAL APPLICATION
CHILD CARE CENTER

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DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

IV. ATTACHMENTS

- A. A list of indoor and outdoor play equipment available to children, if it has changed since the last licensing study. no change has changed
- B. A copy of the daily activity schedule(s) for the center(s), if it has changed since the last licensing study. no change has changed
- C. A copy of all brochures and policies required by the minimum standard if they have changed since the last licensing study. no change has changed

Proposed Regulations

Title of Regulation: VR 175-09-01. Minimum Standards for Licensed Child Care Centers, Before School and After School Child Care Programs, and Child Day Care Camps Serving School Age Children.

Statutory Authority: §§ 63.1-202 and 63.1-202.1 of the Code of Virginia.

Public Hearing Dates:

September 16, 1991 - 3:30 p.m.

September 17, 1991 - 3 p.m.

September 19, 1991 - 3 p.m.

(See Calendar of Events section for additional information)

Summary:

This regulation lists the standards that child care centers, before school and after school programs, and child day care camps serving school age children must meet to be licensed by the Department of Social Services. The following areas are addressed in the regulation: (i) administration; (ii) personnel; (iii) physical plant, staffing, and supervision; (iv) program; (v) special care provisions and emergencies; and (vi) special services.

VR 175-09-01. Minimum Standards for Licensed Child Care Centers, Before School and After School Child Care Programs, and Child Day Care Camps Serving School Age Children.

**PART I.
INTRODUCTION.**

**Article 1.
Definitions.**

§ 1.1. Definitions.

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

"Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator is responsible for supervising the program director or may, if appropriately qualified, concurrently serve as the program director.

"Adult" means any individual 18 years of age or over.

"Age of eligibility to attend public school" means five years old by September 30.

"Aide" means the individual designated to be responsible for helping the program leader/child care supervisor in supervising children and in implementing the

activities and services for children.

Note: Position titles used in these standards are descriptive only and do not preclude the use of other titles by centers.

"Before school and after school day care program" means a child care center which operates before and after school and provides care, protection, and guidance for children age five and older.

"Camp" means a child day care camp.

"Center" means a child care center, before school and after school day care program, nursery school, and child day care camp or any combination located on the same premises.

"Character and reputation" means findings have established, and knowledgeable and objective people agree, that the individual (i) maintains business/professional, family, and community relationships which are characterized by honesty, fairness, truthfulness, and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage, and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Child" means any individual under 18 years of age.

"Child care center" means any "facility operated for the purpose of providing care, protection, and guidance to two or more children separated from their parents or guardian during a part of the day only."

Exceptions: (§ 63.1-195 of the Code of Virginia)

1. *"A private family home offering care to five or fewer children";*

2. *"A group family day care home";*

3. *"A public school or private school unless the commissioner determines that such school is operating a child care center outside the scope of regular classes";*

4. *"A recreation program operated primarily for recreational development and instruction at a public or private school or facility unless the commissioner determines that such program is child care outside the scope of regular recreational programs";*

5. *"A Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services;*

Proposed Regulations

6. *Exemption as set out in § 63.1-196.3 of the Code of Virginia: A child care center operated or conducted under the auspices of a religious institution may be exempted from licensure by filing specified information with the department.*

“Child day care camp” means a “facility operated seasonally or year-round offering programs or services to two or more children separated from their parents or guardian during part of the day only, which provides care, protection, and guidance and emphasizes outdoor activities. A camp is subject to licensure if its sessions cover a period in excess of 14 consecutive days or if the same children are eligible to attend two or more sessions covering a period not in excess of 14 consecutive days with fewer than six days between sessions” (§ 63.1-195 of the Code of Virginia).

Exemption: As set out in § 63.1-196.3 of the Code of Virginia, a child day care camp operated or conducted under the auspices of a religious institution may be exempted from licensure by filing specified information with the department.

“Child with a developmental delay” means a child who manifests atypical development or behavior which is demonstrated by one or more of the following:

- 1. A typical quality of performance and function in one or more developmental areas;*
- 2. Significant gaps within or between the developmental areas;*
- 3. Behavior patterns that interfere with the acquisition of developmental skills.*

Developmental areas include cognitive development, physical development (including fine motor, gross motor, vision, and hearing), language or speech development, psycho-social development, and self-help skills.

“Commissioner” means the commissioner of Social Services, also known as the director of the Virginia Department of Social Services.

“Contract employee” mean an individual who enters into an agreement to provide specialized services for a specified period of time.

“Department” means the Virginia Department of Social Services.

“Department’s representative” means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.

“Developmentally appropriate” means a philosophy which applies a knowledge of child development to the curriculum, the environment, adult-child interactions, and staff-parent interactions, and which recognizes the age

span of the children within the group, as well as the needs of the individual child.

“Evening care” means care provided in a center between the hours of 7 p.m. and 1 a.m., inclusively.

“Fall zone” means the area underneath and surrounding equipment that requires a protective surface. It shall encompass sufficient area to include the child’s trajectory in the event of a fall while the equipment is in use.

“Field trip” means excursions away from the facility including walks away from the facility.

“Program leader” or “child care supervisor” means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children.

“Licensee” means any individual, partnership, association, public agency, or corporation to whom the license is issued.

“Overnight care” means care provided in a center between the hours of 1 a.m. and 5 a.m., inclusively.

“Parent” means the biological or adoptive parent(s) or legal guardian(s) of a child enrolled or in the process of being enrolled in a center.

“Physician” means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

“Primitive camp” means a camp where places of abode, water supply system, permanent toilet and cooking facilities are not usually provided.

“Program director” means the primary, on-site director/coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the management of the supervision of all staff who work with children and the orientation, training, and scheduling of all staff who work directly with children, whether or not the program director personally performs these functions.

Exception: The administrator may perform staff orientation/training or program development functions if the administrator meets the qualifications in § 3.6 of these regulations and a written delegation of responsibility specifies the duties of the program director.

“Programmatic experience in the group care of children” means time spent working directly with children in a group, in a child care situation which is located away from the child’s home (i.e., Sunday school, vacation Bible school, scouts, etc.).

“School age” means children from the age of eligibility to attend public school and older.

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"Speciality camps" means those centers which have an educational or recreational focus on one subject which may include, but is not limited to, dance, drama, music, sports.

"Sponsor" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to licensure.

"Staff" means administrative, activities, service, and volunteer personnel including the licensee when the licensee is an individual who works in the facility.

"Volunteers" means persons who come to the center less than once a week and are not counted toward the required number of staff.

"Volunteer personnel" means persons who work at the center once a week or more often or who are counted in the required ratio of staff to children.

Article 2. Legal Base.

§ 1.2. Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia describes the responsibility of the Department of Social Services for the regulation of residential and day care programs, including child care centers, before school and after school day care programs, nursery schools, and child day care camps.

§ 1.3. Section 63.1-202 of the Code of Virginia requires the Child Day-Care Council to prescribe standards for certain activities, services, and facilities for child care centers, before school and after school day care programs, nursery schools, and child day care camps.

Article 3. Purpose.

§ 1.4. The purpose of these minimum standards is to protect children who are separated from their parents during a part of the day by:

1. Ensuring that the activities, services, and facilities of centers are conducive to the well-being of children, and
2. Reducing risks in the child care environment.

Article 4. Applicability.

§ 1.5. These minimum standards apply to child care centers serving school age children including before school and after school day care programs, nursery schools, and child day care camps as defined in § 1.1 of these standards.

PART II. ADMINISTRATION.

Article 1.

Sponsorship.

§ 2.1. Each center shall have a clearly identified sponsor which shall be identified by its legal name in accordance with state requirements.

§ 2.2. The names and addresses of individuals who hold primary financial control and officers of the sponsor/governing body shall be disclosed fully to the Department of Social Services.

§ 2.3. The sponsor, represented by the individual proprietor, partners, officers, and managers who has delegated authority to act for a sponsor, shall be of good character and reputation and shall not have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

Article 2.

Operational Responsibilities.

§ 2.4. As required by § 63.1-198 of the Code of Virginia, the sponsor shall afford the commissioner or his agents the right at all reasonable times to inspect the facility(ies), all of his financial books and records, and to interview his agents, employees, and any child or other person within his custody or control.

§ 2.5. A certified financial statement prepared for the facility by a certified public accountant shall be submitted to the department before initial licensure.

§ 2.6. The license shall be posted in a place conspicuous to the public, near the main entrance of the building(s) or the main office.

§ 2.7. The operational responsibilities of the licensee shall include, but not be limited to, the following:

1. To develop a written statement of the purpose, scope, and philosophy of the services to be provided by the center and written policies under which the center will operate;
2. To ensure that the center's activities, services, and facilities are maintained in compliance with these minimum standards; with the terms of the current license issued by the department; with other relevant federal, state, and local laws and regulations; and with the center's own policies and procedures; and
3. To identify in writing the individual(s) responsible for the day-to-day operations and implementation of both these regulations and the facility's policies.

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§ 2.8. No center "shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made...an advertisement of any sort regarding services or anything so offered to the public, which...contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading" (§ 63.1-196 of the Code of Virginia).

§ 2.9. The center shall maintain public liability for bodily injury with a minimum limit of at least \$500,000 each occurrence/\$500,000 aggregate or have equivalent self insurance which is in compliance with local codes. Evidence of insurance coverage shall be made available to the department's representative upon request.

§ 2.10. A school accident health insurance program for children enrolled shall be available for the parent to purchase.

§ 2.11. The center shall develop an annual plan for injury prevention. This plan shall be based on documentation of injuries and a review of the activities and services.

§ 2.12. The center shall develop a playground safety plan which shall include:

1. Provision for active supervision by staff; and
2. Positioning of staff on the playground to help meet the safety needs of children; and
3. Schedule and method to maintain the required resilient surface.

§ 2.13. Hospital operated child care centers may temporarily exceed their licensed capacity during a natural disaster if:

1. The center has developed a plan with defined limits for its emergency operation, and
2. The center has received prior approval of the department. The department may monitor the center during this time and impose additional requirements for the safety of children or withdraw the approval to exceed the capacity.

Article 3. Policies and Procedures.

§ 2.14. Before a child's admission and before staff are allowed to supervise children, parents and staff shall be provided the following:

1. Operational information:
 - a. The center's purpose, scope, philosophy, and any religious affiliations;
 - b. The hours and days of operation, specific hours during which special activities are offered, and

holidays or other times closed;

c. The procedures for admission and registration of children and removal of children from the rolls, including the amount of notice required from the parent and the center before removal from the rolls;

d. Fees and tuition including whether participation in the accident or school insurance is mandatory;

e. The program and services provided and the ages of children accepted;

f. Provisions for children with developmental delays and any special services offered if special needs children are accepted;

g. Organizational chart or other description of established lines of authority for persons responsible for center management within the organization;

h. Reasons for the center to terminate enrollment of the child; and

i. Licensing information found in Appendix I.

2. Arrival and departure for children:

a. Procedures for caring for a child who may arrive after any scheduled start time of the center;

b. Procedures to confirm absence of a child from the center when the child attends more than one care or educational arrangement a day;

c. Policy governing a parent picking up a child after closing hours and procedures if the child is not picked up;

d. Policy for release of children from the center only to responsible persons for whom the center has written authorization; and

e. Procedures for protecting children from traffic and other hazards during arrival and departure and when crossing streets.

3. Program and activities:

a. Procedures about accepting and storing children's personal belongings;

b. Discipline policies including acceptable and unacceptable discipline measures;

c. Food policies; and

d. Transportation safety policies and procedures when provided.

4. Health and emergencies:

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a. Procedures for identifying where attending children are at all times including field trips;

b. Procedures for storing and giving children's medications;

c. Procedures for action in case of lost or missing children, ill or injured children, medical emergencies, and natural disasters, including but not limited to fire, flood, or other severe weather; and

d. Procedures for reporting child abuse.

Article 4. Records, Logs, and Reports.

§ 2.15. General record keeping.

A. All children's records and personnel records shall be treated confidentially with access restricted to officials under the authority of the Code of Virginia. Children's records may also be available to the custodial parent.

B. Records, logs, and reports shall be kept current.

C. All records, logs, and reports on children and staff required by these standards shall be maintained and accessible for two years after termination of enrollment or employment unless specified otherwise.

§ 2.16. Children's records.

Each center shall maintain and keep at the facility a separate record for each child which shall contain the following information:

1. Name, nickname (if any), sex, and birth date of the child;
2. Name, home address, and home phone number of each parent who has custody;
3. When applicable, work phone number and place of employment of each parent who has custody;
4. Name and phone number of child's physician;
5. Name, address, and phone number of two designated people to call in an emergency if a parent cannot be reached;
6. Names of persons authorized to pick up the child. Appropriate custodial paperwork shall be on file when the parent requests the center not to release the child to the other parent;
7. Allergies and intolerance to food, medication, or any other substances, and actions to take in an emergency situation;
8. Chronic physical problems, special abilities, or

developmental delays, if any;

9. Health information as required by §§ 2.25 through 2.27 of these regulations;

Exception: When a center is located in the same building where a child attends school and the child's record has a statement verifying the school's possession of the health record, the center is not required to maintain duplicates of the school's health record for that child.

10. Name of any additional programs or schools that the child is concurrently attending and the grade or class level;

11. Admission date; and

12. Enrollment termination date when applicable.

§ 2.17. Staff records.

Staff records shall be kept for paid staff and volunteer personnel which shall include the following:

1. Name, address, birth date, job title, and date of employment/volunteering;
2. Documentation that two or more references as to character and reputation as well as competency were checked before employment or volunteering. If a reference check is taken over the phone, documentation shall include date(s) of contact, name of person(s) contacted, the firm(s) contacted, results, and signature of person making call.

Exception: Reference checks are not required for:

- a. Staff hired before April 1, 1986, in centers initially licensed before July 1, 1992, and
- b. Staff who began work before July 1, 1992, in centers that were initially licensed after July 1, 1992.
3. A criminal record check as required by the Regulation for Criminal Record Checks; and

Note: A criminal record check is required for volunteers, except parent volunteers as defined in the Regulation for Criminal Record Checks, who at any time would be alone with, in control of, or supervising one or more children outside the physical presence of a paid facility staff member.

4. Name, address, and telephone number of a person to be notified in an emergency;
5. Written information to demonstrate that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position;

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6. First aid and other certification as required by the responsibilities held by the staff member;

7. Health information as required by §§ 2.28 through 2.30 of these regulations;

8. Information about any chronic health problems, drug reactions, allergies, medication taken, and any other health concerns; and

9. Date of termination when applicable.

§ 2.18. The center shall keep a written log of the following:

1. Children in attendance each day;

2. Medication given to children as required by § 7.17, subdivisions 1 through 4;

3. Children's accidents or injuries as required in § 7.35, subdivisions 1 through 7;

4. Quarterly asbestos inspections as required in § 4.2 C 2; and

5. Emergency evacuation practice drills as required in § 7.29.

§ 2.19. Reports shall be filed and maintained as follows:

1. The center shall inform the commissioner's representative within two working days of the circumstances surrounding the following incidences:

a. Death of a child, and

b. Missing child when local authorities have been contacted for help.

2. Any suspected incidence of child abuse shall be reported in accordance with § 63.1-248.3 of the Code of Virginia.

Article 5.

Admissions and Termination Procedures.

§ 2.20. A written agreement between the parent and the center shall be in each child's record at the time of the child's admission. The agreement shall be signed by the parent and include:

1. An authorization for emergency medical care should an emergency occur when the parent cannot be located immediately, and

2. A statement that the center will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible.

§ 2.21. When applicable, written permission from the parent authorizing the child's participation in the center's transportation and field trips shall be in the child's record.

§ 2.22. The phone number of the center shall be given to the parent upon the child's enrollment.

§ 2.23. Before enrolling a child with a developmental delay, the center shall verify the child's independent skill level to assure that adequate care can be provided by the center. An assessment shall include guidance from the child's parent(s) and a professional familiar with the child or his developmental delay.

§ 2.24. When a center decides to terminate the enrollment of a child, the center shall provide the parent in writing the reason(s) for termination.

Article 6.

Health for Children and Staff.

§ 2.25. Immunizations for children.

A. Regulations by the State Board of Health for the immunization of school children require documentation of all age appropriate immunizations prescribed in the regulations before each child's admission to a center licensed by this Commonwealth.

Exemptions (Subsection C of § 22.1-271.2 of the Code of Virginia and § 3.03 of the Regulations for the Immunizations of School Children.): Documentation of immunizations is not required for any child whose (i) parent submits an affidavit to the center, on the form entitled "Certification of Religious Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices, or (ii) physician or a local health department states on a MCH 213B Form that one or more of the required immunizations may be detrimental to the child's health.

B. Updated information on immunizations received shall be obtained once between each child's fourth and sixth birthdays.

§ 2.26. Physical examinations for children.

Each child shall have a physical examination by or under the direction of a physician before admission or within one month after admission. The schedules for examinations prior to admission for children are listed below:

1. Within 12 months before admission for children two years of age through five years of age; and

2. Within two years before admission for children six years of age and above.

Exceptions.

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1. Children transferring from a facility licensed by the Virginia Department of Social Services, certified by a local department of public welfare/social services, or approved by a licensed family day care system:

a. If the initial report or a copy of the initial report of immunizations is available to the admitting facility, no additional examination is required.

b. If the initial report or a copy of the initial report is not available, a report of physical examination and immunization is required in accordance with §§ 2.25 and 2.26 of these regulations.

2. (Subsection D of § 22.1-270 of the Code of Virginia): Physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.

§ 2.27. Form and content of immunizations and physical examination reports for children.

A. The current form required by the Virginia Department of Health shall be used to report immunizations received and the results of the required physical examination. See Appendix II for a copy of this form.

Exception: When the current Health Department form has not been used such as, but not limited to, when a child transfers from another state, other documentary proof of the child having received the required examination and immunization shall be accepted. Documentary proof may include, but not be limited to, an International Certificate of Immunization, another state's immunization form, or a physician's letterhead.

B. Each report shall include the date of the physical examination and dates immunizations were received.

C. Each report shall be signed by a physician, his designee, or an official of a local health department.

§ 2.28. Tuberculosis examination for staff.

A. Each staff member, including the licensee, administrator, and volunteer personnel, shall obtain and submit a statement that he is free of tuberculosis in a communicable form. The statement shall be submitted no later than three working days after employment and shall:

1. Be dated within 30 days before or three working days after employment of the individual;

2. Include the type(s) of test(s) used and the results; and

3. Include the signature of the physician, the physician's designee, or an official of a local health department.

Exception: When a staff member terminates work at one licensed facility or public or private school and begins work at a licensed center with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the licensed center.

B. The tuberculosis examination shall be repeated as required by a licensed physician or the local health department.

C. Any staff member who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall within one month after exposure or development receive an evaluation in accordance with subsections A and B of § 2.28 of these regulations.

§ 2.29. When there are indications that the safety of children may be jeopardized by the physical health or mental health of a staff member or volunteer, a report of examination of this person by a physician or, if appropriate, a clinical psychologist skilled in the diagnosis and treatment of mental illness shall be obtained. The request for obtaining an examination may come from the licensee, administrator, or department.

§ 2.30. If a staff member's or volunteer's examination or test results indicate that his physical or mental condition may jeopardized the safety of children or prevent his performance of duties, the staff member shall not be allowed contact with children or food served to children. The staff member may return when his condition is cleared to the satisfaction of the physician or clinical psychologist as evidenced by a signed, dated statement from the physician or clinical psychologist.

PART III. PERSONNEL.

Article 1. General Qualifications.

§ 3.1. No staff shall have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

§ 3.2. All staff shall understand and be sensitive to the varying capabilities, interests, needs, and problems of children in care.

§ 3.3. All staff shall be:

1. Of good character and reputation;

2. Capable of carrying out assigned responsibilities;

3. Willing and able to accept training and supervision;

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4. Able to communicate effectively both orally and in writing as applicable to the job responsibility; and
5. Able to understand and apply the minimum standards in this booklet which relate to their respective responsibilities.

§ 3.4. All staff who work directly with children shall have the abilities to:

1. Communicate with emergency personnel and understand instructions on a prescription bottle;
2. Communicate effectively and appropriately with the age group to whom the staff person is assigned;
3. Communicate effectively with parents;
4. Provide a stimulating and safe environment for the age group to whom the staff person is assigned; and
5. Use materials, activities, and experiences to encourage children's growth and development.

Article 2. Qualifications by Job Responsibility.

§ 3.5. All staff who work in multiple positions within the center shall meet the qualifications for each position.

Note: Personnel titles used in the standards are descriptive only. Centers are not required to use the same titles. The program director may have responsibilities for several centers at one site.

§ 3.6. Administrators.

Administrators performing some of the responsibilities of the program director shall be at least 21 years of age and shall possess:

1. A bachelors degree or endorsement in a child related field from an accredited college or university and six months of programmatic experience in the group care of children.
2. An associate degree in a child related field from an accredited college or university and one year of programmatic experience in the group care of children.

§ 3.7. There may be one program director for several types of centers at one site or there may be one program director for each type of center at one site. If a program director is responsible for a center with school age children and a center with children of preschool age or younger, the qualifications applicable to both school age and preschool age and younger shall apply.

§ 3.8. Program directors.

Program directors for centers with school age children shall be at least 21 years of age unless directly supervised by an administrator meeting the qualifications of § 3.6, in which case, the program director shall be at least 19 years of age. Program directors shall possess:

1. An endorsement or bachelors degree in child related field from an accredited college or university; or
2. An associate degree in a child related field from an accredited college or university and six months of programmatic experience in the group care of children; or
3. Three years of programmatic experience in the group care of children which has been obtained after the age of 16 and a high school diploma or G.E.D. if supervised by an administrator meeting the qualifications of § 3.6; or
4. Certification by a nationally recognized accrediting body whose staff qualification standards have been determined to meet minimum state regulations for the program director position.

§ 3.9. Back-up for program directors.

A. For centers operating eight hours or more per day, if the program director is regularly present in the facility fewer than four hours per day, there shall be an officially designated person who shall assume the responsibility in the absence of the program director and meet the qualifications of subdivisions 1 through 4 of § 3.8. In addition, if the program operates multiple shifts for working parents, a program director shall be regularly present for at least four hours of each shift or have a back-up program director who shall assume responsibility in the absence of the director and meet the qualifications of subdivisions 1 through 4 of § 3.8.

B. For centers operating eight hours or less per day, if the program director is regularly present in the facility less than 50% of the hours of operation, there shall be an officially designated person who shall assume responsibility in the absence of the program director and meet the qualifications of subdivisions 1 through 4 of § 3.8.

§ 3.10. Program leaders/child care supervisors.

Group leaders/child care supervisors shall be at least 18 years of age and have a high school diploma or G.E.D.

§ 3.11. Aides.

Aides shall be at least 16 years of age and shall meet the general qualifications, health, orientation training, and staff development requirements for the applicable position.

§ 3.12. Volunteer personnel.

Volunteer personnel shall meet the qualifications for the applicable position.

§ 3.13. Volunteers.

The duties of volunteers shall be clearly defined.

Article 3.

Staff Orientation Training and Development.

§ 3.14. Orientation training.

Before assuming job responsibility, all staff shall receive the following training and shall certify in writing that all the required training was received:

1. Job responsibilities and who they report to;
2. The policies and procedures listed in subdivisions 1 through 4 of § 2.14 that relate to the staff member's responsibility;
3. The center's playground safety plan unless the staff member will have no responsibility for playground activities or equipment;
4. Confidential treatment of personal information about children in care and their families; and
5. The minimum standards in this booklet which relate to the staff member's responsibilities.

§ 3.15. Staff development.

A. The center shall have a plan for staff development.

B. Staff development activities to meet subsection C of § 3.15 of these regulations shall:

1. Be related to children and the function of the center;
2. Consist of some sources outside the center which may include but not be limited to audio and visual tapes, conferences, and workshops;
3. Be from someone with verifiable expertise or experience when conducted as in-service training;
4. Include annually the topics of safety for children, child development and discipline, and playground supervision for staff; and
5. Include, for program directors of centers serving one or more children with a developmental delay and for staff who work directly with one or more children with a developmental delay, training related to the child's developmental delay, mainstreaming, and special accommodations. For program directors the training shall be from sources with verifiable expertise and come from outside resources such as college

courses, workshops, or training sessions.

C. In addition to first aid, CPR, and orientation training required elsewhere in these regulations, employed staff who work directly with children shall annually attend the number of hours of staff development activities as indicated below:

		Program Leaders/ Child Care Aides	Supervisors	Program Directors
Camps (for school age children only)	6	8		8
Child care for school age children (may also care for children of preschool age or younger)	12	15		15

§ 3.16. Whenever one or more child(ren) under eight are present in a center, there shall be at least one staff member on duty at all times who has obtained instruction in performing the daily health observation of children. This instruction shall be obtained from a physician, registered nurse, or health department medical personnel at a three year interval.

PART IV.
PHYSICAL PLANT.

Article 1.
Approval from Other Agencies.

§ 4.1. Requirements prior to initial licensure.

A. Before issuance of initial license and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided by the applicant or licensee to the licensing representative:

1. Inspection and approval of the building(s) from the local building official; and
2. Inspection and approval from the local health department, or approval of a plan of correction, for meeting requirements for:
 - a. water supply;
 - b. sewerage disposal system; and
 - c. food service, if applicable.

Exception: Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered to have met the requirements of § 4.1 B and C when housing a center serving children two and a half years of age or

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older.

B. If a building was under construction before 1978, a written statement from a Virginia licensed asbestos inspector and management planner shall be submitted before initial licensure in order to comply with § 63.1-198.01 of the Code of Virginia. The statement shall include:

- 1. Verification that the building in which the child care center is located was inspected for asbestos according to the Survey Standards for the Inspection of Child Care Centers for the Presence of Asbestos effective January 1989;*
- 2. The date(s) of the inspection;*
- 3. Whether asbestos was found in the building;*
- 4. Signature of the licensed asbestos inspector and management planner, including the Virginia Department of Commerce license numbers.*
- 5. If asbestos is found or assumed and not removed, the statement shall include:*
 - a. The location of any significant asbestos hazard areas;*
 - b. Response actions recommended by the inspector; and*
 - c. Verification of completion of the management plan.*

C. If asbestos was found in the building, before a license will be issued the prospective licensee shall:

- 1. Submit to the department a signed, written statement that:*
 - a. The recommendations of the operations and maintenance plan will be followed;*
 - b. Appropriate staff will receive the necessary training; and*
 - c. Documentation of required quarterly inspections will be completed.*
- 2. Send written notification to the parents, department, and other adult occupants of the building about the presence and location of the asbestos containing material as well as the advisement that the asbestos inspection report and operation and maintenance plan are available for review. A copy of this notification shall be submitted to the department.*

Exception: The asbestos requirements of § 4.1 B and C do not apply to child care centers located in a public school building or a state owned building since the

asbestos requirements of these buildings are regulated by other agencies.

D. Prior to initial licensure, camps shall make the following documentation available to the licensing representative:

- 1. Notification to closest fire department of camp location;*
- 2. Approval/Permit from local building official for installation and operation of any incinerator; and*
- 3. Approval from appropriate fire official for any open fire, if applicable.*

§ 4.2. Requirements subsequent to initial licensure.

A. Every 12 months, written documentation shall be obtained and provided to the licensing representative of inspection and approval from the appropriate fire prevention official that the center's facility complies with the Statewide Fire Prevention Code.

B. Subsequent to initial licensure, and as required by the local health department, written documentation shall be provided of any additional inspections and approvals, or approvals of a plan of correction, for meeting:

- 1. Water supply;*
- 2. Sewerage disposal system; and*
- 3. Food service, if applicable*

C. For those buildings where asbestos containing materials are found or assumed and not removed:

- 1. The administrator or a designated staff member shall take the required asbestos training as specified in the operations and maintenance plan for the facility.*
- 2. The administrator or a designated staff member who has received the required asbestos training shall conduct quarterly inspections of all asbestos containing materials and document the date and the findings of these inspections.*
- 3. New parents and new adult occupants of the building shall be provided written notification of the presence and location of asbestos in the building and be advised that the asbestos inspection report and operations and maintenance plan are available for their review. A copy of this written notification shall be maintained at the facility for review by the department's representative.*

D. For those buildings where asbestos containing materials have been found or assumed and asbestos has been removed, the center shall maintain at the facility

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documentation of that removal for review by the department's representative.

Article 2. General Requirements.

§ 4.3. The facility's areas and equipment, inside and outside, shall be:

1. Maintained in clean and sanitary condition;
2. Maintained in conditions that are safe and free of hazards such as but not limited to sharp points or corners, splinters, protruding nails, loose rusty parts, and objects small enough to be swallowed; and
3. Maintained in operable condition.

§ 4.4. The facility's areas shall be accessible to all children served.

§ 4.5. Heating provisions.

A. A heating system shall be provided except for camps for school age children that only operate from May 15 to October 1. The heating system shall meet the following specifications:

1. It shall be approved by the appropriate building official;
2. Heating shall not be provided by stoves except in camps for school age children;
3. It shall be installed to prevent accessibility of children to the system; and
4. It shall have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury.

Exception: In case of emergency, portable electric or kerosene heaters may be used if they have been previously inspected and approved by the appropriate building official.

B. In areas used by children, the temperature shall be maintained no lower than 68°F;

§ 4.6. Fans or other cooling system shall be used when the temperature of areas used by children exceeds 85°F.

§ 4.7. Provisions for water shall be as follows:

1. Drinking water fountains or individual disposable cups, or both, shall be provided. Drinking water shall be available and accessible at all times.
2. Where portable water coolers are used, they shall be of easily cleanable construction, maintained in a

sanitary condition, kept securely closed, and so designed that water may be withdrawn from the container only by water tap or faucet. Individual disposable cups shall be provided.

3. Water which is transported to camp sites for drinking purposes shall be in enclosed containers.

4. Safe water shall be provided each day.

§ 4.8. Building equipment shall include, but not limited to, the following:

1. Outside lighting provided at entrances and exits used by children before sunrise or after sundown;
2. A working, nonpay telephone;
3. First aid kits; and
4. Provision for locking medication as described in § 7.16 of these regulations.

§ 4.9. Hazardous substances and other harmful agents.

A. No center shall be located where conditions exist that would be hazardous to the health and safety of children.

B. Hazardous substances such as cleaning materials, insecticides, and pesticides shall be kept away from food preparation and storage areas and in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to the children.

C. Hazardous substances shall be stored in the original container unless this container is of such a large size that its use would be impractical.

D. If hazardous substances are not kept in original containers, the substitute containers shall clearly indicate their contents and shall not resemble food or beverage containers.

E. Cosmetics, medications, or other harmful agents of staff members shall not be stored in areas, purses or pockets that are accessible to children.

F. Hazardous art and craft material, such as those listed in Appendix III, shall not be used with children.

§ 4.10. Camps shall be located on ground which has good surface drainage and which is free of natural and man-made hazards such as mine pits, shafts, and quarries. Adequate, approved safeguards or preventive measurements shall be taken when the camp is located on ground which is in or adjacent to swamps, marshes, landfills, abandoned landfills, or breeding places for insects or rodents of public health importance.

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§ 4.11. Portable camping equipment for heating or cooking that is not required to be approved by the building official shall bear the label of a recognized inspection agency except for charcoal and wood burning cooking equipment.

§ 4.12. No cooking or heating shall occur in tents.

Article 3. Indoor Areas.

§ 4.13. There shall be 25 square feet of indoor space available to each child when activities are conducted.

Exceptions:

1. Centers licensed on July 1, 1992, may continue to operate at its current capacity until July 1, 1994.

2. Primitive camps for school age children are not required to meet § 4.13 of these regulations about activity space when weather prevents outdoor activities by children and:

a. Twenty-five square feet of indoor space per child is provided either at the program site or at a predesignated, approved location off site; or

b. The program is canceled.

§ 4.14. Areas not routinely used for children's activities shall not be calculated as available activity space. Space not calculated shall include, but not be limited to, offices; hallways; restrooms; kitchens; storage rooms/closets; and space occupied by equipment which is not used in or does not contribute to the children's activities.

§ 4.15. A place away from the children's activity area shall be designated for children who are ill, injured, tired, or emotionally upset.

§ 4.16. When allowed, staff smoking shall occur only in enclosed rooms that are separate from children.

Article 4. Restroom Areas and Furnishings.

§ 4.17. Each restroom provided for children shall:

1. Be within a confined area;
2. Be accessible and within the building used by the children;
3. Have toilet(s) that are all flushable;
4. Have sink(s) that are all equipped with running water which does not exceed 120°F; and
5. Be equipped with soap, toilet paper, and disposable towels.

§ 4.18. For restrooms available to boys, urinals may be substituted for not more than one-half the required number of toilets, provided the center has at least two toilets.

§ 4.19. An adult size toilet with privacy shall be provided for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them on a routine basis.

Exception: Primitive camps are not required to have a toilet facility with privacy for staff.

§ 4.20. Restrooms shall have at least one standard size toilet and one sink for every 30 school age children. When sharing restrooms with other programs the children in the other programs shall be included in the toilet and sink ratio calculations. The toilet and sink ratio appropriate to the younger age group shall apply. The younger age group ratio is one toilet and one sink for every 15 children.

§ 4.21. If a center is licensed for more than 30 school age children, separate restrooms shall be provided for each sex and the restrooms shall be labeled accordingly.

§ 4.22. One restroom may be used for centers licensed for 30 or fewer school age children provided that only children of the same sex occupy the restroom at one time.

§ 4.23. In any restroom used for school age children which contains more than one toilet, at least one toilet shall be enclosed for privacy.

§ 4.24. Restrooms used by school age children at primitive camps are not required to have:

1. Sinks, if adequate water, supplies, and equipment for hand washing are available, and
2. Flushable toilets if the number of sanitary privies or portable toilets, constructed and operated in accordance with the applicable law and regulations of the Virginia Department of Health, meets the toilet ratio stated in § 4.20 of these regulations. No privy or outdoor toilet shall be located within 75 feet of other buildings or camp activities.

§ 4.25. Requirements for centers with children who are not toilet trained.

Centers that serve children, regardless of age, who are not toilet trained shall provide a diapering area located in the area for children or in a room which opens directly into the area for children. The diapering area shall have at least the following:

1. A sink with heated and cold running water;
2. A changing table or counter equipped with a

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nonabsorbent surface for changing diapers;

3. A leakproof storage system for diapers that is not hand generated;
4. A covered receptacle for soiled bed linens; and
5. Privacy for changing diapers of school age children.

Article 5. Outdoor Areas.

§ 4.26. Centers may have until July 1, 1994, to meet §§ 4.27 through 4.39 of these regulations if §§ 5.11 through 5.20 of the 1989 version of the Minimum Standards for Licensed Child Care Centers are met. Please see Appendix IV for §§ 5.11 through 5.20 of the 1989 regulations.

§ 4.27. The outdoor play area shall provide a minimum of 75 square feet of space per child in the area at any one time.

§ 4.28. Playgrounds shall be located or designed in a way to protect children from hazardous situations.

§ 4.29. Resilient surfacing shall be placed under all fixed playground equipment with moving parts or climbing apparatus to create a fall zone.

§ 4.30. The resilient surfacing areas shall consist of one of the the following:

Critical Equipment Heights (in feet) for Various Types and Depths of Resilient Material

Material	Uncompressed Depth			Compressed Depth
	6 inch	9 inch	12 inch	9 inch
Wood Mulch	7 ft	10 ft	11 ft	10 ft
Double Shredded Bark Mulch	6 ft	10 ft	11 ft	7 ft
Uniform Wood Chips	6 ft	7 ft	*12 ft	6 ft
Fine Sand	5 ft	5 ft	9 ft	5 ft
Coarse Sand	5 ft	5 ft	6 ft	4 ft
Fine Gravel	5 ft	7 ft	10 ft	6 ft
Medium Gravel	5 ft	5 ft	6 ft	5 ft

* greater than

§ 4.31. Where a fall zone exists, the resilient surfacing shall be:

1. Immediately under equipment;
2. Extended to a minimum of six feet from the perimeter of the equipment;

3. Extended one additional foot beyond the requirement of subdivision 4 of § 31.2 of these regulations for each foot of equipment height above six feet; and

4. Extended six feet in both directions of the motion of swings starting from a point 42 inches beyond the seat at its maximum attainable angle.

§ 4.32. Fall zones shall be free of all obstacles.

§ 4.33. Ground footings or supports shall be in-ground below ground level.

§ 4.34. Equipment used by children shall:

1. Have no accessible openings that are greater than three and one half inches and less than nine inches; and
2. Have closed S-hooks when provided; and
3. Have no protrusions, sharp points, shearing points, or pinch points.

§ 4.35. All swing seats shall be made of flexible material except for special swing equipment for a child with a developmental delay.

§ 4.36. Sandboxes with bottoms which prevent drainage shall be covered when not in use.

§ 4.37. For school age children, horizontal clearances between swings shall be at least 24 inches.

§ 4.38. For school age children, unoccupied swing seats shall be a minimum of 18 inches from the ground.

§ 4.39. For school age children, slides and climbing equipment with platforms which are 30 inches or more from the ground shall have guardrails or protective barriers of at least 38 inches to prevent falls.

PART V. STAFFING AND SUPERVISION.

Article 1. Supervision of Staff and Volunteers.

§ 5.1. All aides, volunteer personnel, and volunteers shall be under the individual supervision of a staff member who meets the qualifications of a program leader/child care supervisor or program director.

§ 5.2. Each person serving in the positions of a program director, back-up program director, or program leader/child care supervisor shall not be responsible for the individual supervision of more than two aides at any one time.

§ 5.3. When with children, aides and volunteers under the age of 18 years shall be sight supervised by a staff

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member who meets the qualifications of a program leader/child care supervisor or program director.

§ 5.4. When with children, contract employees shall be sight supervised by a staff member unless the contract employee meets the personnel, health, and orientation training requirement for the applicable position.

Article 2. Supervision of Children.

§ 5.5. During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the administrator or an adult appointed by the licensee or designated by the administrator.

§ 5.6. There shall be at least two staff in each building of the center and on field trips at all times when one or more children are present. One of these shall meet the qualifications of a program leader/child care supervisor or program director.

§ 5.7. In each grouping of children at least one staff member who meets the qualifications of a program leader/child care supervisor or program director shall be regularly present.

§ 5.8. Children shall be within sight and sound supervision of staff at all times, except that staff need only be able to hear a child who is using the restroom. Staff shall check on a child who has not returned from the restroom after five minutes.

§ 5.9. When the outdoor activity area is not adjacent to the center, there shall be at least two staff on the outdoor activity area whenever one or more children are present.

§ 5.10. Staff shall greet each child upon arrival at the center and oversee each child's departure from the center.

Article 3. Staff to Children Ratio Requirements.

§ 5.11. Staff shall be counted in the required staff to children ratios only when they are directly supervising children.

§ 5.12. Volunteers younger than 16 years of age shall be counted as a child in the staff to children ratio requirements.

§ 5.13. When children are regularly in ongoing mixed age groups, the staff to children ratio applicable to the youngest child in the group shall apply to the entire group.

§ 5.14. If the assessment of a child's developmental delay as required by § 2.23 of these regulations does not indicate a 90% independent skill level, the ratio needs for

specific activities shall be developed using appropriately adapted versions of the staff supervision form.

§ 5.15. In each grouping of children, the following ratios of staff to children are required:

1. For children from five to eight years of age: one staff member for every 15 children; and
2. For children from eight years of age and older: one staff member for every 20 children.

PART VI. PROGRAMS.

Article 1. Daily Schedule.

§ 6.1. There shall be a predictable sequence to the day but the schedule shall be flexible, based on children's needs.

§ 6.2. or centers operating more than two hours per day or more than two hours per session per day, outdoor activity shall be provided daily, weather allowing, according to the following:

1. If the center operates between two and five hours per day or per session, there shall be at least 15 minutes of outdoor activity per day.
2. If the center operates five hours or more per day or per session, there shall be at least one hour of outdoor activity per day which shall be divided between morning or afternoon.

Exception: Outdoor activity is not required on days when an all day field trip occurs.

§ 6.3. Staff shall provide opportunities for children to engage in self-chosen tasks and activities and allow children to learn from self-directed problem-solving and experimentation.

Exception: The requirements of § 6.3 of these regulations do not apply to speciality camps.

Article 2. Activities.

§ 6.4. The daily activities shall be developmentally appropriate and promote the individual child's physical, intellectual, emotional, and social well-being and growth.

§ 6.5. To promote emotional development, the center shall provide for:

1. Opportunities for individual self-expression;
2. Recognition that each child is an individual;

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3. Respect for personal privacy; and

4. Respect for each child's cultural, ethnic, and family background, as well as the child's primary language or dialect.

§ 6.6. To promote social development, the center shall provide:

1. Guidance to children in developing and working out ways of getting along with one another;

2. Staff interaction with children in ways which emphasize and foster attitudes of mutual respect between adults and children; and

3. Staff behavior which demonstrates respect for all other persons as individuals and appreciation of cultural and ethnic diversity.

§ 6.7. The center shall provide for the self direction of the children by:

1. Allowing children opportunities to choose activities according to personal desires and interests and to move freely from one activity to another;

2. Encouraging children to do things independently and to help with daily routines as appropriate to the child's developmental level but to be available to comfort and help when needed; and

3. Supporting children's friendships and providing children opportunities to be involved in decision making about group and individual activities.

Exception: Subsections 1 through 3 of § 6.7 of these regulations are not applicable to speciality camps.

§ 6.8. A variety of children's activities shall be provided that allow for group and individual involvement and child and staff initiation.

§ 6.9. When a child with a developmental delay is enrolled, there shall be activities available that are both compatible with the child's developmental delay and are attractive to other children as well.

§ 6.10. For children who cannot move without help, staff shall offer to change the places and position of the child and the selection of toys or objects available to the child at least every 30 minutes or more frequently depending on the individual needs of the child.

§ 6.11. The center shall provide a balance of active and quiet activities except for speciality camps.

§ 6.12. Children of all ages shall be allowed to rest or sleep as needed on cots, mats, or beds, as appropriate.

§ 6.13. Activities and experiences for school age children

shall include, but not be limited to, the following:

1. Large motor activities for at least 25% of the program time;

2. Arts and craft activities;

3. Rhythm, music, and drama;

4. Small motor activities;

5. Special projects and hobbies; and

6. Opportunity to do homework in a suitable area.

Exception: Section 6.13 of these regulations is not applicable to speciality camps.

Article 3. Parental Involvement.

§ 6.14. The center shall be open for parents to visit and observe their child(ren) at any time.

§ 6.15. The center shall encourage parental involvement on a volunteer basis in appropriate center activities.

§ 6.16. Staff shall share information with parents about their child's health, development, behavior, adjustment, and needs.

Article 4. Equipment and Materials.

§ 6.17. All furnishings, equipment, and materials shall be of a developmentally appropriate size for the child using it.

§ 6.18. The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be developmentally appropriate for the children and shall include equipment and materials which:

1. Are in sufficient supply to avoid excessive competition among the children and to avoid long waits for use of the materials and equipment;

2. Provide for a variety of experiences and appeal to the individual interests and abilities of children;

Exception: Subsection 2 of § 6.18 of these regulations is not applicable to speciality camps.

3. Are accessible to children for the activities required by these standards;

4. Allow children to use small and large muscles for imaginative play and creative activities; and

5. Allow equal opportunity for children with a

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developmental delay to participate without isolation, if applicable; and

6. Include cross cultural materials.

§ 6.19. Storage space for play materials and equipment used by the children shall be accessible to children either independently or with help and provision shall be made for a place for each child's personal belongings.

§ 6.20. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

§ 6.21. All disposable products shall be used once and discarded.

§ 6.22. Disposable dishes and utensils shall be sturdy enough to contain food without leakage and to prevent harm and injury to children.

§ 6.23. No more than one child at a time shall occupy a cot, rest mat, or bed.

§ 6.24. Cots, rest mats, and beds shall be marked or identified in some way for use by a specific child.

§ 6.25. Double decker cots or beds, or other sleeping equipment which is stacked shall not be used.

§ 6.26. When one or more children are scheduled to enter or leave the center while other children are resting or sleeping, the cots, rest mats, or beds shall be placed so that the resting or sleeping children are not disturbed by children coming or going.

§ 6.27. Occupied cots, rest mats, and beds shall be at least 2-1/2 feet from any heat source in use.

§ 6.28. Cots, beds, or rest mats shall be placed so that children can get on and off their cots, beds, or rest mats without being hampered in their movement.

§ 6.29. There shall be at least 15 inches of space between sides and ends of occupied cots, beds, and rest mats.

Exception: Fifteen inches of space are not required where cots, beds, or rest mats touch the wall or where screens are placed between cots or beds as long as one side is open at all times to allow for passage.

§ 6.30. If rest mats are used, they shall have comfortable cushioning and be sanitized between each use.

§ 6.31. Linens.

A. Linens for cots, rest mats, or beds shall consist of a top cover and a bottom cover or a one-piece covering which is open on three edges.

B. Linens shall be assigned for individual use.

C. Linens shall be maintained in clean and sanitary condition and shall be washed at least weekly.

D. When pillows are used, they shall be assigned for individual use and covered with pillow cases.

E. Mattresses when used shall be covered with a waterproof material which can be easily sanitized.

Article 5. Discipline.

§ 6.32. Discipline shall be constructive in nature and include techniques such as:

1. Using limits that are fair, consistently applied, and appropriate and understandable for the child's level;

2. Providing children with reasons for limits;

3. Giving positively worded directions;

4. Modeling and redirecting children to acceptable behavior;

5. Helping children to constructively express their feelings and frustrations to resolve conflict; and

6. Arranging equipment, materials, activities, and schedules in a way that promotes desirable behavior.

§ 6.33. There shall be no physical punishment or disciplinary action administered to the body such as, but not limited to, spanking; roughly handling a child; forcing a child to assume an uncomfortable position (e.g., standing on one foot, keeping arms raised above or horizontal to the body); forcing exercises on children, restraining to restrict movement through binding or tying; enclosing in a confined space, box, or similar cubicle; or using exercise as punishment.

§ 6.34. A child shall not be shaken at any time.

§ 6.35. Staff shall not be verbally abusive which would include, but not be limited to, threats, belittling remarks about any child, his family, his race, his religion, or his cultural background, or other statements that are frightening or humiliating to the child.

§ 6.36. When disciplining a child, staff shall not:

1. Force, withhold, or substitute food;

2. Force or withhold naps; or

3. Punish a child for toileting accidents.

§ 6.37. When separation is used as a discipline technique, it shall be brief and appropriate to the child's developmental level and circumstances. The isolated child shall be in a safe, lighted, well-ventilated place and shall

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be within hearing and vision of a staff member.

Note: It is recommended that if separation is enforced by an adult, it should not exceed one minute for each year of the child's age. Separation is not recommended for use with infants.

§ 6.38. No child, for punishment or any other reason, shall ever be confined in any space that the child cannot open, such as but not limited to closets, locked rooms, latched pantries, or containers.

§ 6.39. Staff shall not give a child authority to punish another child nor shall staff consent to a child punishing another child.

§ 6.40. Staff shall follow the center's policy on acceptable and unacceptable discipline methods.

Article 6. Swimming and Wading Activities.

§ 6.41. Staff and supervision.

A. The staff child ratios required by § 5.15 shall be maintained while children are participating in swimming/wading activities. The designated water safety instructor or senior lifesaver shall not be counted in the staff to children ratios.

B. If a pool, lake, or other swimming area has a water depth of more than two feet, a water safety instructor or senior life saver holding a current certificate shall be on duty supervising the children participating in swimming/wading activities at all times when one or more children are in the water. The certification shall be obtained from an organization such as, but not limited to, the American Red Cross, the YMCA, or the Boy Scouts.

C. A minimum of two staff members of the center shall be on duty supervising the children during swimming/wading activities when one or more children are in the water.

§ 6.42. Pools and equipment.

A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:

1. The manufacturer's specifications for operating the pool shall be followed and any local ordinances and any Department of Health requirements for swimming pools shall be followed.

2. All pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official;

3. Outdoor swimming pools shall be enclosed by

safety fences and gates which shall be kept locked when the pool is not in use;

4. Entrances to swimming pools shall be locked when the pool is not in use; and

5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming/wading site.

B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked.

C. All piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be indicated on the deck or planking.

D. If children are allowed to swim at a lake or other body of water larger than a pool, there shall be a rescue boat available at all times which is equipped with a reach pole and a lemon line or buoy.

E. If portable wading pools are used, they shall be emptied of dirty water and filled with clean water for each day's use and more frequently as necessary.

§ 6.43. General.

A. The center shall have emergency procedures and written safety rules for swimming or wading that are:

1. Posted in the swimming area when the pool is located on the premises of the center;

2. Given to staff involved in swimming/wading activities;

3. Given to parents of children participating in swimming/wading activities; and

4. Explained to children participating in swimming/wading activities.

B. Staff shall have a system for accounting for all children in the water.

C. Each child's swimming skills shall be determined before the child is allowed in water above the child's shoulder height.

D. Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.

E. Children who are not toilet trained shall not use portable wading pools.

PART VII. SPECIAL CARE PROVISIONS AND EMERGENCIES.

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Article 1. Preventing the Spread of Disease.

§ 7.1. If a child arrives at the center with the signs or symptoms listed in subdivisions 1 and 2 of § 7.3 of these regulations, the child shall not be allowed to attend for that day.

§ 7.2. Staff with training as required in § 3.16 of these regulations shall observe daily each child for signs and symptoms of illness.

§ 7.3. Unless otherwise instructed by the child's health care provider, that child shall be excluded if:

1. He has signs of illness and a temperature over 100°F, or
2. He has a communicable disease as delineated in the current Communicable Disease Chart recommendations for the exclusion of sick children. (Refer to Appendix V).

§ 7.4. If a child needs to be excluded according to subdivisions 1 and 2 of § 7.3 of these regulations, the following shall apply:

1. Arrangements shall be made for the child to leave the center as soon as possible after the signs or symptoms are noticed, and
2. The child shall remain in the designated quiet private area until leaving the center.

§ 7.5. When a child at the center has been exposed to a reportable communicable disease, the parent shall be informed.

§ 7.6. Children's hands shall be washing with soap and water before eating meals or snacks, after toileting, and after any contact with body fluids.

§ 7.7. Staff hands shall be washed with soap or germicidal cleansing agent and water after helping a child with toileting, after any contact with body fluids, and before feeding or helping children with feeding.

§ 7.8. When a child's clothing or diaper becomes wet or soiled, it shall be changed immediately.

§ 7.9. Children not toilet trained.

A. The child's genital area shall be thoroughly cleaned with a disposable wipe during each diapering.

B. Staff shall wash their hands with soap or germicidal cleansing agent and water after each diaper change.

C. Disposable diapers shall be used for children in diapers unless the child's skin reacts adversely to disposable diapers. If cloth diapers are used, there shall be

separate step-on diaper pails for the cloth and disposable diapers.

D. Changing tables shall be used only for changing diapers or cleaning children.

E. Diapers shall be changed on an appropriate nonabsorbent surface which shall be washed with soap and warm water or a germicidal cleansing agent after each use.

F. Tables used for children's activities or meals shall not be used for changing diapers.

Article 2. Medication.

§ 7.10. Prescription and nonprescription medication shall be given to a child according to the center's medication policies and only with written authorization from the parent.

§ 7.11. The center's medication policies shall address methods for administering medication and shall include:

1. Any general restrictions of the center;
2. Duration of the parent's authorization for medication provided that it shall expire or be renewed after 10 work days; and
3. Methods to prevent use of outdated medication.

§ 7.12. The medication authorization shall be available to staff during the entire time it is effective.

§ 7.13. All medication shall be labeled with the child's name, the name of the medication, the dosage amount, and the time(s) to be given.

§ 7.14. Prescription medication shall be in the original container with the prescription label attached.

§ 7.15. When needed, medication shall be refrigerated. When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.

§ 7.16. All medication, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to children.

§ 7.17. Centers shall keep a log of medication given children which shall include the following:

1. Child to whom medication was administered;
2. Amount and type of medication administered to the child;

3. The day and time the medication was administered to the child; and

4. Staff member administering the medication.

§ 7.18. Medication shall be returned to the parent as soon as the medication is no longer being administered.

Article 3. Specialized Staff Training.

§ 7.19. First aid training.

There shall be at least one staff member on the premises during the centers hours of operation and also one person on all field trips who is trained in first aid. This person shall be available to children and meet one of the following qualifications for first aid training:

1. Has a current first aid certificate by the American Red Cross; or

2. Has a current first aid certificate by the National Safety Council; or

3. Has successfully completed, within the past three years, a first aid course equivalent to the curriculum which has been approved by the State Board of Health; or

4. Be a R.N. or L.P.N. with a current license from the Board of Nursing.

§ 7.20. Camps shall have at least one staff member with first aid training, as mentioned in subdivisions 1 through 4 of § 7.19 of these regulations, for every 30 children present.

§ 7.21. Camps shall have at least one staff member on the premises during all hours of the program's operation and also one person on all field trips who is available to children and has a current cardiopulmonary resuscitation (CPR) certificate. When there are more than 30 children present, there shall be at least one staff person with current CPR training for every 30 children present.

§ 7.22. Primitive camps shall have at least one appropriately equipped Emergency Medical Technician (EMT).

Article 4. First Aid and Emergency Supplies.

§ 7.23. A first aid kit shall be on each floor of each building used by children and wherever children are in care.

§ 7.23. The required first aid kit(s) shall include at a minimum:

1. Scissors;

2. Tweezers;

3. Gauze pads;

4. Adhesive tape;

5. Band-aids, assorted types;

6. An antiseptic cleansing solution;

7. An anti-bacterial ointment;

8. Syrup of ipecac or activated charcoal preparation (to be used only upon the advice of the physician or the Poison Control Center);

9. Thermometer;

10. Triangular bandages; and

11. The first aid instructional manual.

§ 7.25. Each first aid kit shall be stored so that it is not available to children but is easily available to staff.

§ 7.26. The following emergency supplies shall be required:

1. Chemical cooling agents, zip-lock bags, and sponges readily available for icing down contusions, sprains, and breaks;

2. A working, battery-operated flashlight on each floor of each building of the facility that is used by children; and

3. One working, battery-operated radio in each building of the facility used by children and any camp location without a building.

Article 5. Procedures for Emergencies.

§ 7.27. The center shall have an emergency evacuation plan that addresses staff responsibility with respect to:

1. Sounding of fire alarms and notification of local authorities;

2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, and checking to ensure complete evacuation of the building(s);

3. Fire containment procedures, e.g., closing of fire doors or other barriers; and

4. Other special procedures developed with local authorities.

§ 7.28. Emergency evacuation procedures shall be posted in a location conspicuous to staff and children on each

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floor of each building of the center.

§ 7.29. The center shall implement these emergency evacuation procedures through monthly practice drills and shall maintain a log of the dates of the monthly drills for one year. For centers offering multiple shifts, the evacuation procedures shall be divided evenly among the various shifts.

§ 7.30. A generic emergency number such as 911 shall be posted in a conspicuous place near each telephone. If a generic number is not available, the following numbers shall be posted near each phone:

1. A physician or hospital;
2. An ambulance or rescue squad service;
3. The local fire department;
4. The local police department; and

§ 7.31. The number of a regional poison control center shall be posted in a conspicuous place near each phone.

§ 7.32. The center shall develop a plan for action in case of a missing or injured child which shall address:

1. Stabilization of injured child;
2. Immediate notification of parents and emergency services; and
3. Transportation of injured child if necessary.

§ 7.33. If an ambulance service is not readily available within 10 to 15 minutes, transportation shall be available at all times in case of emergency.

§ 7.34. The center or other appropriate official shall notify the parent immediately if a child is lost, experiences a serious accident, needs emergency medical care, or dies. The center shall notify the parent at the end of the day of any known minor accidents or injuries.

Note: Examples of a serious accident might include unconsciousness; broken bones; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice. Examples of a minor accident might include a small scratch, cut or scrape; minor bruise or discoloration of the skin.

§ 7.35. The center shall maintain a written log of children's injuries in which entries are made the day of occurrence. The log shall include the following:

1. Date and time of injury;
2. Name of injured child;
3. Type of injury;

4. Circumstances of the injury;

5. Names of staff present during the injury;

6. Treatment; and

7. Method of notifying parents.

§ 7.36. The camp shall have a warning system.

Staff and campers shall be trained in this alarm system.

PART VIII. SPECIAL SERVICES.

Article 1. Nutrition and Food Services.

§ 8.1. Centers shall serve appropriate snacks or meals, or both, based on the hours of operation and time of the day.

§ 8.2. If children arrive before 8 a.m., breakfast shall be available.

§ 8.3. Lunch shall be served to children arriving from a half-day, morning kindergarten program who have not yet eaten lunch.

§ 8.4. There shall be at least 1-1/2 hours between each meal and snack but no more than three hours between meals and snacks.

§ 8.5. Drinking water or other beverage not containing caffeine shall be offered at regular intervals to children.

§ 8.6. In environments of 80°F or above, constant attention shall be given to the fluid needs of all children. Children in such environments shall be encouraged to drink fluids.

§ 8.7. When food is provided by the center, the following shall apply:

1. Centers providing care to the same children more than four hours a day shall comply with the nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA) or the meal patterns in Appendix VI.

2. Centers offering both meals and snacks shall serve on various days each week at least three sources of vitamin A and at least three sources of vitamin C. Appendix VII lists sources of vitamin A and vitamin C.

3. A variety of nutritious foods shall be served.

4. A menu listing all foods to be served for all meals and snacks during the current one-week period shall

Proposed Regulations

be:

a. Dated;

b. Posted in a location conspicuous to parents or given to parents;

c. Indicate any substituted food; and

d. Kept on file for six weeks at the center.

5. Powdered milk shall be not be used except for cooking.

§ 8.8. When food is brought from home, the following shall apply:

1. The food shall not be subject to rapid deterioration or spoilage;

2. The center shall give parents the USDA requirements and a list of suggested nonperishable food. Appendix VI has the requirements of USDA.

3. The food shall be clearly labeled in a way that identifies the owner;

4. The center shall have extra food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and

5. All unused portions of food shall be discarded and not served again.

§ 8.9. If a catering service is used, it shall be approved by the local health department. A copy of the current contract shall be made available to the department's representative upon request. Food not prepared in an approved food processing establishment shall be prohibited (e.g. home canned food).

§ 8.10. Food during cookouts.

A. All food shall be prepared in a clean and sanitary manner.

B. Unused, perishable food shall be discarded and not served again.

Article 2.

Transportation and Field Trips.

§ 8.11. If the center transports children to the site of the center, the center shall assume responsibility for the child between the place where the child boards the vehicle and the center site, while at the center, and from the time the child leaves the center site until the child is delivered to a designated location or to a responsible person designated by his parent.

§ 8.12. Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be enclosed and provided with door locks;

2. The vehicle's seats shall be attached to the floor;

3. The vehicle shall be insured with at least the minimum limits set by the Virginia state statutes; and

4. The vehicle shall meet the safety standards set by the Division of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children.

§ 8.13. The driver of the vehicle shall:

1. Have a valid driver's license, appropriate to the type of vehicle operated, during all times of vehicle operation, and

2. Be at least 18 years of age.

§ 8.14. The center shall ensure that during transportation of children:

1. Virginia state statutes about safety belts and child restraints are followed;

2. The number of passengers in the vehicle are limited to the manufacturer's recommended capacity;

3. The children remain seated and each child's arms, legs, and head remain inside the vehicle;

4. Doors are closed properly and locked;

5. At least one staff member or the driver always remain in the vehicle when children are present;

6. The telephone numbers for obtaining emergency help as stated in subdivisions 1 through 4 of § 7.30 and § 7.31 of these regulations are in the vehicle and available to staff;

7. The name, address, and phone number of the center and an additional emergency contact number is in the vehicle and available to staff; and

8. A list of the names of the children being transported is kept in the vehicle.

§ 8.15. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.

§ 8.16. When necessary to cross streets, children shall cross streets at corners or crosswalks.

§ 8.17. The staff to children ratios of subsections 1 and 2

Proposed Regulations

of § 5.15 of these regulations shall be followed during transportation of children and on all field trips.

§ 8.18. At least one staff member in the vehicle and on field trips shall be trained in first aid according to subsections 1 through 4 of § 7.19 of these regulations and shall be instructed on procedures to follow if the vehicle breaks down.

§ 8.19. A first aid kit with the supplies mentioned in subsections 1 through 11 of § 7.24 of these regulations and chemical cooling agents, for icing down contusions, sprains, and breaks shall be in the vehicle and available to staff.

§ 8.20. The center shall make provisions for providing children on field trips with adequate food and water.

§ 8.21. If perishable food is taken on field trips, the food shall be stored in insulated containers with ice packs to keep the food cold.

§ 8.22. Before leaving on a field trip, a schedule of the trip's events and locations shall be left at the center site.

§ 8.23. There shall be an established plan of communication between staff at the center site and staff who are away from the center site transporting children or on field trip.

§ 8.24. The center shall develop and implement procedures to assure that all children return to the facility after a field trip.

§ 8.25. Staff shall follow the center's transportation safety policy.

§ 8.26. Parental permission for transportation and field trips shall be secured at least 24 hours before the scheduled activity. If a blanket permission is used instead of a separate written permission, the following shall apply:

1. The schedule of activities away from the facility shall be posted;
2. Parents shall be notified of the field trip; and
3. Parents shall be given the opportunity to withdraw their children from the field trip.

Article 3. Animals and Pets.

§ 8.27. Animals that are kept on the premises of the center shall be vaccinated against diseases which present a hazard to the health of children.

§ 8.28. Animals which are, or are suspected of being, ill or infested with external lice, fleas and ticks or internal worms shall be removed from contact with children.

§ 8.29. If a child is bitten by an animal, an attempt shall be made to confine the animal for observation or laboratory analysis for evidence of rabies. The site of the bite shall be washed with soap and water immediately, and the child's physician or local health department shall be contacted as soon as possible for medical advice. The center shall report the animal bite incident to the local health department.

§ 8.30. Manure shall be removed from barns, stables and corrals at least once a day and stored and disposed of in a manner to prevent the breeding of flies.

Article 4. Evening and Overnight Care.

§ 8.31. Resting.

A. For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours and are not required to sleep in cribs. Exception: Camps, providing evening or overnight care to school age children on an occasional basis, are not required to meet § 8.31 A of these regulations if sleeping bags or cots are used.

B. For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children who are not required to sleep in cribs.

Exception: Camps, providing evening or overnight care to school age children on an occasional basis, are not required to meet § 8.31 B of these regulations if sleeping bags or cots are used.

C. For overnight care which occurs for a child on a weekly or more frequent basis, beds with mattresses shall be used.

D. In addition to subsections A through E of § 6.31 of these regulations about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.

E. For evening and overnight care, separate sleeping areas shall be provided for children of the opposite sex eight years of age or older.

F. If sleeping bags are used, §§ 6.23 through 6.29 of these regulations about rest furnishings shall also apply to the use of sleeping bags.

G. Camps may use bunk beds if children are at least eight years of age.

§ 8.32. In centers providing overnight care, an operational tub or shower with heated and cold water shall be provided.

Exception: Primitive camps are not required to have a tub or shower.

§ 8.33. *When bath towels are used, they shall be assigned for individual use.*

§ 8.34. *Activities.*

A. Activities for children in evening or overnight care shall include, as time allows, age-appropriate activities as described in subdivisions 1 through 6 of § 6.13 of these regulations.

B. Quiet activities and experiences shall be available immediately before bedtime.

§ 8.35. *For children receiving evening and overnight care, the provider shall offer a regularly scheduled evening meal and snack.*

APPENDIX I.

LICENSING INFORMATION FOR PARENTS ABOUT CHILD CARE PROGRAMS.

The Commonwealth of Virginia helps assure parents that child care programs that provide protection and guidance for any part of a 24 hour day are safe and healthful for children. Title 63.1, Chapter 10 of the Code of Virginia gives the Department of Social Services authority to license these programs. While there are some legislative exceptions to licensure, licensed programs include child care centers, before school and after school child care programs, nursery schools, child day care camps, family day care systems, and group family day care homes. The state may also voluntarily register small family day care homes.

Standards for licensed child care programs address certain health precautions, adequate play space, a ratio of children per staff member, equipment, program, and record keeping. Criminal records checks and specific qualifications for staff and most volunteers working directly with children are also required. Standards require the facility to meet applicable fire, health, and building codes.

Compliance with standards is determined by announced and unannounced visits to the program by licensing staff within the Department of Social Services. In addition, parents or other individuals may register a complaint about a program which will be investigated if it violates a standard.

Three types of licenses may be issued to programs. Conditional licenses may be issued to a new program to allow up to six months for the program to demonstrate compliance with the standards. A regular license is issued when the program substantially meets the standards for licensure. A provisional license, which can not exceed six months, is issued when the program is temporarily unable to comply with the standards. Operating without a license when required constitutes a misdemeanor which, upon conviction, can be punishable by a fine of up to \$100 or

imprisonment of up to 12 months or both for each day's violation.

If you would like additional information about the licensing of child care programs or would like to register a complaint, please contact the Regional Office of Social Services closest to you.

Virginia Regional Office, 320 Hospital Drive, Warrenton, Virginia 22186, telephone (703) 347-6340.

Central Regional Office, Wythe Building, Suite 130, 1604 Santa Rosa Road, Richmond, Virginia 23229, telephone (804) 662-9743.

Piedmont Regional Office, Commonwealth of Virginia Building, 210 Church Avenue S.W., Suite 100, Roanoke, Virginia 24011-1779, telephone (703) 982-7920.

Eastern Regional Office, Pembroke Office Park, Pembroke IV Office Building, Suite 300, Virginia Beach, Virginia 23462, telephone (804) 473-2100.

Proposed Regulations

SCHOOL ENTRANCE PHYSICAL EXAMINATION AND IMMUNIZATION CERTIFICATION COMMONWEALTH OF VIRGINIA

APPENDIX II

PART I

PERSONAL DATA

NAME: _____ BIRTH DATE: _____
LAST FIRST M.I. (NICKNAME) MO DAY YR
 SEX: MALE FEMALE RACE: _____ CHILD'S SOCIAL SECURITY #: _____
 PARENT OR GUARDIAN: _____ WORK PHONE: _____
LAST FIRST M.I.
 HOME ADDRESS: _____ HOME PHONE: _____
ZIP

SCHOOL DATA

SCHOOL: _____ SCHOOL DIVISION: _____ STUDENT I.D. NUMBER: _____ SCHOOL YEAR/GRADE: _____

HEALTH HISTORY

LIST ANY SERIOUS ILLNESSES, ACCIDENTS, OPERATIONS, NUTRITIONAL, DENTAL, MENTAL OR EMOTIONAL PROBLEMS OR HANDICAPPING CONDITIONS:

1. _____ IS CHILD RECEIVING CONTINUING MEDICAL CARE: YES NO
 2. _____ IS CHILD TAKING ANY MEDICATION REGULARLY: YES NO
 3. _____ IS CHILD USING ANY MEDICAL DEVICE: YES NO

SIGNED: PARENT OR GUARDIAN _____ DATE: _____

PHYSICAL EXAMINATION

HT: _____ WT: _____ B/P: _____ URINALYSIS: _____
 HEARING: _____ R _____ L _____ HEMOGLOBIN: _____
 VISION: W/O GLASSES: R 20/ _____ L 20/ _____ TUBERCULIN
 W/ GLASSES: R 20/ _____ L 20/ _____ (IF GIVEN): _____
 COLOR DISCRIMINATION: _____ OTHER: _____

NORMAL EVALUATION

IF NOT, DESCRIBE ABNORMAL OR HANDICAPPING CONDITIONS: _____ RECOMMENDATIONS:
 1. _____
 2. _____
 3. _____

SIGNED: PHYSICIAN _____ DATE: _____

PART II

CERTIFICATION OF IMMUNIZATION*

IMMUNIZATIONS	VACCINE DOSES ADMINISTERED					RELIGIOUS EXEMPTION
DIPHTHERIA TETANUS PERTUSSIS (DTP)	1) / / Mo Day Yr	2) / / / Mo Day Yr	3) / / / Mo Day Yr	4) / / / Mo Day Yr	5) / / / Mo Day Yr	§22.1-271.2, C.(f) of the Code allows a child an exemption from receiving immunizations required for school attendance if he or his parent or guardian submits an affidavit to the school's admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices. Any student entering school for the first time after July 1, 1983 must submit this affidavit on a Certificate of Religious Exemption (Form CRE-1) which may be obtained at any local health department, school division superintendent's office or local department of social services.
DIPHTHERIA TETANUS (Td)	1) / / / Mo Day Yr	2) / / / Mo Day Yr	3) / / / Mo Day Yr	4) / / / Mo Day Yr	5) / / / Mo Day Yr	
POLIOMYELITIS (OPV)	1) / / / Mo Day Yr	2) / / / Mo Day Yr	3) / / / Mo Day Yr	4) / / / Mo Day Yr	5) / / / Mo Day Yr	
MEASLES	/ / / Mo Day Yr Live Virus Vaccine? Yes <input type="checkbox"/> No <input type="checkbox"/>	Serological Confirmation of Immunity / / / Mo Day Yr			MEDICAL EXEMPTION <input type="checkbox"/> DTP <input type="checkbox"/> Td <input type="checkbox"/> OPV <input type="checkbox"/> Measles <input type="checkbox"/> Rubella <input type="checkbox"/> Mumps As specified in §22.1-271.2.C.(1) of the Code, I certify that administration of the vaccine(s) designated above would be detrimental to this student's health. The vaccine(s) is (are) specifically contraindicated because _____	
RUBELLA	/ / / Mo Day Yr	Serological Confirmation of Immunity / / / Mo Day Yr			This contraindication is <input type="checkbox"/> permanent (or) <input type="checkbox"/> temporary and expected to preclude immunization until _____	
MUMPS	/ / / Mo Day Yr	Child entered school before August 1, 1981 <input type="checkbox"/> YES			Signature of Physician or Health Department Official _____ Date _____	
MEASLES, MUMPS, RUBELLA (MMR)	/ / / Mo Day Yr	I certify that this student has received at least one dose of each of the vaccines required by the State Board of Health for attending school and that this student has a plan for the completion of his immunization requirements.				

 Signature of Physician or Health Department Official Date

*Please see instructions on the back of this form

I certify that this student is adequately immunized in accordance with the minimum requirements for attending school prescribed by the State Board of Health as shown on the reverse of this form.

 Signature of Physician or Health Department Official Date

Form MCH 2138
7/83

INFORMATION AND INSTRUCTIONS FOR COMPLETING CERTIFICATION OF IMMUNIZATION (PART II)

A. INFORMATION AND INSTRUCTIONS FOR PARENTS AND PHYSICIANS:

Printed to the right are the immunization schedules recommended by the American Academy of Pediatrics for immunizing children. These recommendations are the accepted medical practice standards for the immunization of all children. While recognizing that the minimum immunization requirements, printed below, are not the ideal; nevertheless, the State Board of Health has determined that these minimum immunization requirements are adequate for the purposes of attending school.

B. INSTRUCTIONS TO PHYSICIANS:

Please provide complete information in Part II. If the exact dates are not known, please record the approximate dates of administration. The exact dates (month, day and year) on which measles vaccine and rubella vaccine were administered must be recorded unless it is clear that this student was immunized at 12 months of age or older in which case only the month and year need be recorded. Please indicate in the place provided whether or not this student was immunized against measles using a live virus vaccine [Edmonston B Strain was distributed by: Merck, Sharp & Dohme (Rubeovax Lyovac, Attenuvax, M-R-Vax II, M-M-R II); Pfizer Labs (Pfizer-vax Measles-L); Lederle (M-Vac); Philips-Roxanne (Measles Virus Vaccine, Live, Attenuated, Canine Kidney); Eli Lilly (Measles Virus Vaccine, Live, Attenuated), Schwartz Strain was distributed by Dow Pharmaceuticals (Lirugen).] Although serologic evidence of measles and/or rubella is an acceptable alternative to vaccine administration, it is not recommended that measles or rubella testing be used routinely as a means of providing documentary proof of protection because of the unnecessary expense this would entail. In most cases, reimmunization of any student would be the preferred method of establishing documentary proof rather than serologic testing.

MINIMUM IMMUNIZATIONS REQUIRED OF NEW STUDENTS BY THE STATE BOARD OF HEALTH AS A PREREQUISITE FOR SCHOOL ATTENDANCE

- 3 Doses of DTP* with one dose received after the fourth birthday. If any of these three doses must be administered on or after the seventh birthday, Td* should be used instead of DTP.
- 3 Doses of trivalent OPV* with one dose received after the fourth birthday.
- 1 Dose of live virus measles (rubeola) vaccine received at 12 months of age or older; this vaccine must have been received after 1968 if the fact that it was a live virus vaccine cannot be confirmed.
- 1 Dose of rubella vaccine received at 12 months of age or older.
- 1 Dose of mumps vaccine received at 12 months of age or older for students entering school on or after August 1, 1981.

*DTP means diphtheria and tetanus toxoids and pertussis vaccine.

*Td means tetanus and diphtheria toxoids.

*OPV means oral polio vaccine.

AMERICAN ACADEMY OF PEDIATRICS IMMUNIZATION SCHEDULES FOR CHILDREN					
Timing	Recommended Schedules				Comments
	Preferred Schedule	Alternatives			
		#1	#2	#3	
First visit	DTP #1, OPV #1, Tuberculin test (PPD)	MMR, PPD	DTP #1, OPV #1, PPD	DTP #1, OPV #1, MMR, PPD	MMR should be given no younger than 15 mo old.
1 mo after first visit	MMR	DTP #1, OPV #1	MMR, DTP #2	DTP #2	
2 mo after first visit	DTP #2, OPV #2	—	DTP #3, OPV #2	DTP #3, OPV #2	—
3 mo after first visit	(DTP #3)	DTP #2, OPV #2	—	—	In preferred schedule, DTP#3 can be given if OPV#3 is not to be given until 10-16 mo.
4 mo after first visit	DTP #3 (OPV #3)	—	(OPV #3)	(OPV #3)	OPV#3 optional for areas for likely importation of polio (e.g., some southwestern states.)
5 mo after first visit	—	DTP #3 (OPV #3)	—	—	
10-18 mo after last dose	DTP #4, OPV #3 or OPV #4	DTP #4, OPV #3 or OPV #4	DTP #4, OPV #3 or OPV #4	DTP #4, OPV #3 or OPV #4	—
Preschool	DTP #5, OPV #4 or OPV #5	DTP #5, OPV #4 or OPV #5	DTP #5, OPV #4 or OPV #5	DTP #5, OPV #4 or OPV #5	Preschool dose not necessary if DTP #4 or #5 given after fourth birthday.
14-18 yr old	Td	Td	Td	Td	Repeat every 10 yr.

(Reprinted with permission from the Report of the Committee on Infectious Diseases, 10th Edition, 1982, pages 18, 19; Copyright American Academy of Pediatrics, 1982.)

Alternative #1 can be used in those more than 15 months old if measles is occurring in the community.
Alternative #2 allows for more rapid DTP immunization.
Alternative #3 should be reserved for those whose access to medical care is compromised by poor compliance.
DTP = Diphtheria and tetanus toxoids with pertussis vaccine.
OPV = Oral, trivalent poliovirus vaccine contains types 1, 2, and 3.
Tuberculin test = Mantoux (standard PPD) preferred. Frequency of tests depends on local epidemiology. The fixed recommendation is annual or biennial testing unless local circumstances dictate less frequent or no testing.
MMR = Live measles, mumps, and rubella viruses in a combined vaccine.
Td = Adult tetanus toxoid (full dose) and diphtheria toxoid (reduced dose) in combination.
For all products used, consult manufacturer's brochure for instructions for storage, handling, and administration. Brochures prepared by different manufacturers may vary, and those of the same manufacturer may change from time to time. The package insert should be followed for a specific product.

Proposed Regulations

APPENDIX III.

ART MATERIALS: RECOMMENDATIONS FOR CHILDREN UNDER 12*

Dusts and Powders

DO NOT USE: Clay in dry form. Powdered clay, which is easily inhaled, contains free silica and possible asbestos. Do not sand dry clay pieces or do other dust-producing activities. SUBSTITUTES: Order talc-free, premixed clay (e.g. Amaco white clay). Wet mop or sponge surfaces thoroughly after using clay.

DO NOT USE: Ceramic glazes or copper enamels. SUBSTITUTES: Use water-based paints instead of glazes. Artwork may be water-proofed with acrylic based mediums.

DO NOT USE: Cold water, fiber-reactive dyes or other commercial dyes. SUBSTITUTES: Use vegetable and plant dyes (e.g. onionskins, tea, flowers) and food dyes.

DO NOT USE: Instant paper maches (create inhalable dust and some may contain asbestos fibers, lead from pigments in colored printing inks, etc.). SUBSTITUTES: Make paper mache from black and white newspaper and library or white pasts, or use approved paper maches.

DO NOT USE: Powdered tempera colors (create inhalable dusts and some tempera colors contain toxic pigments, preservatives, etc.). SUBSTITUTES: Use liquid paints or paints the teacher pre-mixes.

DO NOT USE: Pastels, chalks or dry markers that create dust. SUBSTITUTES: Use crayons, oil pastels or dust-less chalks.

Solvents

DO NOT USE: Solvents (e.g., turpentine, shellac, toluene, rubber cement thinner) and solvent-containing materials (solvent-based inks, alkyd paints, rubber cement). SUBSTITUTES: Use water-based products only.

DO NOT USE: Solvent-based silk screen and other printing inks. SUBSTITUTES: Use water-based silk screen inks, block printing or stencil inks containing safe pigments.

DO NOT USE: Aerosol sprays. SUBSTITUTES: Use water-based paints with brushes or spatter techniques.

DO NOT USE: Epoxy, instant glue, airplane glue or other solvent-based adhesives. SUBSTITUTES: Use white glue, school paste, and preservative-free wheat paste.

DO NOT USE: Permanent felt tip markers which may contain toluene or other toxic solvents. SUBSTITUTES: Use only water-based markers.

Toxic Metals

DO NOT USE: Stained glass projects using lead came, solder, flux, etc. SUBSTITUTES: Use colored cellophane and black paper to simulate lead.

DO NOT USE: Arsenic, cadmium, chrome, mercury, lead, manganese, or other toxic metals which may occur in pigments, metal filings, metal enamels, ceramic glazes, metal casting, etc. SUBSTITUTES: Use approved materials only.

Miscellaneous

DO NOT USE: Photographic chemicals. SUBSTITUTES: Use blueprint paper and make sun grams, or use Polaroid cameras.

DO NOT USE: Casting plaster. Creates dust and casting hands and body parts has resulted in serious burns. SUBSTITUTES: Teacher can mix plaster in a separate ventilated area or outdoors for plaster casting.

DO NOT USE: Acid etches and picking baths. SUBSTITUTES: Should not use techniques employing these chemicals.

DO NOT USE: Scented felt tip markers. These teach children bad habits about eating and sniffing art materials. SUBSTITUTES: Use water-based markers.

From Data Sheet - Art Materials: Recommendations for Children Under 12, Center for Safety in the Arts.

* Section 63.1-195 of the Code of Virginia defines a child as "any natural person under eighteen years of age."

APPENDIX IV.

Article 3.

Outdoor Activity Area.

§ 5.11. Centers shall use a clean, safe outdoor activity area, either adjoining or accessible to the center, which shall provide a minimum of 75 square feet of space per child on the outdoor area at any one time.

§ 5.12. Centers licensed for the care of infants and toddlers shall provide at least 25 square feet of unpaved surface per infant/toddler on the outdoor area at any one time. This unpaved surface shall be suitable for crawling infants and for toddlers learning to walk. This space may be counted as part of the 75 square feet required in § 5.11.

NOTE: Space covered by sand in sand boxes or play areas may be counted toward the 25 square feet of unpaved surface.

§ 5.13. Asphalt, concrete, or similar hard surface shall not be the only outdoor surface.

§ 5.14. Where natural shade is not available, the center

shall make provision for creating a shaded area or areas.

§ 5.15. Resilient surfaces shall be placed under slides and climbing equipment more than four feet high and all swing sets to help absorb the shock if a child falls off the equipment. Resilient surfaces include, but are not limited to, shand, mulch, pea gravel, shredded tires, and rubberized surfacts.

§ 5.16. Where swings are provided, they shall have soft or flexible seats such as, but not limited to, nylon or rubber belting rather than hard wooden, metal, or fiberglass seats.

§ 5.17. Ground supports for slides, swing sets, and climbing equipment shall be covered with material(s) which would protect children from injury.

§ 5.18. Where slides are provided, the lower ends shall be no more than 15 inches above the ground.

§ 5.19. For outdoor activity areas used by toddlers and preschool children, the climbing portion of slides and climbing equipment shall not be more than seven feet high.

§ 5.20. Outside sand in self-contained boxes with bottoms which prevent drainage shall be covered when not in use.

APPENDIX VI

CHILD CARE FOOD PROGRAM MEAL PATTERNS

This chart lists the amounts and types of food to be served to children 1 year old and older.

	AGES 1 - 2	AGES 3 - 5	AGES 6 - 12
MEAL COMPONENTS			
BREAKFAST			
Milk	1/2 cup	3/4 cup	1 cup
Juice or Fruit or Vegetable	1/4 cup	1/2 cup	1/2 cup
Bread or Bread Alternate	1/2 slice	1/2 slice	1 slice
Including cereal, cold dry	1/4 cup or	1/3 cup or	3/4 cup or
or cereal, hot cooked	1/3 ounce	1/2 ounce	1 ounce
	1/4 cup	1/4 cup	1/2 cup
SNACK (SUPPLEMENT)			
Select 2 out of 4 components			
Milk	1/2 cup	1/2 cup	1 cup
Juice or Fruit or Vegetable	1/2 cup	1/2 cup	3/4 cup
Meat or Meat Alternate	1/2 ounce	1/2 ounce	1 ounce
Bread or Bread Alternate	1/2 slice	1/2 slice	1 slice
Including cereal, cold dry	1/4 cup or	1/3 cup or	3/4 cup or
or cereal, hot cooked	1/3 ounce	1/2 ounce	1 ounce
	1/4 cup	1/4 cup	1/2 cup
LUNCH OR SUPPER			
Milk	1/2 cup	3/4 cup	1 cup
Meat or Poultry or Fish	1 ounce	1 1/2 ounces	2 ounces
or egg	1	1	1
or cheese	1 ounce	1 1/2 ounce	2 ounces
or cooked dry beans or peas	1/4 cup	3/8 cup	1/2 cup
or peanut butter and other	2 Tbsp.	3 Tbsp.	4 Tbsp.
"butters"			
nuts and seeds	1/2 ounce*	3/4 ounce*	1 ounce*
Vegetable and/or Fruits	1/4 cup	1/2 cup	3/4 cup
(2 or more total)			
Bread or Bread Alternate	1/2 slice	1/2 slice	1 slice

Milk includes whole milk, lowfat milk, skim milk, cultured buttermilk, or flavored milk made from these types of fluid milk which meet State or local standards.

Bread Alternate may also include an equivalent serving of items such as a roll, biscuit, muffin, cooked enriched or whole-grain rice, macaroni, noodles, or other pasta products.

*Nuts and seeds may be credited towards meeting only 50% of the meat/meat alternate requirement.

APPENDIX V Communicable Disease Reference Chart For School Personnel

Disease	Incubation Period	Communicable Period	Signs and Symptoms	Diagnosis	Control Measures
Chickpox (Varicella)	From 10 to 21 days, usually 14 to 17 days.	From 10 to 21 days, usually 14 to 17 days.	Small, clear, itchy blisters which become vesicles (small blisters) within a few hours. Lesions continue to occur in successive crops, with several stages of maturity present at the same time.	Characteristic skin lesions.	Exclude from school for 7 days after the appearance of the first crop of vesicles. Exclude from school for 7 days after crusting. Avoid contact with persons who have lesions. Exclude from school for 7 days.
Typhoid Disease (Typhoid fever)	From 6 to 14 days.	From 6 to 14 days.	Mild illness without fever. Gradually increased by a viral relapsing fever. Headache, malaise, and loss of weight. Described as a "strapped" check appearance.	Characteristic fever pattern.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
German Measles (Rubella)	From 14 to 21 days, usually 16 to 18 days.	From 14 to 21 days, usually 16 to 18 days.	Mild symptoms: slight fever, rash of movable character lasting about 3 days; enlarged lymph nodes; sore throat; conjunctivitis; joint pain may occur especially in older children and adults.	Characteristic fever pattern.	Exclude from school for 7 days after onset of rash and at least 4 days after fever subsides. Exclude from school for 7 days after onset of symptoms. Avoid exposure to women in early pregnancy. Check attendance and notify parents if symptoms persist. Advise physician if symptoms persist.
Scarlet Fever (Scarlet fever)	From 15 to 30 days, usually 24-30 days.	From 15 to 30 days, usually 24-30 days.	Fever, loss of appetite, nausea, abdominal discomfort and weakness followed by jaundice. Many unexplained mild cases without definite return, especially in children.	Characteristic fever pattern.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Erysipelas (Erysipelas)	Unknown.	Unknown.	Multiple skin lesions usually at exposed areas (face, elbows, legs and hands), but may involve any area. Lesions vary in size and shape and are characterized by a red, swollen, tender, and usually circular area which may resemble an insect bite.	Characteristic skin lesions.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Meningitis, Hemorrhagic	Usually 2-4 days.	Usually 2-4 days.	Sudden onset of fever, vomiting, lethargy and stiff neck. Progressive course of fever and intense headache. Dizziness and coma may occur. Meningitis may be associated with hemorrhagic lesions. Often fatal despite prompt diagnosis and treatment.	Characteristic fever pattern.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Meningitis, Meningococcal	From 2 to 10 days, usually 3 to 4 days.	From 2 to 10 days, usually 3 to 4 days.	Sudden onset of fever and intense headache. Dizziness and coma may occur. Meningitis may be associated with hemorrhagic lesions. Often fatal despite prompt diagnosis and treatment.	Characteristic fever pattern.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Infectious Mononucleosis (Glandular Fever)	Usually 4 to 6 weeks.	Usually 4 to 6 weeks.	Fever, sore throat and enlarged lymph glands at the back of the neck. Generally mild illness and difficult to recognize in children.	Characteristic fever pattern.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Mumps (Mumps)	From 2 to 3 weeks, usually 18 days.	From 2 to 3 weeks, usually 18 days.	Fever with swelling and tenderness of the parotid glands located below and in front of one or both ears. Uncomplicated mild cases without swelling may occur.	Characteristic fever pattern.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Pedicularis (Lice)	Under optimum conditions, eggs hatch in 7 to 10 days and reach maturity in about 14 days.	Under optimum conditions, eggs hatch in 7 to 10 days and reach maturity in about 14 days.	Small, itching and irritating skin with penetrating bites. Scabs and sores may be seen. Lice may be found on head, neck, and body. Lice may be found on head, neck, and body.	Characteristic skin lesions.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Measles (Measles, Red Measles)	From 8-13 days, usually 10 days.	From 8-13 days, usually 10 days.	Prodrome characterized by fever followed by redness of eyes, runny nose, sore throat, cough, and high fever. Rash appears on day 3 or 4 and lasts 4 to 7 days.	Characteristic fever pattern.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Sulfamonomitri	From 6 to 72 hours, usually 12 to 36 hours.	From 6 to 72 hours, usually 12 to 36 hours.	Sudden onset of fever, abdominal pain, diarrhea, nausea, and vomiting. Dehydration may occur in younger children.	Characteristic fever pattern.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Scarlet	From 2 to 6 weeks.	From 2 to 6 weeks.	Rapid onset of fever, abdominal pain, diarrhea, nausea, and vomiting. Dehydration may occur in younger children. Rash appears on day 3 or 4 and lasts 4 to 7 days.	Characteristic fever pattern.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Stomach Flu (Gastroenteritis)	Usually 1 to 3 days, rarely longer.	Usually 1 to 3 days, rarely longer.	Fever, sore throat, vomiting, diarrhea, and abdominal pain. Rash appears on day 3 or 4 and lasts 4 to 7 days.	Characteristic fever pattern.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Shingles (Herpes Zoster)	From 1 to 7 days, usually 3 days.	From 1 to 7 days, usually 3 days.	Diarrhea, fever and often vomiting and cramps. In severe cases the sores may contain blood.	Characteristic fever pattern.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.
Whooping Cough (Pertussis)	Usually 7 days, from university and high school students, usually 10 to 14 days.	Usually 7 days, from university and high school students, usually 10 to 14 days.	Characteristic cough with upper respiratory symptoms and associated with upper respiratory symptoms and associated with upper respiratory symptoms and associated with upper respiratory symptoms.	Characteristic cough.	Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return. Exclude from school until physician advises return.

SOME FOODS WITH VITAMIN A AND VITAMIN C

Vitamin A	Vitamin C
<p>Vegetables</p> <p>Asparagus</p> <p>*Broccoli</p> <p>*Carrots</p> <p>Chili peppers (red)</p> <p>Kale</p> <p>*Mixed vegetables</p> <p>*Peas & carrots</p> <p>Pumpkin</p>	<p>Fruits</p> <p>*Apricots</p> <p>*Cantaloupe</p> <p>Cherries, red sour</p> <p>Papaya</p> <p>Peaches, (not canned)</p> <p>Plums, purple (canned)</p> <p>Prunes</p> <p>Pumpkin</p> <p>Watermelon</p>
<p>Spinach</p> <p>*Squash-winter</p> <p>*Sweetpotatoes</p> <p>Tomatoes</p> <p>Tomato Juice,</p> <p>puree or puree</p> <p>*Turnip greens</p> <p>Vegetable juices</p>	<p>Meats</p> <p>Liver</p>
<p>*Excellent Sources</p>	<p>Fruits</p> <p>Cantaloupe</p> <p>Grapefruit</p> <p>Grapefruit juice</p> <p>Oranges</p> <p>Orange juice</p> <p>Raspberries</p> <p>Strawberries</p> <p>Tangerines</p>
<p>Peppers, sweet</p> <p>Potatoes, white</p> <p>Spinach</p> <p>Sweetpotatoes</p> <p>Tomatoes</p> <p>Tomato juice,</p> <p>paste or puree</p> <p>Turnip greens</p> <p>Turnips</p>	<p>Vegetables</p> <p>Asparagus</p> <p>Brussels sprouts</p> <p>Cabbage</p> <p>Cauliflower</p> <p>Chili peppers</p> <p>Collards</p> <p>Kale</p> <p>Okra</p>

DIVISION OF LICENSING PROGRAMS
VIRGINIA DEPARTMENT OF SOCIAL SERVICES
INITIAL APPLICATION FOR A LICENSE TO OPERATE A CHILD CARE CENTER

This application shall be signed by the individual responsible for operation of the child care center(s) or, if the center(s) is/are to be operated by a board, by an officer of the board or person designated authority by the board. It shall be filed 60 days before opening date. The licensing study will begin when a completed application is received.

Application is hereby made for one or more licenses to operate one or more child care centers pursuant to Section 63.1-195 of the Code of Virginia. (If there is more than one center location to be licensed by this application, please copy and complete Sections II and III of this form as many times as needed.)

Name of Center: _____

Type of Center (please check all that apply): Child Care Center for Preschool or Younger Children
 Child Care Center for School Age Children
 Nursery School
 Child Day Care Camp

Center Location: _____
Street or Route No. City State Zip

Mailing Address: _____
Street or Route No. City State Zip

In making this application, the applicant:

1. Is in receipt of and has read a copy of the licensing statute and the minimum standards applicable to the type of center to be operated.
2. Certifies that it is his intent to comply with the aforementioned minimum standards and statutes and to remain in compliance with them if he is so licensed.
3. Grants permission to the Department of Social Services and its authorized agents to make a necessary investigation of the circumstances surrounding this application and any statement made herein, including financial status, inspection of the facility(ies), review of records and interviewing his agents, employees, and any child or other person within his custody or control. The applicant understands that, following licensure, authorized agents of the department will make announced and unannounced visits to the center(s) to determine its compliance with standards and to investigate any complaints received.
4. Understands that I will be requested to supply reports from the local health department, or appropriate fire prevention officials and I may be requested to supply a Certificate of Occupancy from the local building official.
5. Understands that an application for a license is subject to either issuance or denial. In the event of denial, it is understood that the applicant has appeal rights which are explained in the General Procedures regulation.
6. Understands that a license is required for each center site and the application fee is calculated according to the capacity at each site.

032-05-512/9 (7/92)

7. Is aware that it is a misdemeanor for any person to operate a child care center defined in Section 63.1-195 of the Code of Virginia without a license.
8. Has to the best of his knowledge and belief, given to the Department of Social Services and its authorized agents on this form and during any pre-application conference information which is true and correct. The applicant agrees to supply true and correct information requested during all subsequent investigations.

(Date)

(Name of Applicant (Individual or Organization))
by: _____
(Signature)

(Name and Title)

(Applicant's Mailing Address
if different from the center)

(City, State, Zip Code)
()

(Business Telephone)

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

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INITIAL APPLICATION
CHILD CARE CENTER

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

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INITIAL APPLICATION
CHILD CARE CENTER

Directions: Please provide all requested information. If completing this form for centers located at different sites, please copy and complete Sections II and III of this form as many times as needed.

I. SPONSORSHIP AND GENERAL INFORMATION

A. Center(s) is/are to be operated by _____
 Individual Corporation Public Agency
 Partnership Association

B. Name of sponsor if not an individual proprietorship: _____
 Address: _____
 Telephone: () _____
 Name and title of contact person (if applicable) _____

C. For centers sponsored by either corporations, unincorporated associations, or public agencies:

1. List all officers and members of the Board
 President or Chairperson: _____ Telephone Number: () _____
 Address: _____
 (City) (State) (Zip Code)

Office	Name	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____

D. References
 List the names and addresses of three persons who are not related to the applicant(s) and who can knowledgeably and objectively certify to the applicant's(s') character and reputation. For center(s) sponsored by corporations, unincorporated associations, or public agencies provide three references for each officer of the Board. Attach an extra page, if necessary.

Name of Individual Owner, Partner, or Officer of the Board: _____

References	Phone Numbers	Addresses
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)

Name of Individual Owner, Partner, or Officer of the Board: _____

References	Phone Numbers	Addresses
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)

Name of Individual Owner, Partner, or Officer of the Board: _____

References	Phone Numbers	Addresses
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)

Name of Individual Owner, Partner, or Officer of the Board: _____

References	Phone Numbers	Addresses
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)
_____	_____	(City) (State) (Zip)

E. How many center sites do you want licensed by this application? _____

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Virginia Register of Regulations

II. INFORMATION FOR EACH CENTER SITE

Directions: As necessary, please make copies of this section of the form and complete for each center site.

A. Name of Center		B. Phone Number of Center (Area Code)	
C. Name of Administrator		D. Name of Center Director	

E. Directions to the Center:

F. Asbestos

Section 63.1-198.01 of the Code of Virginia, requires asbestos inspections in child care centers based on the date of construction of the building(s) housing your center(s). Written statements required by the minimum standards applicable to your center must be submitted before a license can be issued.

When was your center built? Before 1978 (requires asbestos inspection) In 1978 or after (does not require DSS asbestos review.)

If your center is located in a public school building or state owned building, you are exempt from DSS asbestos review. Is your center located in a public school building or state owned building?

Yes No

Please provide this information for each separate building of your child care center.

Note: If you operate a nonprofit school on site for children five years of age and older, the complete asbestos inspection must be submitted to the Department of Education (804) 225-2035. Written statements as noted above must be submitted to DSS if the building was constructed before 1978.

G. Hours of Operation and Requested, Licensed Capacity

	Hours of Operation (days and times)	Months Operated During the Year	Requested Licensed Capacity	Age Range
Child Care Center Preschool or Younger				
School Age				
Nursery School				
Camp				

H. What is your total, requested licensed capacity (the number of children that can be present at any one time)?

I. Proposed Enrollment by Age Groups and Type of Care Offered. Please indicate if multiple sessions during a one week time period are offered (i.e. morning nursery school and afternoon nursery school).

	Infants and Toddlers (birth to 16 mos.)	Infants and Toddlers (16 mos. to 2 yrs.)	Preschool (2 and 3 yr. olds)	Preschool (4 to age of eligibility to attend school)	School Age
Child Care Center Preschool or Younger					
School Age					
Nursery School					
Camp					

J. Do you plan to accept children with disabilities in a mainstream setting? Yes No

K. State the purpose and scope of your services (EXAMPLES: What will be the major goal of your center(s)? What will be the emphasis and philosophy of your center(s) to carry out this goal? What are the specific services to be provided as part of your center(s) and how do these services vary according to the age group in care?):

Proposed Regulations

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

INITIAL APPLICATION
CHILD CARE CENTER

Directions: As necessary, please make copies of this section of the form and complete for each center site.

Name of Center: _____

III. STAFF INFORMATION

Location of Center: _____

List all employees and volunteers. If staff is not yet hired, indicate positions to be used, anticipated hours of employment etc.

Staff Member	Date of Employment	Position	Education/Related Experience (Indicate highest grade, diploma or degree and related experience)	Weekly Work Schedule (Specify actual hours worked each day)	Age Group For Which Responsible

INITIAL APPLICATION
CHILD CARE CENTER

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

IV. ATTACHMENTS

- A. Required Attachments
- Attach the appropriate fee(s) for application processing.
 - For each site, floor plans indicating exact dimensions of rooms to be used, including:
 - room length and width;
 - functions of each room;
 - toilet facilities, including number of basins and toilets; and
 - isolation arrangements and position of any fixed equipment and furniture.
 - For each site, sketch of available outdoor play area including exact dimensions and the location of any fixed play equipment.

Note: Floor plans and sketch of available outdoor play areas are not required if plans have previously been submitted for functional design approval and no changes have been made to the plan.
 - | | | | |
|----|--|--------------------------|--------------------------|
| a) | For centers operated by a partnership: | Attached | Not Applicable |
| | Articles of Partnership | <input type="checkbox"/> | <input type="checkbox"/> |
| b) | For centers operated by an association: | | |
| | (1) Copy of Constitution, or | <input type="checkbox"/> | <input type="checkbox"/> |
| | (2) Copy of By-Laws | <input type="checkbox"/> | <input type="checkbox"/> |
| c) | For centers operated by a corporation: | | |
| | Copy of Charter or certificate of authority to transact business in the Commonwealth | <input type="checkbox"/> | <input type="checkbox"/> |
 - Certified financial statement prepared for your facility by a certified public accountant.

DIVISION OF LICENSING PROGRAMS
 VIRGINIA DEPARTMENT OF SOCIAL SERVICES
 RENEWAL APPLICATION FOR A LICENSE TO OPERATE A CHILD CARE CENTER

This application shall be signed by the individual responsible for operation of the child care center(s) or, if the center(s) is/are to be operated by a board, by an officer of the board or person designated authority by the board. It shall be filed 60 days before the expiration of the current license. The licensing study will begin when a completed application is received.

Application is hereby made for one or more licenses to operate one or more child care centers pursuant to Section 63.1-195 of the Code of Virginia. (If there is more than one center location to be licensed by this application, please copy and complete Sections II and III of this form as many times as needed.)

Name of Center: _____

Type of Center (please check all that apply): Child Care Center for Preschool or Younger Children
 Child Care Center for School Age Children
 Nursery School
 Child Day Care Camp

Center Location: _____

Street or Route No. _____ City _____ State _____ Zip _____

Mailing Address: _____

Street or Route No. _____ City _____ State _____ Zip _____

In making this application, the applicant:

1. Is in receipt of and has read a copy of the licensing statute and the minimum standards applicable to the type of center to be operated.
2. Certifies that it is his intent to comply with the aforementioned minimum standards and statutes and to remain in compliance with them if he is so licensed.
3. Grants permission to the Department of Social Services and its authorized agents to make a necessary investigation of the circumstances surrounding this application and any statement made herein, including financial status, inspection of the facility(ies), review of records and interviewing his agents, employees, and any child or other person within his custody or control. The applicant understands that, following licensure, authorized department will make announced and unannounced visits to the center(s) to determine its compliance with standards and to investigate any complaints received.
4. Understands that I will be requested to supply reports from the local health department and appropriate fire prevention officials.
5. Understands that an application for a license is subject to either issuance or denial. In the event of denial, it is understood that the applicant has appeal rights which are explained in the General Procedures regulation.
6. Understands that a license is required for each center site and the application fee is calculated according to the capacity at each site.

032-05-225/8 (7/92)

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 DIVISION OF LICENSING PROGRAMS
 DEPARTMENT OF SOCIAL SERVICES
 INITIAL APPLICATION
 CHILD CARE CENTER

6. A written statement regarding the sponsorship and organization of the center(s), with information showing who is responsible for policy making, operation and management decisions.
7. Samples of all forms developed, such as application form, agreement form, etc., if different from the model forms provided by the Department of Social Services.
8. Sample menu for one month if food is provided by the center.
9. A list of indoor and outdoor play equipment available to children.
10. A copy of the daily activity schedule(s) for the center(s).
11. A copy of all brochures and policies required by the minimum standards applicable to your center.

B. Optional Attachments

Attachments requested in this section may be provided now or during the initial on-site inspection. Review of these attachments before the on-site visit may shorten the amount of time needed for the visit. It is your option when to provide the information.

1. Evidence of insurance coverage.
2. Certificate of Occupancy.
3. Written statements about asbestos (if applicable according to the minimum standards).

Proposed Regulations

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- 7. Is aware that it is a misdemeanor for any person to operate a child care center defined in Section 63.1-195 of the Code of Virginia without a license.
- 8. Has to the best of his knowledge and belief, given to the Department of Social Services and its authorized agents on this form and during any pre-application conference information which is true and correct. The applicant agrees to supply true and correct information requested during all subsequent investigations.

(Date)

(Name of Applicant (Individual or Organization)) _____

by: _____ (Signature) _____ (Applicant's Mailing Address if different from the center)

_____ (Name and Title) _____ (City, State, Zip Code)

_____ (Business Telephone)

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

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RENEWAL APPLICATION
CHILD CARE CENTER

Directions: Please provide all requested information. If completing this form for centers located at different sites, please copy and complete Sections II and III of this form as many times as needed.

I. SPONSORSHIP AND GENERAL INFORMATION

A. Center(s) is to be operated by _____ Individual _____ Corporation _____ Public Agency
_____ Partnership _____ Association

B. For centers sponsored by either corporations, unincorporated associations, or public agencies:

List all officers and members of the Board

President or Chairperson: _____ Telephone Number: _____ () _____

Address: _____ (City) _____ (State) _____ (Zip Code)

Office	Name	Address

C. How many center sites do you want licensed by this application? _____

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

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RENEWAL APPLICATION
CHILD CARE CENTER

II. INFORMATION FOR EACH CENTER SITE

As necessary, please make copies of this section of the form and complete for each center site.

A. Name of Center		B. Phone Number of Center (Area Code)	
C. Name of Administrator		D. Name of Center Director	

E. Hours of Operation and Requested, Licensed Capacity

	Hours of Operation (days and times)	Months Operated During the Year	Requested Licensed Capacity	Age Range
Child Care Center				
Preschool or Younger				
School Age				
Nursery School				
Camp				

F. What is your total, requested licensed capacity (the number of children that can be present at any one time)? _____

G. Current Enrollment By Age Groups and Type of Care Offered. Please indicate if multiple sessions during a one week time period are offered (i.e. morning nursery school and afternoon nursery school).

	Infants and Toddlers (birth to 16 mos.)	Infants and Toddlers (16 mos. to 2 yrs.)	Preschool (2 and 3 yr. olds)	Preschool (4 to age of eligibility to attend school)	School Age
Child Care Center					
Preschool or Younger					
School Age					
Nursery School					
Camp					

H. How many children with disabilities do you care for in a mainstream setting for each center? _____

Proposed Regulations

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

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RENEWAL FORM
CHILD CARE CENTER

Directions: As necessary, please make copies of this section of the form and complete for each center site.

Name of Center: _____ III. STAFF INFORMATION

Location of Center: _____

List all employees and volunteers.

STAFF MEMBER	DATE OF EMPLOYMENT	POSITION	EDUCATION/RELATED EXPERIENCE (Indicate highest grade, diploma or degree and related experience)	WEEKLY WORK SCHEDULE (Specify actual hours worked each day)	AGE GROUP FOR WHICH RESPONSIBLE

DIVISION OF LICENSING PROGRAMS
DEPARTMENT OF SOCIAL SERVICES

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RENEWAL APPLICATION
CHILD CARE CENTER

IV. ATTACHMENTS

- A. A list of indoor and outdoor play equipment available to children, if it has changed since the last licensing study.
 no change has changed
- B. A copy of the daily activity schedule(s) for the center(s), if it has changed since the last licensing study.
 no change has changed
- C. A copy of all brochures and policies required by the minimum standard if they have changed since the last licensing study.
 no change has changed

Proposed Regulations

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Elimination of Medicaid Payment for Reserving Nursing Facility Beds for Hospitalized Patients.

VR 460-02-4.1930. Basis for Payment for Reserving Beds During a Recipient's Absence from an Inpatient Facility.

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

Public Hearing Date: N/A – Written comments may be submitted until September 27, 1991.

(See Calendar of Events section for additional information)

Summary:

This proposal promulgates permanent regulations to supersede the current emergency regulation providing for the elimination of the Medicaid policy of paying to reserve the bed of a nursing facility resident when that resident requires hospitalization. The section of the State Plan affected by this action is Attachment 4.19 C. This regulation is responsive to the administration's directive to identify potential cost savings initiatives.

On July 1, 1982, Virginia Medicaid policy was changed to terminate the practice of paying nursing facilities for reserving the beds of nursing facility residents during their hospitalization. As an integral part of this policy, facilities were required to ensure that a former resident discharged from a hospital was given the opportunity to be readmitted to that facility at the time of the next available vacancy.

Effective July 1, 1988, Virginia Medicaid policy was changed to provide for Medicaid payment to nursing facilities in a planning district whose occupancy rate was 96% or better, in order to hold a nursing home bed for up to 12 days for a hospitalized resident. The policy was instituted to ensure more timely discharge of residents from acute care hospitals; in fact, it had the opposite effect. A study of hospital lengths of stay for nursing home residents showed that those residents not covered by the bed hold policy were discharged from the hospital on average one day sooner than those covered by the policy. The average length of stay in planning districts with bed hold days was 9.32 days, while the length of stay in planning districts without bed hold days was 8.62 days (1990 claims data). This may be attributed in part to the fact that when families were paying private rates to hold the bed, they may have communicated more often with the hospital physician and pushed for an early discharge. Another phenomenon reported to DMAS that occurred concurrent with this new policy was that hospitals were not always able to discharge first-time admissions to nursing facilities because beds

were being held.

The department does not anticipate that eliminating this coverage policy will cause nursing facility residents to be displaced. When the policy of reserving nursing facility beds for hospitalized residents was eliminated in 1982, DMAS monitored closely the outcomes for hospitalized residents in three ways: first, it checked facility compliance as part of its inspection of care activities; second, it investigated charges of noncompliance; and third, it conducted a six-year telephone survey of policy results. Only 1-2% of all hospitalized residents were displaced to another nursing facility, but all who wanted to return to their original facility later did so.

VR 460-02-4.1930. Basis for Payment for Reserving Beds During a Recipient's Absence from an Inpatient Facility.

§ 1. Payment is made for reserving beds in long-term care facilities for recipients during their temporary absence for the following purpose: A. For leaves of absence up to 18 days per year for any reason other than inpatient hospital admissions.

B. For up to 12 reserve bed days per admission when a nursing home patient requires hospitalization and the nursing home is in a planning district in which the average occupancy for all licensed and certified nursing homes is more than 96% based on a 12 month average of the occupancy reported in Medicaid nursing home cost reports filed with the Department of Medical Assistance Services as of June 30 of each year. Such reserve bed days will be applicable to hospital stays beginning on or after July 1, 1988. Payment will be made prospectively to eligible nursing homes which are licensed, certified and have a valid provider agreement as of July 1 of each year. The Department of Medical Assistance Services will notify eligible nursing homes that they may bill for up to the 12 reserve bed days for the year beginning each July 1 through June 30. Families may not be billed to reserve bed days for which the Department of Medical Assistance Services will allow payment.

* * * * *

REGISTRAR'S NOTICE: The amendments relating to home health services found in § 7 of VR 460-03-3.1100 and § 1 D of VR 460-02-3.1300 were proposed and published in 7:21 V.A.R. July 15, 1991. Written comments on the amendments relating to home health services may be submitted until September 13, 1991. (See the Calendar of Events section of the July 15, 1991, issue of The Virginia Register for additional information.)

Title of Regulation: State Plan for Medical Assistance Relating to Outpatient Rehabilitative Services.

VR 460-03-3.1100. Amount, Duration and Scope of Services.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.

Proposed Regulations

VR 460-04-3.1300. Regulations for Outpatient Physical Rehabilitative Services.

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

Public Hearing Date: N/A – Written comments may be submitted until September 27, 1991.

(See Calendar of Events section for additional information)

Summary:

The purpose of this proposal is to promulgate permanent regulations to supersede the current emergency regulations providing for the authorization and UR of intensive outpatient physical rehabilitation services and outpatient physical therapy and related services (physical and occupational therapies and speech-language pathology services).

The sections of the State Plan affected by this proposed regulation are Attachment 3.1 C (Standards Established and Methods Used to Assure High Quality Care) and Attachment 3.1 A & B (Amount, Duration, and Scope of Services), Supplement 1. The state regulations affected by this action are VR 460-04-3.1300. The Durable Medical Equipment (DME) and Supplies Listing that was placed in Supplement 4 of Attachment 3.1 A & B of the emergency regulation is not being promulgated at the specific request of the Health Care Financing Administration. The DME listing is found in the provider manuals for rehabilitative services, DME, home health, and local health departments and will be periodically updated.

DMAS has reimbursed physical therapy and related rehabilitative services for Medicaid recipients since 1978. These services are provided by acute care inpatient hospitals, rehabilitation hospitals, rehabilitation agencies, home health providers, and outpatient hospitals. This proposed regulation provides for new limits and increased utilization review requirements on these services. DMAS' service limits policy will now require authorization for extensions of normal services for physical and occupational therapies and speech-language pathology services based upon individual medical needs.

An intensive rehabilitation program was implemented in February 1986 to provide a package of comprehensive rehabilitation services to include rehabilitation nursing, speech-language pathology services, social services, psychology, therapeutic recreation, durable medical equipment (to assist individuals being discharged from rehabilitation facilities), and physical, occupational, or cognitive therapies. This comprehensive package of services must be provided by a freestanding rehabilitation hospital, a Comprehensive Outpatient Rehabilitation Facility (CORF), or by an acute care hospital that has a physical rehabilitation unit which has been

exempted from the Medicare Prospective Payment System.

By implementing the authorization and UR process for all intensive rehabilitation services and for physical and occupational therapies and speech-language pathology services, DMAS expects to prevent unnecessary expenditures and ensure better quality of care.

Nothing in this regulation is intended to preclude DMAS from reimbursing for special intensive rehabilitative services on an exception basis and reimbursing for these services on an individually negotiated rate basis. DMAS places some individuals with complex intensive physical rehabilitative needs (such as high level spinal cord injury and ventilator dependency) in out-of-state rehabilitation facilities because in-state facilities cannot provide the necessary services within their existing reimbursement. This regulation will also allow Medicaid to negotiate individual contracts with in-state intensive physical rehabilitation facilities for those individuals with special needs. To ensure efficient use of available in-state services, negotiated rates for special intensive physical rehabilitative care will only be used when the patient meets the criteria for intensive physical rehabilitation.

Service limits have been determined for medically necessary medical supplies and equipment which will continue to be covered for Medicaid recipients who receive outpatient intensive physical rehabilitative services. Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. Requests for items not identified on the DME listing must be submitted to DMAS for individual consideration. When determined to be cost-effective by DMAS, payment may be made for rental of the equipment in lieu of purchase.

The proposed regulations are substantively the same as the emergency regulations that became operative on January 1, 1991. To date, DMAS has received no provider comment on these regulations. Differences in the proposed regulations from the emergency regulations include the removal of the DME Listing from the Plan, the addition of examples of noncovered items, and the expansion of rehabilitative therapists' qualifications to include certain therapists who are employed by school districts. Technical changes were also made for clarity.

This amendment was approved by the Board of Medical Assistance Services in August, 1990, for inclusion in the DMAS' submission to the Governor's budget as a cost management initiative.

The Code of Federal Regulations, Title 42, Part 456, grants states the authority to perform utilization

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review (UR) and authorization for outpatient rehabilitative services.

VR 460-03-3.1100. Amount, Duration and Scope of 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 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 admissions 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 exempt portions or all of the utilization review documentation requirements of subsections A, D, E, F as it pertains to recipients under age 21, G, or H in writing for specific hospitals from time to time as part of their ongoing hospital utilization review performance evaluation. These exemptions are based on utilization review performance and review edit criteria which determine an individual hospital's review status as specified in the hospital provider manual. In compliance with federal regulations at 42 CFR 441.200, Subparts E and F, claims for hospitalization in which sterilization, hysterectomy or abortion procedures were performed, shall be subject to medical documentation requirements.

K. Hospitals qualifying for an exemption of all documentation requirements except as described in subsection J above shall be granted "delegated review status" and shall, while the exemption remains in effect, not be required to submit medical documentation to support pended claims on a prepayment hospital utilization review basis to the extent allowed by federal or state law or regulation. The following audit conditions apply to delegated review status for hospitals:

1. The department shall conduct periodic on-site post-payment audits of qualifying hospitals using a statistically valid sampling of paid claims for the purpose of reviewing the medical necessity of inpatient stays.

2. The hospital shall make all medical records of which medical reviews will be necessary available upon request, and shall provide an appropriate place for the department's auditors to conduct such review.

3. The qualifying hospital will immediately refund to the department in accordance with § 32.1-325.1 A and B of the Code of Virginia the full amount of any initial overpayment identified during such audit.

4. The hospital may appeal adverse medical necessity and overpayment decisions pursuant to the current administrative process for appeals of post-payment review decisions.

5. The department may, at its option, depending on the utilization review performance determined by an audit based on criteria set forth in the hospital provider manual, remove a hospital from delegated review status and reapply certain or all prepayment utilization review documentation requirements.

§ 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.

The same service limitations apply to rural health clinics as to all other services.

2c. Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with § 4231 of the State Medicaid Manual (HCFA Pub. 45-4).

The same service limitations apply to FQHCs as to all other services.

§ 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

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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 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

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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. Nursing services provided by a home health agency.

1. 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.

2. *Patients may receive up to 32 visits by a licensed nurse within a 60-day period without authorization. A patient may receive a maximum of 64 nursing visits annually without authorization. If services beyond these limitations are determined by the physician to be required, then the home health agency shall request authorization from DMAS for additional services.*

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

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

2. *Home health aides must meet the certification requirements specified in 42 CFR 484.36.*

3. *For home health aide services, patients may receive up to 32 visits within a 60-day period without authorization from DMAS. A recipient may receive a maximum of 64 visits annually without authorization. If services beyond these limitations are determined by the physician to be required, then the home health agency shall request authorization from DMAS for additional services.*

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

1. All ~~medical~~ *medically necessary* supplies, equipment, and appliances are ~~available to~~ *covered for* patients of the home health agency. *Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. When determined to be cost-effective by DMAS, payment may be made for rental of the equipment in lieu of purchase.*

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 authorized by the agency.*

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3. *Supplies, equipment, or appliances that are not covered include, but are not limited to, the following:*

a. *Space conditioning equipment, such as room humidifiers, air cleaners, and air conditioners.*

b. *Durable medical equipment and supplies for any hospital or nursing facility resident, except ventilators and associated supplies for nursing facility residents that have been approved by DMAS central office.*

c. *Furniture or appliances not defined as medical equipment (such as blenders, bedside tables, mattresses other than for a hospital bed, pillows, blankets or other bedding, special reading lamps, chairs with special lift seats, hand-held shower devices, exercise bicycles, and bathroom scales).*

d. *Items that are only for the recipient's comfort and convenience or for the convenience of those caring for the recipient (e.g., a hospital bed or mattress because the recipient does not have a decent bed; wheelchair trays used as a desk surface; mobility items used in addition to primary assistive mobility aide for caregiver's or recipient's convenience (i.e., electric wheelchair plus a manual chair); cleansing wipes.*

e. *Prosthesis, except for artificial arms, legs, and their supportive devices which must be preauthorized by the DMAS central office (effective July 1, 1989).*

f. *Items and services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (for example, over-the-counter drugs; dentifrices; toilet articles; shampoos which do not require a physician's prescription; dental adhesives; electric toothbrushes; cosmetic items, soaps, and lotions which do not require a physician's prescription; sugar and salt substitutes; support stockings; and nonlegend drugs.*

g. *Orthotics, including braces, splints, and supports.*

h. *Home or vehicle modifications.*

i. *Items not suitable for or used primarily in the home setting (i.e., car seats, equipment to be used while at school, etc.).*

j. *Equipment that the primary function is vocationally or educationally related (i.e., computers, environmental control devices, speech devices, etc.).*

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

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

2. Patients may receive up to 24 visits for each rehabilitative therapy service ordered within a 60-day period without authorization. Patients may receive up to 48 visits for each rehabilitative service ordered annually without authorization. If services beyond these limitations are determined by the physician to be required, then the home health agency shall request authorization from DMAS for additional services.

§ 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 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; dental sealants; 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, for handicapping malocclusions, minor tooth guidance or repositioning appliances, complete and partial dentures, surgical preparation (alveoplasty) for prosthetics, single permanent crowns, and bridges. The following service is not covered: routine bases under restorations.

D. The state agency may place appropriate limits on a service based on 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); extractions, orthodontics, tooth guidance appliances, permanent crowns, and bridges, endodontics, patient education and sealants (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.

Physical therapy and related services shall be defined as physical therapy, occupational therapy, and speech-language pathology services. These services shall be prescribed by a physician and be part of a written plan of care. Any one of these services may be offered as the sole service and shall not be contingent upon the provision of another service. All practitioners and providers of services shall be required to meet state and federal licensing and/or certification requirements.

11a. Physical Therapy.

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

B. Effective July 1, 1988, the Program will not provide direct reimbursement to enrolled providers for physical therapy service rendered to patients residing in long term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing homes' operating cost.

C. Physical therapy services meeting all of the following conditions shall be furnished to patients:

1. Physical therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a

physical therapist licensed by the Board of Medicine;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

11b. Occupational therapy.

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

B. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for occupational therapy services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

C. Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:

1. Occupational therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board.

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board, a graduate of a program approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association when under the supervision of an occupational therapist defined above, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct

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supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant or a graduate engaged in supplemental clinical experience required before registration, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see Page 1, General and Page 12, Physical Therapy and Related Services.)

A. 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 facility service, home health service, services provided by a local school division employing qualified therapists, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for speech-language pathology services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

C. Speech-language pathology services shall be those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology, or, if exempted from licensure by statute, meeting the requirements in 42 CFR 440.110(c);

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by or under the direction of a speech-language pathologist who meets the qualifications in number 1. The program shall meet the requirements of 42 CFR 405.1719(c). At least one qualified speech-language pathologist must be present at all times when speech-language pathology services are rendered; and

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the

requirement that the amount, frequency, and duration of the services shall be reasonable.

11d. Authorization for services.

A. Physical therapy, occupational therapy, and speech-language pathology services provided in outpatient settings of acute and rehabilitation hospitals, rehabilitation agencies, or home health agencies shall include authorization for up to 24 visits by each ordered rehabilitative service within a 60-day period. A recipient may receive a maximum of 48 visits annually without authorization. The provider shall maintain documentation to justify the need for services.

B. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized. This request must be signed and dated by a physician. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless the extended provision of services has been authorized by DMAS.

11e. Documentation requirements.

A. Documentation of physical therapy, occupational therapy, and speech-language pathology services provided by a hospital-based outpatient setting, home health agency, a school division, or a rehabilitation agency shall, at a minimum:

1. Describe the clinical signs and symptoms of the patient's condition;

2. Include an accurate and complete chronological picture of the patient's clinical course and treatments;

3. Document that a plan of care specifically designed for the patient has been developed based upon a comprehensive assessment of the patient's needs;

4. Include a copy of the physician's orders and plan of care;

5. Include all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response, and identify who provided care (include full name and title);

6. Describe changes in each patient's condition and response to the rehabilitative treatment plan;

7. (Except for school divisions) describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination; and

8. In school divisions, include an individualized education program (IEP) which describes the anticipated improvements in functional level in each school year and the time frames necessary to meet these goals.

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B. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

11f. Service limitations. The following general conditions shall apply to reimbursable physical therapy, occupational therapy, and speech-language pathology:

A. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.

B. Services shall be furnished under a written plan of treatment and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.

C. A physician recertification shall be required periodically, must be signed and dated by the physician who reviews the plan of treatment, and may be obtained when the plan of treatment is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed.

D. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

E. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

F. Physical therapy, occupational therapy and speech-language services are to be terminated regardless of the approved length of stay when further progress toward the established rehabilitation goal is unlikely or when the services can be provided by someone other than the skilled rehabilitation professional.

§ 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.

A. Intensive medical physical rehabilitation:

1. Medicaid covers intensive inpatient rehabilitation services as defined in § 2-1 subdivision A 4 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 physical rehabilitation services as defined in § 2-1 subdivision A 4 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.

5. Nothing in this regulation is intended to preclude DMAS from negotiating individual contracts with in-state intensive physical rehabilitation facilities for those individuals with special intensive rehabilitation needs.

§ 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.

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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).

A. Covered hospice services shall be defined as those services allowed under the provisions of Medicare law and regulations as they relate to hospice benefits and as specified in the Code of Federal Regulations, Title 42, Part 418.

B. Categories of care.

As described for Medicare and applicable to Medicaid, hospice services shall entail the following four categories of daily care:

1. Routine home care is at-home care that is not continuous.
2. Continuous home care consists of at-home care that is predominantly nursing care and is provided as short-term crisis care. A registered or licensed practical nurse must provide care for more than half of the period of the care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of 8 hours of care per day must be provided to qualify as continuous home care.
3. Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary

caregiver(s) providing at-home care for the recipient. Respite care is limited to not more than 5 consecutive days.

4. General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility. This care is usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting.

C. Covered services.

1. As required under Medicare and applicable to Medicaid, the hospice itself must provide all or substantially all of the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual).

2. Other services applicable for the terminal illness that must be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational and physical therapies and speech-language pathology services.

3. These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.

4. To be covered, a certification that the individual is terminally ill must have been completed by the physician and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. The individual must elect hospice care and a plan of care must be established before services are provided. To be covered, services must be consistent with the plan of care. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage will be provided.

5. All services must be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the coverage category of the service. The following services are covered hospice services:

- a. Nursing care. Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.
- b. Medical social services. Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction

of a physician.

c. **Physician services.** Physician services must be performed by a professional who is licensed to practice, who is acting within the scope of his or her license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

d. **Counseling services.** Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

e. **Short-term inpatient care.** Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

f. **Durable medical equipment and supplies.** Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

g. **Drugs and biologicals.** Only drugs used which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

h. **Home health aide and homemaker services.** Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

i. **Rehabilitation services.** Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

D. Eligible groups.

To be eligible for hospice coverage under Medicare or Medicaid, the recipient must have a life expectancy of six months or less, have knowledge of the illness and life expectancy, and elect to receive hospice services rather than active treatment for the illness. Both the attending physician and the hospice medical director must certify the life expectancy. The hospice must obtain the certification that an individual is terminally ill in accordance with the following procedures:

1. For the first 90-day period of hospice coverage, the hospice must obtain, within two calendar days after the period begins, a written certification statement signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician if the individual has an attending physician. For the initial 90-day period, if the hospice cannot obtain written certifications within two calendar days, it must obtain oral certifications within two calendar days, and written certifications no later than eight calendar days after the period begins.

2. For any subsequent 90-day or 30-day period or a subsequent extension period during the individual's lifetime, the hospice must obtain, no later than two calendar days after the beginning of that period, a written certification statement prepared by the medical director of the hospice or the physician member of the hospice's interdisciplinary group. The certification must include the statement that the individual's medical prognosis is that his or her life expectancy is six months or less and the signature(s) of the physician(s). The hospice must maintain the certification statements.

§ 19. Case management services for high-risk pregnant women and children up to age 1, as defined in Supplement 2 to Attachment 3.1-A in accordance with § 1915(g)(1) of the Act.

Provided, with limitations. See Supplement 2 for detail.

§ 20. Extended services to pregnant women.

20a. 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.

20b. Services for any other medical conditions that may

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complicate pregnancy.

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

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

21a. Transportation.

Nonemergency transportation is administered by local health department jurisdictions in accordance with reimbursement procedures established by the Program.

21b. Services of Christian Science nurses.

Not provided.

21c. Care and services provided in Christian Science sanatoria.

Provided, no limitations.

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

Provided, no limitations.

21e. Emergency hospital services.

Provided, no limitations.

21f. 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.

Emergency Services for Aliens (17.e)

No payment shall be made for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law unless such services are necessary for the treatment of an emergency medical condition of the alien.

Emergency services are defined as:

Emergency treatment of accidental injury or medical condition (including emergency labor and delivery) manifested by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical/surgical attention could reasonably be expected to result in:

1. Placing the patient's health in serious jeopardy;

2. Serious impairment of bodily functions; or

3. Serious dysfunction of any bodily organ or part.

Medicaid eligibility and reimbursement is conditional upon review of necessary documentation supporting the need for emergency services. Services and inpatient lengths of stay cannot exceed the limits established for other Medicaid recipients.

Claims for conditions which do not meet emergency criteria for treatment in an emergency room or for acute care hospital admissions for intensity of service or severity of illness will be denied reimbursement by the Department of Medical Assistance Services.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.

The following is a description of the standards and the methods that will be used to assure that the medical and remedial care and services are of high quality:

§ 1. Institutional care will be provided by facilities qualified to participate in Title XVIII and/or Title XIX.

§ 2. Utilization control.

A. Hospitals.

1. The Commonwealth of Virginia is required by state law to take affirmative action on all hospital stays that approach 15 days. It is a requirement that the hospitals submit to the Department of Medical Assistance Services complete information on all hospital stays where there is a need to exceed 15 days. The various documents which are submitted are reviewed by professional program staff, including a physician who determines if additional hospitalization is indicated. This review not only serves as a mechanism for approving additional days, but allows physicians on the Department of Medical Assistance Services' staff to evaluate patient documents and give the Program an insight into the quality of care by individual patient. In addition, hospital representatives of the Medical Assistance Program visit hospitals, review the minutes of the Utilization Review Committee, discuss patient care, and discharge planning.

2. In each case for which payment for inpatient hospital services, or inpatient mental hospital services is made under the State Plan:

a. A physician must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires inpatient hospital or mental hospital care.

b. The physician, or physician assistant under the supervision of a physician, must recertify, at least every 60 days, that patients continue to require

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inpatient hospital or mental hospital care.

c. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician for inpatient hospital or mental hospital services.

B. Long-stay acute care hospitals (nonmental hospitals).

1. Services for adults in long-stay acute care hospitals. The population to be served includes individuals requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, comprehensive rehabilitative therapy services and individuals with communicable diseases requiring universal or respiratory precautions.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician certification of the need for long-stay acute care hospital placement, and any additional information that justifies the need for intensive services. Physician certification must accompany the request. Periods of care not authorized by DMAS shall not be approved for payment.

b. These individuals must have long-term health conditions requiring close medical supervision, the need for 24-hour licensed nursing care, and the need for specialized services or equipment needs.

c. At a minimum, these individuals must require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is the designated unit must be on the nursing unit 24 hours a day on which the resident resides), and coordinated multidisciplinary team approach to meet needs that must include daily therapeutic leisure activities.

d. In addition, the individual must meet at least one of the following requirements:

(1) Must require two out of three of the following rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of one hour each day; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by a licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

(3) The individual must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only);

(c) Dialysis treatment that is provided on-unit (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body); or

(f) Ongoing management of multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.).

e. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the individuals' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

f. When the individual no longer meets long-stay acute care hospital criteria or requires services that the facility is unable to provide, then the individual must be discharged.

2. Services to pediatric/adolescent patients in long-stay acute care hospitals. The population to be served shall include children requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, daily dependence on device-based respiratory or nutritional support (tracheostomy, gastrostomy, etc.), comprehensive rehabilitative therapy services, and those children having communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.) and with terminal illnesses.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician certification of the need for long-stay acute care, and any additional information that justifies the need for intensive services. Periods of care not

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authorized by DMAS shall not be approved for payment.

b. The child must have ongoing health conditions requiring close medical supervision, the need for 24-hour licensed nursing supervision, and the need for specialized services or equipment. The recipient must be age 21 or under.

c. The child must minimally require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is that nursing unit must be on the unit 24 hours a day on which the child is residing), and a coordinated multidisciplinary team approach to meet needs.

d. In addition, the child must meet one of the following requirements:

(1) Must require two out of three of the following physical rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of 45 minutes per day; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc; or

(3) Must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(c) Dialysis treatment that is provided within the facility (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc. more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body);

(f) Ostomy care requiring services by a licensed nurse;

(g) Services required for terminal care.

e. In addition, the long-stay acute care hospital must provide for the educational and habilitative needs of the child. These services must be age appropriate, must meet state educational requirements, and must be appropriate to the child's cognitive level. Services must also be individualized to meet the child's specific needs and must be provided in an organized manner that encourages the child's participation. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills, and leisure activities. Therapeutic leisure activities must be provided daily.

f. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

g. When the resident no longer meets long-stay hospital criteria or requires services that the facility is unable to provide, the resident must be discharged.

C. Nursing facilities.

1. As required by federal law, the Department of Medical Assistance Services visits every Medicaid patient that is residing in a nursing home in Virginia. The purpose of the visit is to conduct a complete medical and social evaluation of the patient. The visit also includes patient interviews and discussions with the professional staff and the attending physician. Thus, it is assured that quality care is rendered to these recipients and that the patient is receiving the proper level of care.

2. Long term care of patients in medical institutions will be provided in accordance with procedures and practices that are based on the patient's medical and social needs and requirements.

3. In each case for which payment for nursing facility services is made under the State Plan:

a. A physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician, must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires the nursing facility level of care. The Nursing Home Preadmission Screening shall serve as

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the admission or initial certification for nursing home care if the date of the screening occurred within 30 days prior to the admission;

b. The physician, or nurse practitioner or clinical nurse specialist, who is not an employee of the facility but is working in collaboration with a physician, must recertify the need for skilled or intermediate level of care. Recertifications must be written according to the following schedule:

(1) Skilled Nursing Facility Services - at least:

30 days after the date of the initial certification,

60 days after the date of the initial certification,

90 days after the date of the initial certification,
and

every 60 days thereafter;

(2) Intermediate Nursing Home Care - at least:

60 days after the date of the initial certification,

180 days after the date of the initial certification,

12 months after the date of the initial certification,

18 months after the date of the initial certification,

24 months after the date of the initial certification,
and

every 12 months thereafter;

(3) Intermediate Care Facilities for the Mentally Retarded - at least every 365 days;

c. For the purpose of determining compliance with the schedule established by paragraph b, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required, if the physician, or other person making such recertification, provides a written statement showing good cause why such recertification did not meet such schedule;

d. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but who is working in collaboration with a physician for skilled or intermediate care services ;

e. The schedule of recertifications set forth in paragraph b shall become effective for all admissions and recertifications due on or after October 1, 1984, except that this amendment made

by this section shall not require recertifications sooner or more frequently than every 60 days for skilled care patients admitted before October 1, 1984;

f. The addition of the nurse practitioner or clinical nurse specialist, as qualified in paragraphs a, b, and d, shall apply to certifications, recertifications, and plans of care for skilled or intermediate care written on or after July 1, 1988, and before October 1, 1990;

g. The Department of Medical Assistance Services will recover payments made for periods of care in which the certifications, recertifications, and plans of care documentation does not meet the time schedule of this section to the extent required by federal law.

h. In addition, a fiscal penalty of 1-1/2% per month of the disallowed payment will be assessed against the nursing home from the time the noncertified service was rendered until payment is received by the Virginia Medical Assistance Program (§ 32.1-313 of the Code of Virginia). No efforts by the nursing home shall be exerted to recoup this penalty from the patient or responsible party.

D. Home health services.

1. Home health services which meet the standards prescribed for participation under Title XVIII will be supplied.

2. *Home health services shall be provided by a certified home health agency on a part-time or intermittent basis to a homebound recipient in his place of residence. The place of residence shall not include a hospital or nursing facility. Home health services must be prescribed by a physician and be part of a written plan of care utilizing the Home Health Certification and Plan of Treatment forms which the physician shall review at least every 60 days.*

3. *Except in limited circumstances described in subdivision 4 below, to be eligible for home health services, the patient must be essentially homebound. The patient does not have to be bedridden. Essentially homebound shall mean:*

a. The patient is unable to leave home without the assistance of others or the use of special equipment;

b. The patient has a mental or emotional problem which is manifested in part by refusal to leave the home environment or is of such a nature that it would not be considered safe for him to leave home unattended;

c. The patient is ordered by the physician to

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restrict activity due to a weakened condition following surgery or heart disease of such severity that stress and physical activity must be avoided;

d. The patient has an active communicable disease and the physician quarantines the patient.

4. Under the following conditions, Medicaid will reimburse for home health services when a patient is not essentially homebound. When home health services are provided because of one of the following reasons, an explanation must be included on the Home Health Certification and Plan of Treatment forms:

a. When the combined cost of transportation and medical treatment exceeds the cost of a home health services visit;

b. When the patient cannot be depended upon to go to a physician or clinic for required treatment, and, as a result, the patient would in all probability have to be admitted to a hospital or nursing facility because of complications arising from the lack of treatment;

c. When the visits are for a type of instruction to the patient which can better be accomplished in the home setting;

d. When the duration of the treatment is such that rendering it outside the home is not practical.

5. Covered services. Any one of the following services may be offered as the sole home health service and shall not be contingent upon the provision of another service.

a. Nursing services,

b. Home health aide services,

c. Physical therapy services,

d. Occupational therapy services,

e. Speech-language pathology services, or

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

6. General conditions. The following general conditions apply to reimbursable home health services.

a. The patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his or her license. The physician may be the patient's private physician or a physician on the staff of the home health agency or a physician working under an arrangement with the institution which is the

patient's residence or, if the agency is hospital-based, a physician on the hospital or agency staff.

b. Services shall be furnished under a written plan of care and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of care and must be related to the patient's condition. The written plan of care shall appear on the Home Health Certification and Plan of Treatment forms.

c. A physician recertification shall be required at intervals of at least once every 60 days, must be signed and dated by the physician who reviews the plan of care, and should be obtained when the plan of care is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long home health services will be needed. Recertifications must appear on the Home Health Certification and Plan of Treatment forms.

d. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

e. The physician orders for durable medical equipment and supplies shall include the specific item identification including all modifications, the number of supplies needed monthly, and an estimate of how long the recipient will require the use of the equipment or supplies. All durable medical equipment or supplies requested must be directly related to the physician's plan of care and to the patient's condition.

f. A written physician's statement located in the medical record must certify that:

(1) The home health services are required because the individual is confined to his or her home (except when receiving outpatient services);

(2) The patient needs licensed nursing care, home health aide services, physical or occupational therapy, speech-language pathology services, or durable medical equipment and/or supplies;

(3) A plan for furnishing such services to the individual has been established and is periodically reviewed by a physician; and

(4) These services were furnished while the individual was under the care of a physician.

g. The plan of care shall contain at least the following information:

- (1) *Diagnosis and prognosis,*
- (2) *Functional limitations,*
- (3) *Orders for nursing or other therapeutic services,*
- (4) *Orders for medical supplies and equipment, when applicable*
- (5) *Orders for home health aide services, when applicable,*
- (6) *Orders for medications and treatments, when applicable,*
- (7) *Orders for special dietary or nutritional needs, when applicable, and*
- (8) *Orders for medical tests, when applicable, including laboratory tests and x-rays*

6. *Utilization review shall be performed by DMAS to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in patients' medical records as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.*

7. *All services furnished by a home health agency, whether provided directly by the agency or under arrangements with others, must be performed by appropriately qualified personnel. The following criteria shall apply to the provision of home health services:*

a. *Nursing services. Nursing services must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.*

b. *Home health aide services. Home health aides must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aide services may include assisting with personal hygiene, meal preparation and feeding, walking, and taking and recording blood pressure, pulse, and respiration. Home health aide services must be provided under the general supervision of a registered nurse. A recipient may not receive duplicative home health aide and personal care aide services.*

c. *Rehabilitation services. Services shall be specific and provide effective treatment for patients' conditions in accordance with accepted standards of medical practice. The amount, frequency, and duration of the services shall be reasonable. Rehabilitative services shall be provided with the*

expectation, based on the assessment made by physicians of patients' rehabilitation potential, that the condition of patients will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with the specific diagnosis.

(1) *Physical therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.*

(2) *Occupational therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.*

(3) *Speech-language pathology services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology.*

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d. Durable medical equipment and supplies. Durable medical equipment, supplies, or appliances must be ordered by the physician, be related to the needs of the patient, and included on the plan of care. Treatment supplies used for treatment during the visit are included in the visit rate. Treatment supplies left in the home to maintain treatment after the visits shall be charged separately.

E. Optometrists' services are limited to examinations (refractions) after preauthorization by the state agency except for eyeglasses as a result of an Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).

F. In the broad category of Special Services which includes ~~medical supplies and equipment and~~ nonemergency transportation, all such services for recipients will require preauthorization by a local health department. ~~Local Health Department staff will also assist the patients in obtaining the necessary supplies and equipment of good quality. Medicare guidelines will be closely followed.~~

G. Standards in other specialized high quality programs such as the program of Crippled Children's Services will be incorporated as appropriate.

H. Provisions will be made for obtaining recommended medical care and services regardless of geographic boundaries.

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PART I. ADMISSION CRITERIA FOR INTENSIVE PHYSICAL REHABILITATIVE SERVICES.

§ 1.1. A patient qualifies for intensive inpatient or outpatient rehabilitation if:

A. Adequate treatment of his medical condition requires an intensive rehabilitation program consisting of a multi-disciplinary coordinated team approach to ~~upgrade~~ *improve* his ability to function as independently as possible; and

B. It has been established that the rehabilitation program cannot be safely and adequately carried out in a less intense setting.

§ 1.2. In addition to the initial disability requirement, participants shall meet the following criteria:

A. Require at least two of the listed therapies in addition to rehabilitative nursing:

1. Occupational Therapy
2. Physical Therapy
3. Cognitive Rehabilitation

4. Speech-Language Therapy

B. Medical condition stable and compatible with an active rehabilitation program.

PART II. INPATIENT ADMISSION AUTHORIZATION.

§ 2.1. Within 72 hours of a patient's admission to an ~~inpatient~~ intensive rehabilitation program, or within 72 hours of notification to the facility of the patient's Medicaid eligibility, the facility shall notify the Department of Medical Assistance Services in writing of the patient's admission. This notification shall include a description of the admitting diagnoses, plan of treatment, expected progress and a physician's certification that the patient meets the admission criteria. The Department of Medical Assistance Services will make a determination as to the appropriateness of the admission for Medicaid payment and notify the facility of its decision. If payment is approved, the Department will establish and notify the facility of an approved length of stay. Additional lengths of stay shall be requested in writing and approved by the Department. Admissions or lengths of stay not authorized by the Department of Medical Assistance Services will not be approved for payment.

PART III. DOCUMENTATION REQUIREMENTS.

§ 3.1. Documentation of rehabilitation services shall, at a minimum:

A. Describe the clinical signs and symptoms of the patient necessitating admission to the rehabilitation program;

B. Describe any prior treatment and attempts to rehabilitate the patient;

C. Document an accurate and complete chronological picture of the patient's clinical course and progress in treatment;

D. Document that a multi-disciplinary coordinated treatment plan specifically designed for the patient has been developed;

E. Document in detail all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response to treatment, and identify who provided such treatment;

F. Document each change in each of the patient's conditions;

G. Describe responses to and the outcome of treatment; and

H. Describe a discharge plan which includes the anticipated improvements in functional levels, the time

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frames necessary to meet these goals, and the patient's discharge destination.

§ 3.2. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage reimbursement will be provided.

PART IV. INPATIENT REHABILITATION EVALUATION.

§ 4.1. For a patient with a potential for rehabilitation for which an outpatient assessment cannot be adequately performed, an ~~inpatient~~ intensive evaluation of no more than seven calendar days will be allowed. A comprehensive assessment will be made of the patient's medical condition, functional limitations, prognosis, possible need for corrective surgery, attitude toward rehabilitation, and the existence of any social problems affecting rehabilitation. After these assessments have been made, the physician, in consultation with the rehabilitation team, shall determine and justify the level of care required to achieve the stated goals.

§ 4.2. If during a previous hospital stay an individual completed a rehabilitation program for essentially the same condition for which inpatient hospital care is now being considered, reimbursement for the evaluation will not be covered unless there is a justifiable intervening circumstance which necessitates a re-evaluation.

§ 4.3. Admissions for evaluation and/or training for solely vocational or educational purposes or for developmental or behavioral assessments are not covered services.

PART V. CONTINUING EVALUATION.

§ 5.1. Team conferences shall be held as needed but at least every two weeks to assess and document the patient's progress or problems impeding progress. The team shall periodically assess the validity of the rehabilitation goals established at the time of the initial evaluation, and make appropriate adjustments in the rehabilitation goals and the prescribed treatment program. A review by the various team members of each others' notes does not constitute a team conference. A summary of the conferences, noting the team members present, shall be recorded in the clinical record and reflect the reassessments of the various contributors.

§ 5.2. Rehabilitation care is to be terminated, regardless of the approved length of stay, when further progress toward the established rehabilitation goal is unlikely or further rehabilitation can be achieved in a less intensive setting.

§ 5.3. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having

been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.

PART VI. THERAPEUTIC FURLOUGH DAYS.

§ 6.1. Properly documented medical reasons for furlough may be included as part of an overall rehabilitation program. Unoccupied beds (or days) resulting from an overnight therapeutic furlough will not be reimbursed by the Department of Medical Assistance Services.

PART VII. DISCHARGE PLANNING.

§ 7.1. Discharge planning shall be an integral part of the overall treatment plan which is developed at the time of admission to the program. The plan shall identify the anticipated improvements in functional abilities and the probable discharge destination. The patient, unless unable to do so, or the responsible party shall participate in the discharge planning. Notations concerning changes in the discharge plan shall be entered into the record at least every two weeks, as a part of the team conference.

PART VIII. REHABILITATION SERVICES TO PATIENTS.

§ 8.1. Rehabilitation services are medically prescribed treatment for improving or restoring functions which have been impaired by illness or injury or, where function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning. The rules pertaining to them are:

A. Rehabilitative nursing.

Rehabilitative nursing requires education, training, or experience that provides special knowledge and clinical skills to diagnose nursing needs and treat individuals who have health problems characterized by alteration in cognitive and functional ability.

Rehabilitative nursing are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan approved by a physician after any needed consultation with a registered nurse who is experienced in rehabilitation;
2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a registered nurse or licensed professional nurse, nursing assistant, or rehabilitation technician under the direct supervision of a registered nurse who is experienced in rehabilitation;
3. The services shall be provided with the expectation,

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based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.

B. Physical therapy.

1. Physical therapy services are those services furnished a patient which meet all of the following conditions:

a. 1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;

b. 2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a qualified physical therapist licensed by the Board of Medicine;

c. 3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. 4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

C. Occupational therapy.

1. Occupational therapy services are those services furnished a patient which meet all of the following conditions:

a. 1. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

b. 2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Certification Board under the direct supervision of a qualified occupational therapist as defined above;

c. 3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. 4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

D. Speech-Language therapy.

1. Speech-Language therapy services are those services furnished a patient which meet all of the following conditions:

a. 1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

b. 2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

c. 3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. 4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

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E. Cognitive rehabilitation.

‡ Cognitive rehabilitation services are those services furnished a patient which meet all of the following conditions:

a. 1. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with a clinical psychologist experienced in working with the neurologically impaired and licensed by the Board of Medicine;

b. 2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be rendered after a neuropsychological evaluation administered by a clinical psychologist or physician experienced in the administration of neuropsychological assessments and licensed by the Board of Medicine and in accordance with a plan of care based on the findings of the neuropsychological evaluation;

c. 3. Cognitive rehabilitation therapy services may be provided by occupational therapists, speech-language pathologists, and psychologists who have experience in working with the neurologically impaired when provided under a plan recommended and coordinated by a physician or clinical psychologist licensed by the Board of Medicine;

d. 4. The cognitive rehabilitation services shall be an integrated part of the total patient care plan and shall relate to information processing deficits which are a consequence of and related to a neurologic event;

e. 5. The services include activities to improve a variety of cognitive functions such as orientation, attention/concentration, reasoning, memory, discrimination and behavior; and

f. 6. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis.

F. Psychology.

‡ Psychology services are those services furnished a patient which meet all of the following conditions:

a. 1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. 2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall

be of a nature that the services can only be performed by a qualified psychologist as required by state law;

c. 3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. 4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

G. Social work.

‡ Social work services are those services furnished a patient which meet all of the following conditions:

a. 1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. 2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified social worker as required by state law;

c. 3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. 4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

H. Recreational therapy.

‡ Recreational therapy are those services furnished a patient which meet all of the following conditions:

a. 1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. 2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall

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be of a nature that the services are performed as an integrated part of a comprehensive rehabilitation plan of care by a recreation therapist certified with the National Council for Therapeutic Recreation at the professional level;

e. 3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. 4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

I. Prosthetic/orthotic services.

1. Prosthetic services furnished to a patient include prosthetic devices that replace all or part of an external body member, and services necessary to design the device, including measuring, fitting, and instructing the patient in its use;

2. Orthotic device services furnished to a patient include orthotic devices that support or align extremities to prevent or correct deformities, or to improve functioning, and services necessary to design the device, including measuring, fitting and instructing the patient in its use; and

3. Maxillofacial prosthetic and related dental services are those services that are specifically related to the improvement of oral function not to include routine oral and dental care.

4. The services shall be directly and specifically related to an active written treatment plan approved by a physician after consultation with a prosthetist, orthotist, or a licensed, board eligible prosthodontist, certified in Maxillofacial prosthetics.

5. The services shall be provided with the expectation, based on the assessment made by physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and predictable period of time, or shall be necessary to establish an improved functional state of maintenance.

6. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical and dental practice; this includes the requirement that the amount, frequency, and duration of the services be reasonable.

J. Durable medical equipment.

1. Durable medical equipment furnished the patient receiving approved covered rehabilitation services is covered when the equipment is necessary to carry out an approved plan of rehabilitation. A rehabilitation hospital or a rehabilitation unit of a hospital enrolled with Medicaid under a separate provider agreement for rehabilitative services may supply the durable medical equipment. The provision of the equipment is to be billed as an outpatient service. ~~All durable medical equipment over \$1,000 shall be preauthorized by the Department; however, all Medically necessary medical supplies, equipment and appliances shall be covered. Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. When determined to be cost-effective by DMAS, payment may be made for rental of the equipment in lieu of purchase. Payment shall not be made for additional equipment or supplies unless the extended provision of services has been authorized by DMAS.~~ All durable medical equipment is subject to justification of need. Durable medical equipment normally supplied by the hospital for inpatient care is not covered by this provision.

2. *Supplies, equipment, or appliances that are not covered for recipients of intensive physical rehabilitative services include, but are not limited to, the following:*

a. Space conditioning equipment, such as room humidifiers, air cleaners, and air conditioners;

b. Durable medical equipment and supplies for any hospital or nursing facility resident, except ventilators and associated supplies for nursing facility residents that have been approved by DMAS central office;

c. Furniture or appliance not defined as medical equipment (such as blenders, bedside tables, mattresses other than for a hospital bed, pillows, blankets or other bedding, special reading lamps, chairs with special lift seats, hand-held shower devices, exercise bicycles, and bathroom scales);

d. Items that are only for the recipient's comfort and convenience or for the convenience of those caring for the recipient (e.g., a hospital bed or mattress because the recipient does not have a decent bed; wheelchair trays used as a desk surface; mobility items used in addition to primary assistive mobility aide for caregiver's or recipient's convenience, for example, an electric wheelchair plus a manual chair; cleansing wipes);

e. Items and services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a

malformed body member (for example, over-the-counter drugs; dentifrices; toilet articles; shampoos which do not require a physician's prescription; dental adhesives; electric toothbrushes; cosmetic items, soaps, and lotions which do not require a physician's prescription; sugar and salt substitutes; support stockings; and non-legend drugs);

f. Home or vehicle modifications;

g. Items not suitable for or used primarily in the home setting (i.e., but not limited to, car seats, equipment to be used while at school);

h. Equipment that the primary function is vocationally or educationally related (i.e., but not limited to, computers, environmental control devices, speech devices) environmental control devices, speech devices).

PART IX. HOSPICE SERVICES.

§ 9.0. Hospice services.

§ 9.1. Admission criteria.

To be eligible for hospice coverage under Medicare or Medicaid, the individual must elect to receive hospice services rather than active treatment for the illness. Both the attending physician (if the individual has an attending physician) and the hospice medical director must certify the life expectancy.

§ 9.2. Utilization review.

Authorization for hospice services requires an initial preauthorization by DMAS and physician certification of life expectancy. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patients' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

§ 9.3. Hospice services are a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control. The rules pertaining to them are:

1. Nursing care. Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

2. Medical social services. Medical social services must be provided by a social worker who has at least a

bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

3. Physician services. Physician services must be performed by a professional who is licensed to practice, who is acting within the scope of his license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

4. Counseling services. Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him to adjust to the individual's approaching death. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

5. Short-term inpatient care. Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

6. Durable medical equipment and supplies. Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

7. Drugs and biologicals. Only drugs which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

8. Home health aide and homemaker services. Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and

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healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

9. Rehabilitation services. Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

§ 10. [RESERVED for Community Mental Health Services.]

GENERAL OUTPATIENT PHYSICAL REHABILITATION SERVICES.

§ 11.1. Scope.

A. Medicaid covers general outpatient physical rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals and by rehabilitation agencies which have a provider agreement with the Department of Medical Assistance Services (DMAS).

B. Outpatient rehabilitative services shall be prescribed by a physician and be part of a written plan of care.

§ 11.2. Covered outpatient rehabilitative services.

Covered outpatient rehabilitative services shall include physical therapy, occupational therapy, and speech-language pathology services. Any one of these services may be offered as the sole rehabilitative service and shall not be contingent upon the provision of another service.

§ 11.3. Eligibility criteria for outpatient rehabilitative services.

To be eligible for general outpatient rehabilitative services, the patient must require at least one of the following services: physical therapy, occupational therapy, speech-language pathology services, and respiratory therapy. All rehabilitative services must be prescribed by a physician.

§ 11.4. Criteria for the provision of outpatient rehabilitative services.

All practitioners and providers of services shall be required to meet state and federal licensing and/or certification requirements.

A. Physical therapy services meeting all of the following conditions shall be furnished to patients:

1. Physical therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation

with a physical therapist licensed by the Board of Medicine.

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

B. Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:

1. Occupational therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board.

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board, a graduate of a program approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association when under the supervision of an occupational therapist defined above, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant or a graduate engaged in supplemental clinical experience required before registration, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this

includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

C. Speech-language pathology services shall be those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology, or, if exempted from licensure by statute, meeting the requirements in 42 CFR 440 110(c);

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by or under the direction of a speech-language pathologist who meets the qualifications in Subdivision B1 above. The program must meet the requirements of 42 CFR 405.1719(c). At least one qualified speech-language pathologist must be present at all times when speech-language pathology services are rendered; and

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

§ 11.5. Authorization for services.

A. General physical rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals and by rehabilitation agencies shall include authorization for up to 24 visits by each ordered rehabilitative service within a 60-day period. A recipient may receive a maximum of 48 visits annually without authorization. The provider shall maintain documentation to justify the need for services.

B. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized by using the Rehabilitation Treatment Authorization form (DMAS-125). This request must be signed and dated by a physician. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless the extended provision of services has been authorized by DMAS. Periods of care beyond those allowed which have not been authorized by DMAS shall not be approved for payment.

§ 11.6. Documentation requirements.

A. Documentation of general outpatient rehabilitative services provided by a hospital-based outpatient setting or a rehabilitation agency shall, at a minimum:

1. describe the clinical signs and symptoms of the patient's condition;

2. include an accurate and complete chronological picture of the patient's clinical course and treatments;

3. document that a plan of care specifically designed for the patient has been developed based upon a comprehensive assessment of the patient's needs;

4. include a copy of the physician's orders and plan of care;

5. include all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response, and identify who provided care (include full name and title);

6. describe changes in each patient's condition and response to the rehabilitative treatment plan; and

7. describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

B. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

§ 11.7. Service limitations.

The following general conditions shall apply to reimbursable physical rehabilitative services:

A. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.

B. Services shall be furnished under a written plan of treatment and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.

C. A physician recertification shall be required periodically, must be signed and dated by the physician who reviews the plan of treatment, and may be obtained when the plan of treatment is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed.

D. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

E. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the

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services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

F. Rehabilitation care is to be terminated regardless of the approved length of stay when further progress toward the established rehabilitation goal is unlikely or when the services can be provided

VR 460-04-3.1300. Regulations for Outpatient Physical Rehabilitative Services.

§ 1. Scope

A. Physical therapy and related services shall be defined as physical therapy, occupational therapy, and speech-language pathology services.

B. Physical therapy and related services shall be prescribed by a physician and be part of a written plan of care.

C. Any one of these services may be offered as the sole rehabilitative service and is not contingent upon the provision of another service.

D. All practitioners and providers of services shall be required to meet State and Federal licensing or certification requirements.

§ 2. Physical therapy.

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

B. Effective July 1, 1988, the Program will not provide direct reimbursement to enrolled providers for physical therapy service rendered to patients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

C. Physical therapy services meeting all of the following conditions shall be furnished to patients:

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine.

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the

Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

§ 3. Occupational therapy.

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

B. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for occupational therapy services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

C. Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board, a graduate of a program approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association under the supervision of an occupational therapist as defined above, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant or a graduate

engaged in supplemental clinical experience required before registration, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

§ 4. Services for individuals with speech, hearing, and language disorders.

A. 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, nursing facility service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for occupational therapy services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

C. Speech-language therapy services shall be those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology, or, if exempted from licensure by statute, meeting the requirements in 42 CFR 440.110(c);

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology; and

3. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

§ 5. Authorization for services.

A. Physical therapy, occupational therapy, and speech-language pathology services provided in outpatient settings of acute and rehabilitation hospitals, rehabilitation agencies, or home health agencies shall include authorization for up to 24 visits by each ordered

rehabilitative service within a 60-day period. A recipient may receive a maximum of 48 visits annually without authorization. The provider shall maintain documentation to justify the need for services.

B. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized by using the Rehabilitation Treatment Authorization form (DMAS-125). This request must be signed and dated by a physician. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless the extended provision of services has been authorized by DMAS. Periods of care beyond those allowed which have not been authorized by DMAS shall not be approved for payment.

§ 6. Documentation requirements.

A. Documentation of physical therapy, occupational therapy, and speech-language pathology services provided by a hospital-based outpatient setting, home health agency, a rehabilitation agency, or a school district shall, at a minimum:

1. Describe the clinical signs and symptoms of the patient's condition;

2. Include an accurate and complete chronological picture of the patient's clinical course and treatments;

3. Document that a plan of care specifically designed for the patient has been developed based upon a comprehensive assessment of the patient's needs;

4. Include all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response, and identify who provided care (include full name and title);

5. Include a copy of the physician's orders and plan of care;

6. Describe changes in each patient's condition and response to the rehabilitative treatment plan;

7. (Except for school districts) describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination; and

8. in school districts, include an individualized education program (IEP) which describes the anticipated improvements in functional level in each school year and the time frames necessary to meet these goals.

B. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be

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provided.

§ 7. Service limitations.

The following general conditions shall apply to reimbursable physical therapy, occupational therapy, and speech-language pathology services:

- 1. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.*
- 2. Services shall be furnished under a written plan of treatment and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.*
- 3. A physician recertification shall be required periodically, must be signed and dated by the physician who reviews the plan of treatment, and may be obtained when the plan of treatment is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed.*
- 4. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.*
- 5. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.*
- 6. Rehabilitation care is to be terminated regardless of the approved length of stay when further progress toward the established rehabilitation goal is unlikely or when the services can be provided by someone other than the skilled rehabilitation professional.*

VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
DME (Durable Medical Equipment) and Supplies Authorization

SECTION I: Recipient Information						RECIPIENT: _____ DATE OF BIRTH: _____	
ADDRESS: _____							
MEDICAID NO. <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			MEDI CARE NO. <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				
SOCIAL SECURITY NO. <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			OTHER INSURANCE: _____				
SECTION II: Provider Information						DATE OF REQUEST: _____	
AGENCY: _____			PROVIDER NO.: _____				
ADDRESS: _____			PHONE NO.: () _____				
CONTACT PERSON & TITLE: _____							
SECTION III: Diagnosis & Functional Limitations							
Diagnosis: _____			Functional Limitations: _____				
HCPS Code	Item Description	Qty.	P/R	Therapeutic Value	ELO Use	Actual Cost	SECTION IV: DMAS USE ONLY
							Approved _____ Denied _____ Pending _____ Approved _____ Denied _____ Pending _____ Approved _____ Denied _____ Pending _____ Approved _____ Denied _____ Pending _____ Approved _____ Denied _____ Pending _____ Approved _____ Denied _____ Pending _____ URA Signature _____ Date _____
Recipient Receiving: <input type="checkbox"/> Home Health <input type="checkbox"/> Intensive Rehab <input type="checkbox"/> Other - explain _____		Send completed form to: Department of Medical Assistance Services 600 E. Broad St., Suite 1300 Richmond, VA 23219 ATTENTION: Rehabilitation Unit - Long Term Care Section			I certify that the equipment above is medically necessary. Physician's Signature _____ Date _____		

VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
Rehabilitation Treatment Authorization

Recipient & Provider Information		
RECIPIENT: _____		MEDICAID NO.: <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
PROVIDER NAME: _____		PROVIDER NO.: _____
PROVIDER ADDRESS: _____		PHONE NO.: () _____
SECTION V: Discharge		
Discharge Plan (functional outcome): <input type="checkbox"/> independent <input type="checkbox"/> independent with assistive devices <input type="checkbox"/> requires assistance <input type="checkbox"/> requires supervision <input type="checkbox"/> dependent	Discharge Disposition: <input type="checkbox"/> home <input type="checkbox"/> hospital <input type="checkbox"/> nursing facility <input type="checkbox"/> home for adults <input type="checkbox"/> other (specify) _____	I certify that the above services are medically necessary. Physician's Signature _____ Date _____
	Anticipated Discharge Date: ___/___/___	
SECTION VI: Request for Services: Initial - Extension - Reconsideration (circle one)		
SERVICE	Requested Dates of Services	SECTION VII: DMAS USE ONLY
Intensive Hospital	Dates: ___/___/___ to ___/___/___	Approved _____ Denied _____ Pending _____ Treatment Authorization Number: _____
Intensive CORF	# visits: ___ dates: ___/___/___ to ___/___/___	COMMENTS: _____ URA Signature _____ Date _____
Outpatient Physical Therapy	# visits: ___ dates: ___/___/___ to ___/___/___	
Outpatient Occupational Therapy	# visits: ___ dates: ___/___/___ to ___/___/___	
Outpatient Speech-Language Pathology	# visits: ___ dates: ___/___/___ to ___/___/___	
Other	# visits: ___ dates: ___/___/___ to ___/___/___	
U.R. Review <input type="checkbox"/>	Send completed form to: Department of Medical Assistance Services 600 East Broad Street, Suite 1300 Richmond, VA 23219 ATTENTION: Rehabilitation Unit - Long Term Care Section	

VIRGINIA DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
Rehabilitation Treatment Authorization

SECTION I: Recipient Information		
RECIPIENT: _____		DATE OF BIRTH: _____
ADDRESS: _____		
MEDICAID NO. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	MEDICARE NO. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
SOCIAL SECURITY NO. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	OTHER INSURANCE: _____	
RESPONSIBLE PARTY: _____		
Name	Address	Relationship
SECTION II: Provider Information		
AGENCY: _____		DATE OF REQUEST: _____
ADDRESS: _____		PROVIDER NO.: _____
CONTACT PERSON & TITLE: _____		PHONE NO.: () _____
SECTION III: Diagnosis (include date of onset):		
Current Functional Status	ADLs: _____	
	Mobility: _____	
	Communication: _____	
	Cognition: _____	
SECTION IV: Plan of Care		
Discipline	Treatment Plan/Expected Outcome	Frequency
Nursing		
P.T.		
O.T.		
SLP		
Cognitive		
Other		

Proposed Regulations

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-14-02. NPDES General Permit for Sewage Discharges of Less Than 1,000 Gallons Per Day.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Publication Date: 2:7 V.A.R. 816-817 January 6, 1986.

NOTICE: The Department is WITHDRAWING the proposed regulation entitled "NPDES General Permit for Sewage Discharges of Less Than 1,000 Gallons Per Day" (VR 680-14-02) published in 2:7 V.A.R. 816-817 January 6, 1986.

* * * * *

Title of Regulation: VR 680-14-07. Oil Discharge Contingency Plans and Administrative Fees for Approval.

Statutory Authority: §§ 62.1-44.34:15 and 62.1-44.34:21 of the Code of Virginia.

Public Hearing Date:

September 4, 1991 - 7 p.m.

September 9, 1991 - 7 p.m.

September 11, 1991 - 7 p.m. 2

(See Calendar of Events section for additional information)

Summary:

In accordance with § 62.1-44.34:15 of the Code of Virginia in the State Water Control Board intends to consider adopting regulations requiring all facilities in the Commonwealth of Virginia having an aggregate above ground maximum storage or handling capacity of equal to or greater than 25,000 gallons of oil upon state waters having a maximum storage, handling or transporting capacity of equal to or greater than 15,000 gallons of oil to file with and have approved by the Board an oil discharge contingency plan.

The purpose of the proposed regulation is to establish the requirements for facility and tank vessel contingency plans. Plans must address concerns for the effect of oil discharges on the environment as well as considerations of public health and safety. The oil discharge contingency plans will ensure that the applicant can take such steps as are necessary to protect environmentally sensitive areas, to respond to the threat of an oil discharge, and to contain, cleanup and mitigate an oil discharge within the shortest feasible time.

In accordance with § 62.1-44.34:21 of the Code of Virginia the proposed regulation establishes a fee schedule for approval of an oil discharge contingency plan sufficient to meet, but not exceed, the costs of the board related to implementation of § 62.1-44.34:15.

VR 680-14-07. Oil Discharge Contingency Plans and Administrative Fees for Approval.

§ 1. Definitions.

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

"Board" means the State Water Control Board.

"Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

"Facility" means any development or installation within the Commonwealth that deals in, stores or handles oil, and includes a pipeline.

"Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oil and all other liquid hydrocarbons regardless of specific gravity. For the purpose of this regulation only, this definition does not include animal and vegetable oils.

"Operator" means any person who owns, operates, charters, rents or otherwise exercises control over or responsibility for a facility or a vehicle or vessel.

"Person" means any firm, corporation, association or partnership, one or more individuals, or any governmental unit or agency thereof.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction.

"Tank vessel" means any vessel used in the transportation of oil in bulk as cargo. For the purpose of this regulation, this definition includes tankers, tank ships, tank barges and combination carriers when carrying oil; it does not include vessels carrying oil in drums, barrels, on deck portable tanks or other packages or vessels carrying oil as fuel or stores for that vessel.

"Vehicle" means any motor vehicle, rolling stock or other artificial contrivance for transport whether self-propelled or otherwise, except vessels.

"Vessel" includes every description of watercraft or other contrivance used as a means of transporting on water, whether self-propelled or otherwise, and shall include barges and tugs.

§ 2. Applicability.

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These Oil Discharge Contingency Plan requirements apply to all facilities in the Commonwealth of Virginia having an aggregate above ground maximum storage or handling capacity of equal to or greater than 25,000 gallons of oil and to all tank vessels transporting or transferring oil upon state waters having a maximum storage, handling or transporting capacity of equal to or greater than 15,000 gallons of oil.

§ 3. Compliance dates.

This regulation shall be effective 30 days after publication in the Virginia Register. Contingency plans must be submitted to the board no later than April 1, 1992. Oil discharge contingency plans shall be approved by the board no later than July 1, 1992. Because of time problems inherent in initial implementation, the board may issue a conditional letter of approval pending review provided that the initial submission is a complete application and contains all requirements of §§ 5 and 6 of this regulation.

§ 4. Statement of purpose.

The purpose of this regulation is to provide guidance for the development of facility and tank vessel contingency plans. Plans must address concerns for the effect of oil discharges on the environment as well as considerations of public health and safety. The oil discharge contingency plans will ensure that the applicant can take such steps as are necessary to protect environmentally sensitive areas, to respond to the threat of an oil discharge, and to contain, cleanup and mitigate an oil discharge within the shortest feasible time.

§ 5. Contingency plan contents.

A. Facility oil discharge contingency plans shall provide for the use of the best available technology at the time the plan is submitted for approval and, at a minimum, contain the following information:

- 1. The name of the facility, geographic location and access routes from land and water if applicable.*
- 2. The name(s) of the operator(s) of the facility including address and phone number.*
- 3. A physical description of the facility including a plan of the facility showing, if applicable, oil storage areas, transfer locations, control stations, above and below ground piping within the facility boundary (and including adjacent easements and leased property), monitoring systems, leak detection systems and location of any safety protection devices;*
- 4. For each oil stored, transferred or handled at the facility:
 - a. Generic or chemical name of the oil;**

b. Hazards involved in handling the oil; and

c. A list of fire fighting procedures and extinguishing agents effective with fires involving each oil.

5. The maximum storage or handling capacity of the facility and the individual tank capacities, or in the case of a pipeline, the average daily volume pumped through the pipeline.

6. A complete listing, including 24 hour phone numbers, of all federal, state and local agencies required to be notified in event of a discharge.

7. The position title of the individual(s) responsible for making the required notifications and a copy of the notification check off list.

8. The position title of the individual(s) authorized to act on behalf of the operator to implement containment and cleanup actions.

9. Identification and ensurance by contract or other means acceptable to the board, of the availability of private personnel and equipment designated within the area to provide assistance in event of a discharge which cannot be contained and cleaned up by facility personnel. This contract or agreement shall ensure a certain response within the shortest feasible time.

10. Inventory of containment equipment including specification of quantity, type, location, instructions for use, time limits for gaining access to the equipment, and identification of facility personnel trained in its use.

11. Assessment of the worst case discharge including measures to limit the outflow of oil, response strategy, operational plan and spill trajectories. For the purpose of this regulation, the worst case discharge is a complete release of the largest tank on the facility during adverse weather conditions. Facilities with multiple tanks shall add 25% to the largest tank volume.

12. A determination of natural resources at risk, for protection and means of protecting these resources.

13. A description of the disposal procedures for both liquid and solid wastes generated during a response. These disposal procedures shall comply with applicable federal, state and local requirements.

14. A determination of any municipal or other services (water/sewerage) at risk, notification procedures applicable and means of protection of these services.

15. If applicable, this plan shall include the facility's responsibility for responding to a discharge from a

vessel moored at the facility and shall identify the sizes, types, and number of vessels that the facility can transfer oil to or from simultaneously.

16. A description of training, equipment testing, and periodic unannounced oil discharge drills conducted by the operator.

17. A description of the facility's oil inventory control procedures.

18. A description of the facility's preventive maintenance procedures applicable to the oil storage and transfer system as well as the maximum pressure for each oil transfer system.

19. A description of the security procedures used by facility personnel to avoid intentional or unintentional damage to the facility.

20. A post discharge review procedure to assess the discharge response in its entirety.

B. Tank vessel oil discharge contingency plans shall provide for the use of the best available technology at the time the plan is submitted for approval, be written in English, and, at a minimum, contain the following information:

1. The vessel name, country of registry, identification number, date of build and usual operating route of the vessel.

2. The name(s) of the vessel operator(s) including phone number.

3. If applicable, name of local agent, address and phone number.

4. For each oil transported or transferred by the vessel:

a. Generic or chemical name of the oil;

b. Hazards involved in handling the oil; and

c. A list of fire fighting procedures and extinguishing agents effective with fires involving each oil.

5. A complete listing, including 24 hour phone number, of all federal, state and local agencies required to be notified in event of a discharge.

6. The position title of the individual(s) responsible for making the required notifications and a copy of the notification check off list. This individual must be fluent in English.

7. The position title of the individual(s) authorized to act on behalf of the operator to implement

containment and cleanup actions. This individual must be fluent in English.

8. A copy of the valid evidence of financial responsibility approved by the board pursuant to VR 680-14-08.

9. A complete description of the vessel including vessel drawings providing a complete view of the location of all cargo tanks.

10. A complete description of each oil transfer system on the vessel including:

a. A line diagram of the vessel's oil transfer piping, including the location of each valve, pump, control device, vent, safety device and overflow;

b. The location of the shutoff valve or other isolation device that separates any bilge or ballast system from the oil transfer system; and

c. The maximum pressure for each oil transfer system.

11. A vessel drawing showing the location of fuel and other oils carried in bulk by the vessel.

12. Identification and insurance by contract or other means acceptable to the board, of the availability of private personnel and equipment designated within the area to provide assistance in event of a discharge which cannot be contained and cleaned up by vessel personnel. This contract or agreement shall ensure a certain response within the shortest feasible time.

13. Inventory of containment equipment including specification of quantity, type, location, instructions for use, time limits for gaining access to the equipment, and identification of tank vessel personnel trained in its use.

14. If applicable, a copy of the Coast Guard approved oil transfer procedures and International Oil Pollution Prevention Certificate (IOPP).

15. Assessment of the worst case discharge including measures to limit the outflow of oil, response strategy, operational plan and spill trajectories. For the purpose of this regulation, the worst case discharge is the complete release of all cargo in an environmentally sensitive area during adverse weather conditions.

16. A description of the disposal procedures for both liquid and solid wastes generated during the response. These disposal procedures shall comply with applicable federal, state and local requirements.

17. A description of training, equipment testing, and periodic unannounced oil discharge drills conducted

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by the operator.

18. A description of the vessel's cargo inventory control procedures.

20. A post discharge review procedure to assess the discharge response in its entirety.

C. All nonexempt facility and tank vessel operators shall file with the board the appropriate application form found in Appendix I or Appendix II for approval of the contingency plan. This form shall be submitted with the required contingency plan and shall be completed insofar as it pertains to the facility or tank vessel. The operator must sign and date the certification statement on the application form. If the operator is a corporation, the form must be signed by an authorized corporate official; if the operator is a municipality, state, federal or other public agency, the form must be signed by an authorized executive officer or ranking elected official; if the operator is a partnership or sole proprietorship, the form must be signed partner or the sole proprietor. All forms must be acknowledged before a Notary Public.

D. Contingency plans must be filed with and approved by the board. A signed original and two copies shall be submitted to the board at the address specified in subsection H of this section. An copy shall be retained on the facility or tank vessel and shall be readily available for inspection.

E. An operator of a facility may submit a tank vessel contingency plan encompassing those tank barges which operate only within the waters contiguous to the facility. This zone of operation shall be provided on a chartlet submitted with the contingency plan. This contingency plan must identify the tank barges for which it is submitted and must certify that these barges will not be used to transport or transfer oil outside the approved zone. This plan shall be separate from the required facility contingency plan.

F. An operator of multiple facilities may submit a contingency plan encompassing more than one facility if the facilities are located within the defined boundaries of the same city or county in the Commonwealth.

G. Oil discharge contingency plans shall be updated periodically by the operator but in no event more frequently than once every 36 months unless significant changes occur. For the purpose of this regulation, a significant change includes the following:

1. Change of operator of the facility or vessel unless notification to the board is made 90 days prior to the effective date of change;
2. Change in the maximum storage or handling capacity of the facility or vessel;
3. Change in the availability of private personnel or

equipment providing assistance in the event of a discharge that cannot be contained or cleaned up by facility or vessel personnel; or

4. Change in type of product dealt in, stored, handled, transported or transferred in or by any facility or tank vessel covered by the plan.

H. The operator shall immediately notify the board of any significant changes. Updated plans shall be submitted to the board for review and approval not less than 90 days prior to expiration of the current plan. All notifications of changes, submissions and updates of plans required by this regulation shall be directed to the Virginia State Water Control Board, Office of Spill Response and Remediation, P.O. Box 11143, Richmond, Va. 23230.

I. An oil discharge exercise may be required by the board to demonstrate the facility's or vessel's ability to implement the contingency plan. The board will consult with the operator of the vessel or facility prior to initiating an exercise.

J. The board may, after notice and opportunity for a conference pursuant to Virginia Code § 9-6.14:11, modify its approval of an oil discharge contingency plan if it determines that:

1. A change has occurred in the operation of the facility or vessel covered by the plan;
2. The facility's or vessel's discharge experience or its inability to implement its plan in an oil spill discharge exercise demonstrates a necessity for modification; or
3. There has been a significant change in the best available technology since the plan was approved.

K. The board, after notice and opportunity for hearing, may revoke its approval of an oil discharge contingency plan if it determines that:

1. Approval was obtained by fraud or misrepresentation;
2. The plan cannot be implemented as approved;
3. A term or condition of approval has been violated; or
4. The facility or vessel is no longer in operation.

L. Upon review by the board, an oil spill contingency plan required by and approved under federal statute may be accepted, with or without modification, as meeting the requirements of this regulation.

§ 6. Administrative fees.

A. This section establishes application fees for approval of contingency plans.

B. An application for approval of an oil discharge contingency plan will be accepted only when the fees established by this section have been paid.

C. Fees shall be paid by check, draft or postal money order made payable to the Virginia State Water Control Board and must be in U.S. currency.

1. Application fees for approval of facility contingency plans are as follows:

a. For a facility with an aggregate above ground maximum storage or handling capacity between 25,000 gallons and 100,000 gallons of oil the fee is \$1000;

b. For a facility with an aggregate above ground maximum storage or handling capacity between 100,001 gallons to 1,000,000 gallons of oil the fee is \$3200; and

c. For a facility with an aggregate above ground storage or handling capacity greater than 1,00 of oil the fee is \$5200.

2. Application fees for approval of tank vessel contingency plans are as follows:

a. For a tank vessel with a maximum storage, handling or transporting capacity between 15,000 gallons and 250,000 gallons of oil the fee is \$1000;

b. For a tank vessel with a maximum storage, transporting capacity between 250,001 gallons and 1,000,000 gallons of oil the fee is \$3200; and

c. For a tank vessel with a maximum storage, transporting capacity greater than 1,000,001 gallons of oil the fee is \$5200.

D. The fee for approval of contingency plans encompassing more than one tank barge or facility, as authorized by sections of this regulation, shall be based on the aggregate capacity of the barges or the facilities.

E. Application fees are refundable upon receipt of request no later than 30 days after submittal and prior to approval.

F. Overpayments of application fees are refundable request. Overpayments not refunded will be credited for the applicants future use under this section.

§ 7. Delegation of Authority.

The executive director, or his designee, may perform the board under this regulation, except as limited by Virginia Code § 62.1-44.14.

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VR 680-14-07 OIL DISCHARGE CONTINGENCY PLANS AND ADMINISTRATIVE FEES FOR APPROVAL

APPENDIX I

APPLICATION FOR APPROVAL OF A FACILITY CONTINGENCY PLAN

State Water Control Board State use only
P.O. Box 11143 ID Number
Richmond, VA 23230 Date Received

Please type or print in ink all items except signature in certification section. This form must be completed for each location containing aboveground oil storage tanks. If more than ten (10) tanks are owned at this location, photocopy applicable description sections and attach to this form.

Is this the first time the below listed operator is submitting an application? Yes No

If no what ID number was assigned to the first application?

Maximum oil storage or handling capacity gls

No. of tanks at facility No. of continuation sheets

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VR 680-14-07 OIL DISCHARGE CONTINGENCY PLANS AND ADMINISTRATIVE FEES FOR APPROVAL

Name and address of operator Name and address of facility

Blank lines for operator and facility address information.

Phone number of operator Phone number of facility

Blank line for phone numbers.

Position title of person to make notification and initiate containment/cleanup

Blank line for position title.

Certification

I certify that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete. (To be signed by the operator)

Name of operator _____ Signature _____ Date signed _____

1. When the operator is an individual acting in his own right:

State of _____
County/City of _____

The foregoing document was signed and acknowledged before

me on this _____ day of _____, 199 , by

(Name)

Notary Public
My Commission Expires:

2. When the operator is an individual acting on behalf of a corporation:

State of _____
County/City of _____

The foregoing document was signed and acknowledged before

me on this _____ day of _____, 199 , by

_____ who is _____
(Name) _____ (Title)

of _____, a _____
(Name of Corporation) _____ (State of Incorporation)

corporation, on behalf of the corporation.

Notary Public
My Commission Expires:

3. When the operator is an individual acting on behalf of a municipality, state, federal or other public agency:

State of _____
County/City of _____

The foregoing document was signed and acknowledged before

_____, a partnership.
(Name of Partnership)

me on this _____ day of _____, 199 , by

_____, on behalf of said _____
(Name and Title) (Municipality,

Notary Public
My Commission Expires:

State, Federal or other agency)

Notary Public
My Commission Expires:

4. When the operator is an individual acting on
behalf of a partnership:

State of _____

County/City of _____

The foregoing document was signed and acknowledged before

me this _____ day of _____, 199 , by

_____, a general partner on behalf of
(Name)

APPENDIX II

APPLICATION FOR APPROVAL OF A TANK VESSEL CONTINGENCY PLAN

State Water Control Board State use only
P.O. Box 11143 ID Number
Richmond, VA 23230 Date Received

Please type or print in ink all items except signature in certification section. This form must be completed for each tank vessel transferring or transporting oil as cargo upon state waters. If the vessel has more than ten (10) tanks, photocopy applicable description sections and attach to this form.

Is this the first time the below listed operator is submitting an application? Yes No

If no what ID number was assigned to the first application?

Vessel name, flag, identification number and date of build.

Maximum oil storage or handling capacity gls

No. of cargo tanks on the vessel.

No. of continuation sheets attached.

Name/address of operator Name/address of local agent

Phone number of operator Phone number of local agent

Position title of person to make notification and to initiate containment/cleanup

Certification

I certify that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete. (To be signed by the operator)

Name of operator _____ Signature _____ Date signed _____

1. When the operator is an individual acting in his own right:

State of _____
County/City of _____

The foregoing document was signed and acknowledged before

me on this _____ day of _____, 199 , by

(Name)

Notary Public
My Commission Expires:

2. When the operator is an individual acting on behalf of a corporation:

State of _____
County/City of _____

The foregoing document was signed and acknowledged before

me on this _____ day of _____, 199 , by

_____ who is _____
(Name) (Title)

of _____ a _____
(Name of Corporation) (State of Incorporation)

corporation, on behalf of the corporation.

Notary Public
My Commission Expires:

3. When the operator is an individual acting on behalf of a municipality, state, federal or other public agency:

State of _____
County/City of _____

The foregoing document was signed and acknowledged before

me on this _____ day of _____, 199 , by

_____, on behalf of said _____

(Name and Title) (Municipality,

State, Federal or other agency)

Notary Public

My Commission Expires:

4. When the operator is an individual acting on behalf of a partnership:

State of _____

County/City of _____

The foregoing document was signed and acknowledged before

me this _____ day of _____, 199 , by

_____, a general partner on behalf of

(Name)

_____, a partnership.

(Name of Partnership)

Notary Public

My Commission Expires:

Proposed Regulations

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Title of Regulation: VR 680-14-08. Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval.

Statutory Authority: §§ 62.1-44.34:16 and 62.1-44.34:21 of the Code of Virginia.

Public Hearing Date:

September 4, 1991 - 7 p.m.

September 9, 1991 - 7 p.m.

September 11, 1991 - 7 p.m.

(See Calendar of Events section for additional information)

Summary:

In accordance with § 62.1-44.34:16 of the Code of Virginia, in the State Water Control Board (board) is considering adopting regulations establishing requirements for financial responsibility on the part of operators of tank vessels transporting or transferring oil upon state waters having a maximum storage, handling or transporting capacity of equal to or greater than 15,000 gallons of oil.

The proposed regulation provides acceptable means of demonstrating the required level of financial responsibility, therefore providing the Commonwealth with the necessary assurance that an operator of a tank vessel has the necessary financial stability to conduct a proper response to a discharge of oil.

In accordance with § 62.1-44.34:21 of the Code of Virginia the board is authorized to collect fees for approval of acceptance of evidence of financial responsibility. This proposed regulation establishes a schedule of fees for this acceptance.

VR 680-14-08. Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval.

§ 1. Definitions.

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

"Board" means the State Water Control Board.

"Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

"Facility" means any development or installation within the Commonwealth that deals in, stores or handles oil,

and includes a pipeline.

"Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. For the purpose of this regulation only, this definition does not include animal and vegetable oils.

"Operator" means any person who owns, operates, charters, rents or otherwise exercises control over or responsibility for a facility or a vehicle or vessel.

"Person" means any firm, corporation, association or partnership, one or more individuals, or any governmental unit or agency thereof.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction.

"Tank vessel" means any vessel used in the transportation of oil in bulk as cargo. For the purpose of this regulation, this definition includes tankers, tank ships, tank barges and combination carriers when carrying oil. It does not include vessels carrying oil in drums, barrels, on deck portable tanks or other packages or vessels carrying oil as fuel or stores for that vessel.

"Vehicle" means any motor vehicle, rolling stock or other artificial contrivance for transport whether self-propelled or otherwise, except vessels.

"Vessel" includes every description of watercraft or other contrivance used as a means of transporting on water, whether self-propelled or otherwise, and shall include barges and tugs.

§ 2. Applicability.

Evidence of financial responsibility requirements apply to all tank vessels transporting or transferring oil upon state waters having a maximum storage, handling or transporting capacity of equal to or greater than 15,000 gallons of oil.

§ 3. Compliance dates.

This regulation shall be effective 30 days after publication in the Virginia Register. Cash or its equivalent shall be deposited with the board as required by Virginia Code § 62.1-44.34:16 and § 5 A of this regulation no later than 90 days after the effective date of this regulation. Operators seeking exemption from the cash deposit requirement shall submit their application and the evidence of financial responsibility no later than 60 days after the effective date of this regulation.

§ 4. Statement of purpose.

The purpose of this regulation is to establish requirements for financial responsibility on the part of operators of tank vessels transporting or transferring oil as cargo upon state waters. This regulation provides acceptable means of demonstrating the required level of financial responsibility, therefore providing the Commonwealth with the necessary assurance that an operator of a tank vessel has the necessary financial stability to conduct a proper response to a discharge of oil.

§ 5. Financial responsibility.

A. The operator of any tank vessel entering upon state waters shall deposit with the board cash or its equivalent in the amount of \$500 per gross ton of such vessel. If the operator owns or operates more than one tank vessel, evidence of financial responsibility need be established only to meet the maximum liability applicable to the vessel having the greatest maximum liability.

1. All documents submitted shall be in English and all monetary terms shall be in U.S. currency.

2. A copy of the board's acceptance of the required evidence of financial responsibility shall be kept on the tank vessel and readily available for inspection.

B. If the board determines that oil has been discharged in violation of applicable state law or there is a substantial threat of such discharge from a vessel for which a cash deposit has been made, any amount held in escrow may be used to pay any fines, penalties or damages imposed under such law.

C. Federal government entities whose debts and liabilities are debts and liabilities of the United States have the requisite financial strength and stability to fulfill their financial assurance requirements and are relieved of the requirements to further demonstrate an ability to provide financial responsibility under this regulation.

D. Operators of tank vessels may obtain exemption from the cash deposit requirement if evidence of financial responsibility is provided in an amount equal to the cash deposit required for such tank vessel pursuant to Virginia Code § 62.1-44.34:16 and § 5 A of this regulation. The following means of providing such evidence, or any combination thereof, will be acceptable:

1. *Self-insurance.* Any operator demonstrating financial responsibility by self-insurance shall provide evidence of such self-insurance in a manner that is satisfactory to the board. An operator demonstrating self-insurance shall:

a. Maintain, in the United States, working capital and net worth each in the amount required by Virginia Code § 62.1-44.34:16 and § 5 A of these regulations. For the purpose of this regulation, "working capital" means the amount of current

assets located in the United States, less all current liabilities; and "net worth" means the amount of all assets located in the United States, less all liabilities.

(1) Maintenance of the required working capital and net worth shall be demonstrated by submitting with the application form an annual, current nonconsolidated balance sheet and an annual, current nonconsolidated statement of income and surplus, certified by an independent certified public accountant. Those financial statements shall be for the operator's last fiscal year preceding the date of application and shall be accompanied by an additional statement from the operator's treasurer (or equivalent official), certifying to both the amount of current assets and the amount of total assets included in the accompanying balance sheet, which are located in the United States and are acceptable for purposes of this regulation.

(2) If the balance sheet and statement of income and surplus cannot be submitted in nonconsolidated form, consolidated statements may be submitted if accompanied by an additional statement by the involved certified public accountant, certifying to the amount by which the operator's assets, located in the United States and acceptable under this part, exceed total liabilities and that current assets, located in the United States and acceptable under this part, exceed its current liabilities.

(3) When the operator's demonstrated net worth is not at least 10 times the required amount, an affidavit shall be filed by the operator's treasurer (or equivalent official) covering the first six months of the operator's fiscal year. Such affidavits shall state that neither the working capital nor the net worth have, during the first six months, fallen below the required amounts.

(4) Additional financial information shall be submitted upon request by the board, or

b. Provide evidence in the form of a marine insurance broker's certificate of insurance, or other proof satisfactory to the board, that the operator has obtained oil pollution liability coverage through an operator's membership in a Protection & Indemnity (P&I) Club that is a member of the international group of P&I clubs, or through coverage provided by a pool of marine underwriters in an amount sufficient to meet the requirements of Virginia Code § 62.1-44.34:16 and § 5 A of these regulations.

2. *Insurance.* Any operator demonstrating evidence of financial responsibility by insurance shall provide evidence of insurance issued by an insurer licensed, approved, or otherwise authorized to do business in the Commonwealth of Virginia. The amount of

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insurance shall be sufficient to cover the amount required by Virginia Code § 62.1-44.34:16 and § 5 A. The operator shall provide evidence of such coverage in the form of a marine insurance broker's certificate of insurance or by utilizing a form worded identically to the insurance form found in Appendix II. The insurer must also comply with all requirements in Appendix II.

3. *Surety.* Any operator demonstrating financial responsibility through a surety bond shall file a surety bond utilizing a form worded identically to the surety form found in Appendix III. The surety company issuing the bond must be licensed to operate as a surety in the Commonwealth of Virginia and must possess an underwriting limitation at least equal to the amount required by Virginia Code § 62.1-44.34:16 and § 5 A. The surety must also comply with all requirements in Appendix III.

4. *Guaranty.* An operator demonstrating financial responsibility through a guaranty shall submit the guaranty worded identically to the form found in Appendix IV. The guarantor shall comply with all provisions of § 5 D 1 for self-insurance and also comply with all requirements in Appendix IV.

E. To obtain exemption from the cash deposit requirements:

1. The operator and insurer, guarantor, or surety shall appoint an agent for service of process in the Commonwealth;

2. Any insurer must be authorized by the Commonwealth of Virginia to engage in the insurance business; and

3. Any instrument of insurance, guaranty or surety must provide that actions may be brought on such instrument of insurance, guaranty or surety directly against the insurer, guarantor or surety for any violation by the operator of Article 11 of Chapter 3.1 (§ 62.1-44.34:14 et seq.) of Title 62.1 of the Code of Virginia up to, but not exceeding, the amount insured, guaranteed or otherwise pledged.

4. All forms of evidence of financial responsibility shall be accompanied by an endorsement that certifies that the insurance policy, evidence of self-insurance, surety or guaranty provides liability coverage for the tank vessel(s) in the amount required by § 62.1-44.34:16 and § 5 A of these regulations.

F. Any operator whose financial responsibility is accepted under this regulation shall notify the board at least 30 days before the effective date of a change, expiration or cancellation of any instrument of insurance, guaranty or surety.

G. Acceptance of evidence of financial responsibility

shall expire:

1. One year from the date that the board exempts an operator from the cash deposit requirement based on acceptance of evidence of self-insurance;

2. On the effective date of any change in the operator's instrument of insurance, guaranty or surety; or

3. Upon the expiration or cancellation of any instrument of insurance, guaranty or surety.

H. All nonexempt tank vessel operators shall file with the board the application form found in Appendix I for approval of the evidence of financial responsibility. This form shall be submitted with the required evidence of financial responsibility (cash deposit, proof of insurance, self-insurance, guaranty or surety) and shall be completed insofar as it pertains to the tank vessel. The operator must sign and date the certification statement on the application form. All forms must be acknowledged before a notary public. If the operator is a corporation, the form must be signed by an authorized corporate official; if the operator is a municipality, state, federal or other public agency, the form must be signed by an authorized executive officer or ranking elected official; if the operator is a partnership or sole proprietorship, the form must be signed by a general partner or the sole proprietor.

I. Application for renewal of acceptance of proof of financial responsibility shall be filed with the board 30 days prior to the date of expiration.

J. All applications, notifications of changes, submissions and updates required by this regulation shall be directed to the Virginia State Water Control Board, Office of Spill Response and Remediation, P.O. Box 11143, Richmond, Va. 23230.

K. The board, after notice and opportunity for hearing, may revoke its acceptance of evidence of financial responsibility if it determines that:

1. Acceptance has been procured by fraud or misrepresentation; or

2. A change in circumstances has occurred that would warrant denial of acceptance of evidence of financial responsibility.

L. If evidence of financial responsibility provided to the federal government or any other state meets the requirements of this regulation, the board may, upon review, accept it in full or partial satisfaction of the requirements of this regulation as appropriate. A certified copy of the document accepting the evidence of financial responsibility and a copy of the financial responsibility mechanism shall be provided to the board for approval.

§ 6. Administrative fees.

A. This section establishes application fees for acceptance of evidence of financial responsibility.

B. An application for approval of evidence of financial responsibility will be accepted only when the fees established by this section have been paid.

C. Fees shall be paid by check, draft or postal money order made payable to the Virginia State Water Control Board and must be in U.S. currency.

1. Application fees for approval of evidence of financial responsibility for tank vessels are as follows:

a. Applicants shall pay an application fee of \$200.

b. Applicants shall pay a fee of \$50 for each additional tank vessel requiring a copy of the accepted evidence of financial responsibility.

D. Application fees are refundable upon receipt of a written request received by the board no later than 30 days after submittal and prior to approval.

E. Overpayments of application fees are refundable upon written request. Overpayments not refunded will be credited for the applicants' future use under this section.

§ 7. Delegation of authority.

The executive director, or his designee, may perform any act of the board under this regulation, except as limited by Virginia Code § 62.1-44.14.

APPENDIX I

APPLICATION FOR APPROVAL OF EVIDENCE OF FINANCIAL RESPONSIBILITY FOR A TANK VESSEL

State Water Control Board State use only
P.O. Box 11143 ID Number
Richmond, VA 23230 Date Received

Please type or print in ink all items except signature in certification section. Supporting documentation must be attached to this form and must comply with the Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval Regulation (VR 680-14-08).

Legal Name and address of operator

Name and address of Virginia agent for service of process

[Blank lines for agent name and address]

Phone number of operator Phone number of agent

[Blank line for phone numbers]

Is this the first time the above named operator is submitting an application? Yes No

If no what ID number was assigned to the first application?

[Blank line for ID number]

Operator's legal form of organization:

Individual Corporation Partnership
Association Joint stock company Business trust
Other (specify)

Evidence of financial responsibility is demonstrated by (attach supporting documentation):

- cash deposit
- self-insurance
- insurance
- guaranty
- surety
- combination of

List all tank vessels entering upon state waters having a maximum storage, handling, or transporting capacity of equal to or greater than 15,000 gallons of oil.

Name and ID Nr.

of Tank Vessel Country of Registry Gross Tons

Name and ID Nr.	Country of Registry	Gross Tons

Certification

I certify that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete. (To be signed by the operator)

Name of operator Signature Date signed

1. When the operator is an individual acting in his own right:

State of _____

County/City of _____

The foregoing document was signed and acknowledged before

me on this _____ day of _____, 1991, by

 (Name)

 Notary Public

 My Commission Expires:

2. When the operator is an individual acting on behalf of a corporation:

 State of _____

 County/City of _____

The foregoing document was signed and acknowledged before me on this _____ day of _____, 199 , by _____ who is _____ (Name) _____ (Title) of _____, a _____ (Name of Corporation) _____ (State of Incorporation) corporation, on behalf of the corporation.

 Notary Public

 My Commission Expires:

3. When the operator is an individual acting on behalf of a municipality, state, federal or other public agency:

 State of _____

 County/City of _____

The foregoing document was signed and acknowledged before me on this _____ day of _____, 199 , by _____, on behalf of said _____ (Name and Title) _____ (Municipality _____ State, Federal or other agency)

 Notary Public

 My Commission Expires:

4. When the operator is an individual acting on behalf of a partnership:

State of _____

County/City of _____

The foregoing document was signed and acknowledged before

me this _____ day of _____, 199 , by

_____, a general partner on behalf of

(Name)

_____, a partnership.

(Name of Partnership)

Notary Public

My Commission Expires:

APPENDIX II

INSURANCE FORM FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY IN RESPECT OF LIABILITY FOR DISCHARGE OF OIL UNDER VA. CODE § 62.1-44.34:16 AND SECTION 5.A OF VR 680-14-08.

(Name of Insurer)

(hereinafter "Insurer") hereby certifies that it is authorized to engage in the insurance business by the Commonwealth of Virginia and that for purposes of complying with the provisions of Va. Code § 62.1-44.34:16 and section 5.A. of the State Water Control Board's Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval Regulation (VR 680-14-08), each of the tank vessel operators specified in the schedules below is insured by it, in respect to each of the tank vessels respectively specified therein, against liability to the Commonwealth of Virginia to which such tank vessel operators could be subjected under Article 11 of Chapter 3.1 of the Code of Virginia (Va. Code § 62.1-44.34:14 et seq). The amount of liability insured herein is:
1. In the case of a tank vessel, \$500.00 per gross ton of such tank vessel.

The foregoing amount of insurance coverage provided by the Insurer on behalf of the Commonwealth of Virginia in respect to any tank vessel specified herein is not conditioned or dependant in any way upon any agreement or understanding between an assured operator and the Insurer that any such tank vessel will or will not carry oil, or will or will not operate in certain waters.

(Name of Agent)

with offices located at _____ is hereby designated as the Insurer's agent in the Commonwealth of Virginia for service of process for the purpose of Article 11 of Chapter 3.1 of the Code of Virginia (Va. Code § 62.1-44.34:14 et seq) and implementing rules in VR 680-14-08. If the designated agent cannot be served due to his/her death, disability, or unavailability, the Clerk of the State Corporation Commission becomes the agent for service of process.

The Insurer consents to be sued directly in respect of any claim against any of the operators arising under Article 11 of Chapter 3.1 of the Code of Virginia (Va. Code § 62.1-44.34:14 et seq) and implementing rules in VR 680-14-08; provided, however, that in any such direct action its liability per tank vessel in any one incident shall not exceed \$500.00 per gross ton of such tank vessel. The Insurer shall be entitled to invoke only the

rights and defenses permitted by Va. Code § 62.1-44.34:18 to the tank vessel operator.

The insurance evidenced by this undertaking shall be applicable only in relation to incidents occurring on or after the effective date and before the termination date of this undertaking, and shall be applicable only to incidents giving rise to claims under Article 11 of Chapter 3.1 of the Code of Virginia (Va. Code § 62.1-44.34:14 et seq) in respect to any of the below listed tank vessels.

The effective date of this undertaking shall, for each tank vessel listed below, be the date the tank vessel is named in or added to the schedules below. For each tank vessel, the termination date of this undertaking shall be 30 days after the date of receipt of written notice by the State Water Control Board that the Insurer has elected to terminate the insurance evidenced by this undertaking, and has so notified the operator.

However, for any tank vessel that is carrying oil in bulk as cargo that has been loaded before the scheduled date of termination, the termination shall not take effect (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the State Water Control Board of written notice that the Insurer has elected to terminate the insurance evidenced by this undertaking, whichever date is earlier.

Termination of this undertaking as to any tank vessel shall not affect the liability of the Insurer in connection with an incident occurring prior to the date such termination becomes effective.

If during the currency of this undertaking a below-named operator requests that an additional tank vessel be made subject to this undertaking and if the Insurer should accede to the request and should so notify the State Water Control Board, then the tank vessel shall be included in the schedules below.

If more than one insurer joins in executing this document, that action constitutes joint and several liability on the part of the insurers.

The definitions in VR 680-14-08 shall apply to this undertaking.

I hereby certify that the wording of this instrument is identical to the wording in Appendix II of VR 680-14-08.

Effective date of coverage for tank vessels named on this undertaking:

day/month/year

(Name of Insurer)

(Mailing Address)

(Signature of Official Signing on Behalf of Insurer)

(Typed Name and Title of Signer)

SCHEDULE OF TANK VESSELS AND ASSURED OPERATORS

<u>Tank Vessel</u>	<u>Gross Tons</u>	<u>Assured Operator</u>

SCHEDULE OF TANK VESSELS AND ASSURED OPERATORS

ADDED TO ABOVE SCHEDULE

<u>Tank Vessel</u>	<u>Gross Tons</u>	<u>Assured Operator</u>	<u>Date Added</u>

APPENDIX III

SURETY BOND FORM FURNISHED AS EVIDENCE OF
FINANCIAL RESPONSIBILITY IN RESPECT OF LIABILITY FOR
DISCHARGE OF OIL UNDER VA. CODE § 62.1-44.34:16
AND SECTION 5.A OF VR 680-14-08.

KNOW ALL PERSONS BY THESE PRESENTS, that We

(name of vessel operator)

of _____, as

(City) _____ (State and Country)

Principal (hereinafter called Principal), and

_____ a company created and existing
(Name of Surety)

Under the laws of _____

(State and Country)

and authorized to do business in the Commonwealth of
Virginia, as surety (hereinafter called Surety) are held
and firmly bound unto the Commonwealth of Virginia for
liability under Article II of Chapter 3.1 of the Code of

Virginia (Va. Code § 62.1-44.34:14 et seq), in the penal sum of \$ _____

(\$500.00 per gross ton)

for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. The foregoing penal sum is not conditioned or dependent in any way upon any agreement or understanding between the Principal and Surety that any tank vessel(s) will or will not carry oil or will or will not operate in certain waters.

WHEREAS, the Principal intends to become or is a holder of an approval of evidence of financial responsibility under the provisions of Va. Code § 62.1-44.34:16 and section 5.A. of the State Water Control Board's Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval Regulation (VR 680-14-08), and has elected to file with the State Water Control Board such a bond as will insure financial responsibility to meet any liability to which such tank vessel operator could be subjected under Article 11 of Chapter 3.1 of the Code of Virginia (Va. Code § 62.1-44.34:14 et seq), and

WHEREAS, this bond is written to ensure compliance by the Principal with the requirements of said Article 11 and

section 5.A and shall inure to the benefit of claimants under § 62.1-44.34:18 of the State Water Control Law;

NOW, THEREFORE, the condition of this obligation is that if the Principal shall pay or cause to be paid to claimants any sum or sums for which the Principal may be held legally liable under said Article 11, then this obligation, to the extent of such payment, shall be void, otherwise to remain in full force and effect.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond. In no event shall the Surety's obligation hereunder exceed the amount of the penalty, provided that the Surety furnishes written notice to the State Water Control Board forthwith of all suits filed, judgements rendered, and payments made by the Surety under this bond.

Any claim for which the Principal may be liable under said Article 11 may be brought directly against the Surety; provided, however, that in the event of a direct claim the Surety shall be entitled to invoke only the rights and defenses permitted by Va. Code § 62.1-44.34:18 to the Principal (tank vessel operator).

The Surety hereby waives notification of amendments to applicable laws, statutes, rules and regulations and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The Surety designates _____
(Name of Agent)

with offices at _____ as the Insurer's agent in the Commonwealth of Virginia for service of process for the purpose of Article 11 and VR 680-14-08. If the designated agent cannot be served due to his/her death, disability, or unavailability, the Clerk of the State Corporation Commission becomes the agent for service of process.

If more than one surety company joins in execution of this bond, that action constitutes joint and several liability on the part of the sureties.

The definitions in VR 680-14-08 shall apply to this bond.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that this bond meets the requirements of VR 680-14-08 and that the wording of this surety bond is identical to the wording specified in Appendix III of VR 680-14-08.

This bond is effective the _____ day of _____, 19____, 1201 a.m. Standard time at the address of the Surety as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or Surety may at any time terminate this bond by written notice sent by certified mail to the other party with a copy (plainly indicating that the original was sent by certified mail) to the State Water Control Board, Office of Spill Response and Remediation, P.O. Box 11143, Richmond, Va. 23230. The termination becomes effective thirty(30) days after actual receipt by the State Water Control Board of written notice; provided, however, that with respect to any of the Principal's tank vessels carrying oil in bulk as cargo that has been loaded before the time of termination would otherwise have become effective, the termination shall not take effect (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the State Water Control Board of written notice of termination of the bond by the above named Principal or Surety under the conditions set forth above, whichever date is earlier. The Surety shall not be liable hereunder in connection with an incident occurring after the termination of this bond as herein provided, but termination shall not affect the liability of the Surety in connection with an incident occurring before the date the termination becomes

In witness whereof, the above-named Principal and Surety have executed this instrument on the _____ day of _____, 19____.

(Please type name of signer under each signature. In the case of partnership, each partner must sign.)

PRINCIPAL

Individual Principal or Partner Business Address

Individual Principal or Partner Business Address

Individual Principal or Partner Business Address

Corporate Principal

Business Address

(Affix Corporate Seal)

By

Title

SURETY

Corporate Surety

Business Address

By

(Affix Corporate Seal)

Title

Surety's Bond Number:

APPENDIX IV

GUARANTY FORM FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY IN RESPECT OF LIABILITY FOR DISCHARGE OF OIL UNDER VA. CODE § 62.1-44.34:16 AND SECTION 5.A OF VR 680-14-08.

1. WHEREAS

(Name of Vessel Operator) (hereinafter the "Operator") is the Operator of the tank vessel(s) specified in the annexed schedules (hereinafter "Tank Vessels"), and whereas the Operator desires to establish its financial responsibility in accordance with Va. Code § 62.1-44.34:16 and section 5.A. of the State Water Control Board's Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval Regulation (VR 680-14-08), the undersigned Guarantor hereby guarantees, subject to the provisions of clause 4 hereof, to discharge the Operator's legal liability to the Commonwealth of Virginia in respect to a claim under Article 11 of Chapter 3.1 of the Code of Virginia (Va. Code § 62.1-44.34:14 et seq). Upon payment of the agreed sum, the Operator is to be fully, irrevocably, and unconditionally discharged from all further liability to the claimant with respect to the claim. The Operator's

legal liability under Article 11, which is covered by this Guaranty, is:

a. In the case of a Tank Vessel, \$500.00 per gross ton of such Tank Vessel.

The foregoing amount of coverage provided by the Guarantor on behalf of the Commonwealth of Virginia in respect to any of the Tank Vessels is not conditioned or dependent in any way upon any agreement or understanding between the Operator and the Guarantor that any of the Tank Vessels will or will not carry oil, or will or will not operate in certain waters.

2. The Guarantor's liability under this Guaranty shall attach only in relation to incidents giving rise under Article 11 to causes of action against the Operator in respect of any of the Tank Vessels for discharge or threat of discharge of oil, occurring on or after the effective date of this Guaranty, which, as to each of the Tank Vessels, shall be the date the tank vessel is named in Schedule A or added to Schedule B below, and before the termination date of this Guaranty, which, as to each of the Tank Vessels, shall be the date 30 days after the date of receipt by the State Water Control Board, Office of Spill Response and Remediation, P.O. Box 11143, Richmond, Va. 23230 of written notice that the Guarantor has elected to terminate this Guaranty, with respect to any of the Tank

this Guaranty.

5. The Guarantor certifies that it meets or exceeds the financial test criteria for self insurance of section 5.D of VR 680-14-08, and agrees to comply with all the requirements for Guarantors as specified in VR 680-14-08. Guarantor agrees that if, at the end of any fiscal year before cancellation of this Guarantee, the Guarantor fails to meet the financial test criteria of section 5.D, Guarantor shall send within 30 days of such failure, by certified mail, notice to the operator. The Guarantee will terminate 30 days from the date of receipt of the notice by the operator, as evidenced by the return receipt.

6. The Guarantor hereby designates _____ (Name of Agent) with offices at _____ as the Guarantor's agent in the Commonwealth of Virginia for service of process for the purpose of Article 11 and implementing rules in VR 680-14-08. If the designated agent cannot be served due to his/her death, disability, or unavailability, the Clerk of the State Corporation Commission becomes the agent for service of process.

7. If more than one guarantor joins in executing this Guaranty, that action constitutes joint and several

Vessels, and has so notified the Operator; provided, however, that with respect to any Tank Vessel carrying oil in bulk as cargo that has been loaded before the scheduled date of termination, the termination shall not become effective (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the State Water Control Board of written notice of termination, whichever date is earlier. Termination of this Guaranty as to any of the Tank Vessels shall not affect the liability of the Guarantor in connection with an incident occurring before the date of termination becomes effective.

3. Any claim against the Operator arising under Article 11 may be brought directly against the Guarantor; provided, however, that in the event of a direct claim the Guarantor shall be entitled to invoke only the rights and defenses permitted by Va Code § 62.1-44.34:18 to the tank vessel operator.

4. If, during the currency of this Guaranty, the Operator requests that a tank vessel operated by the Operator, and not specified in the annexed Schedules A and B, should become subject to this Guaranty, and if the Guarantor accedes to the request and so notifies the State Water Control Board in writing, then the tank vessel becomes one of the Tank Vessels included in Schedule B and subject to

Liability on the part of the Guarantors.

8. The definitions in VR 680-14-08 shall apply to this Guaranty.

I herby certify that the wording of this Guaranty is identical to the wording specified in Appendix IV of VR 680-14-08.

EFFECTIVE DATE

(Month/Day/Year and Place of Execution)

(Type Name of Guarantor)

(Type Address of Guarantor)

By:

(Signature)

(Type Name and Title of Person Signing)

SCHEDULE B

TANK VESSELS ADDED IN ACCORDANCE WITH CLAUSE 5

<u>Tank Vessel</u>	<u>Gross Tons</u>	<u>Operator</u>	<u>Date Added</u>
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SCHEDULE A

TANK VESSELS INITIALLY LISTED

<u>Tank Vessel</u>	<u>Gross Tons</u>	<u>Operator</u>
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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 MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR-460-04-8.4. Home and Community Based Waiver Services for Elderly and Disabled Individuals.

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

Effective Date: September 1, 1991.

Summary:

The purpose of this action is to promulgate permanent regulations regarding Home and Community-Based Waiver Services for Elderly and Disabled Individuals to supersede the temporary emergency regulations which became effective on September 10, 1990.

DMAS has provided home and community-based services for the elderly and disabled under a Social Security Act waiver approved for the Secretary of Health and Human Services by the Health Care Financing Administrations (HCFA) in 1982. Services included under the waiver were personal care, adult day health care and respite care.

As a condition of the waiver, DMAS was required to render a cost-effectiveness assessment of each individual receiving waived services every six months. The waiver further required that providers obtain prior approval from DMAS for every increase made to any recipient's plan of care.

Because of the resource-intensive requirements of the waiver affecting both providers and DMAS, the Commonwealth sought an amendment to the waiver which would:

- eliminate requirement for individual cost-effectiveness assessments while ensuring that the annual aggregate costs to Medicaid are equal to or less than the aggregate costs for institutional care, and
- allow providers to use DMAS-developed service limits to serve as standards in developing individual plans of care, which could then be implemented without a prior approval process.

In seeking the waiver amendment, DMAS reasoned that the providers' ability to develop plans of care within established service limits would eliminate 90% of the requests for prior approval being reviewed by

DMAS.

HCFA approved Virginia's request to amend the waiver on May 18, 1990. The Governor approved emergency regulations implementing the amended waiver's provisions effective September 10, 1990, based upon DMAS' need to divert existing resources to the administration of new programs. No adverse impact on either the quality or the cost-effectiveness of services rendered has been experienced since the emergency regulations became effective.

The final regulations contain clarifications, technical corrections and changes to the provider participation standards for adult day health care. The definition of adverse action and the DMAS role in assuring compliance with provider participation standards and program policies and procedures has been clarified. DMAS has also included in these final regulations technical corrections to the recipient eligibility requirements which were required by HCFA in the previously discussed waiver approval process. The three changes to adult day health care standards are a result of comments received during the public comment period and DMAS program experience during implementation of adult day health care services. These changes eliminate the requirement that a center be open 10 hours a day, 5 days a week; decrease the degree to which a registered nurse must be present during center operation; and change the minimum qualifications for activities director so that these requirements do not exceed those for the director.

The requirement that a registered nurse be present two hours each day at the center has been an impediment to the availability of providers of adult day health care. DMAS evaluation of this criteria determined that the standard was excessive and could be changed without any adverse impact to recipients or providers. The standard substituted in these regulations is the same as the standard for registered nurse supervision for personal care services which assures an appropriate quality of care for adult day health care recipients.

The requirement that an activities director have a bachelor's degree exceeds the requirement for the director and has been cited by many adult day health care applicants as problematic and excessive. The standard substituted in these regulations makes the requirement for activities director consonant with the requirement for director. This change does not compromise in any way the quality of care criteria

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for adult day health care recipients.

VR 460-04-8.4. Home and Community Based Waiver Services for Elderly and Disabled Individuals.

§ 1. Definitions.

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

"Activities of daily living" means assistance with personal care tasks (i.e., bathing, dressing, toileting, etc.).

"Adult day health care centers" means a participating provider which offers a community-based day program providing a variety of health, therapeutic and social services designed to meet the specialized needs of those elderly and physically disabled individuals at risk of placement in an intermediate or skilled care a nursing home facility .

"Adult day health care services" means services designed to prevent institutionalization by providing participants with health, maintenance, and rehabilitation services in a congregate daytime setting.

"Current functional status" means the individual's degree of dependency in performing activities of daily living.

"DMAS" means the Department of Medical Assistance Services.

"Episodic respite care" means relief of the caregiver for a nonroutine, short-term period of time for a specified reason (i.e., respite care offered for seven days, 24 hours a day while the caregiver takes a vacation).

"Home and community-based care" means a variety of in-home [and community-based] services reimbursed by DMAS (personal care, adult day health care and respite care) authorized under a § 1915(c) waiver designed to offer individuals an alternative to institutionalization. Individuals may be preauthorized to receive one or more of these services either solely or in combination, based on the documented need for the service(s) service or services to avoid nursing home facility placement. An individual may only receive home and community-based long-term care services up to the amount for which the costs to Medicaid are equal to or less than nursing home care. The Nursing Home Preadmission Screening Team or Department of Medical Assistance Services shall give prior authorization for any Medicaid-reimbursed home and community-based care.

"Nursing home preadmission screening" means the process to: (i) evaluate the medical, nursing, and social needs of individuals referred for preadmission screening, (ii) analyze what specific services the individuals need, (iii) evaluate whether a service or a combination of existing community services is available to meet the

individuals' needs, and (iv) authorize Medicaid funded nursing home or community-based care for those individuals who meet nursing facility level of care and require that level of care.

"Nursing Home Preadmission Screening Committee/Team" means the entity contracted with the DMAS which is responsible for performing nursing home preadmission screening. For individuals in the community, this entity is a committee comprised of staff from the local health department and local DSS. For individuals in an acute care facility who require screening, the entity is a team of nursing and social work staff. A physician must be a member of both the local committee or acute care team.

"Participating provider" means an institution, facility, agency, partnership, corporation, or association that meets the standards and requirements set forth by DMAS, and has a current, signed contract with DMAS.

"Personal care agency" means a participating provider which renders services designed to prevent or reduce inappropriate institutional care by providing eligible individuals with personal care aides who provide personal care services.

"Personal care services" means long-term maintenance or support services necessary to enable the individual to remain at or return home rather than enter an intermediate or skilled a nursing care facility. Personal care services include assistance with personal hygiene, nutritional support, and the environmental maintenance necessary for recipients to remain in their homes.

"Plan of Care" means the written plan of services certified by the screening team physician as needed by the individual to ensure optimal health and safety for the delivery of home and community-based care.

"Professional staff" means the director, activities director, registered nurse, or therapist of an adult day health care center.

"Respite care" means services specifically designed to provide a temporary but periodic or routine relief to the primary caregiver of an individual who is incapacitated or dependent due to frailty or physical disability. Respite care services include assistance with personal hygiene, nutritional support and environmental maintenance authorized as either episodic, temporary relief or as a routine periodic relief of the caregiver.

"Respite care [agencies agency]" means a participating provider which renders services designed to prevent or reduce inappropriate institutional care by providing eligible individuals with respite care aides who provide respite care services.

"Routine respite care" means relief of the caregiver on a periodic basis over an extended period of time to allow

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the caregiver a routine break from continuous care (i.e., respite care offered one day a week for six hours).

"Staff" means professional and aide staff of an adult day health care center.

"State Plan for Medical Assistance" or "the Plan" means the document containing the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

§ 2. General coverage and requirements for all home and community-based care waiver services.

A. Coverage statement.

1. Coverage shall be provided under the administration of the Department of Medical Assistance Services DMAS for elderly and disabled individuals who would otherwise require the intermediate or skilled level of nursing care provided in a nursing facility .

2. These services shall be medically appropriate , cost effective and necessary to maintain these individuals in the community.

3. Under this § 1915(c) waiver, DMAS waives §§ 1902(a)(10)(B) and 1902(a)(10)(C)(1)(iii) of the Social Security Act related to comparability and statewideness of services.

B. Patient qualification and eligibility requirements.

1. Virginia will apply the financial eligibility criteria contained in the State Plan for the categorically needy and the medically needy. Virginia has elected to cover the optional categorically needy group under 42 CFR 435.211, 435.231 and 435.217. The income level used for 435.211, 435.231 and 435.217 is 300% of the current Supplemental Security Income payment standard for one person.

a. Under this waiver, the coverage groups authorized under § 1902(a)(10)(A)(ii)(VI) of the Social Security Act will be considered as if they were institutionalized for the purpose of applying institutional deeming rules. The medically needy individuals participating in the waiver will also be considered as if they were institutionalized for the purpose of applying the institutional deeming rules. All recipients under the waiver must meet the financial and nonfinancial Medicaid eligibility criteria and be Medicaid eligible in an institution. The deeming rules are applied to waiver eligible individuals as if the individual were residing in an institution or would require that level of care.

b. Virginia will treat the income of an eligible individual who receives home and community-based care services under 42 CFR 435.217 using the

methodology in 42 CFR 435.735 to reduce the agency's payment for home and community-based services. The following amounts from the individual's total income (including amounts disregarded in determining eligibility) will be deducted:

(1) For the individual's maintenance needs, the current Supplemental Security Income (SSI) payment standard for one individual (the categorically needy income standard for one).*

* Although Virginia has elected to apply more restrictive eligibility requirements than SSI, Virginia does not apply a more restrictive income standard.

(2) For an individual with a spouse living in the home, an additional amount for the maintenance needs of the spouse based upon a reasonable assessment of need but not to exceed the current Supplemental Security Income payment for one individual (the categorically needy income standard for one).

(3) For an individual with a family at home, an additional amount for the maintenance needs of the family based upon a reasonable assessment of need but not to exceed the medically needy income standard for a family of the same size.

(4) Amounts for incurred expenses for Medicare and other health insurance premiums, deductibles, or coinsurance charges.

(5) Amounts for incurred expenses for necessary medical or remedial care not subject to payment by a third party recognized under state law but not covered under the state's Medicaid Plan within the same reasonable limits established under the State Plan for institutionalized individuals.

b. Virginia shall reduce its payment for home and community-based services provided to an individual who is eligible for Medicaid services under 42 CFR 435.217 by that amount of the individual's total income (including amounts disregarded in determining eligibility) that remains after allowable deductions for personal maintenance needs, deductions for other dependents, and medical needs have been made, according to the guidelines in 42 CFR 435.735 and § 1915(c)(3) of the Social Security Act as amended by the Consolidated Omnibus Budget Reconciliation Act of 1986. DMAS will reduce its payment for home and community-based waiver services by the amount that remains after the deductions listed below:

(1) For individuals to whom § 1924(d) applies (Virginia waives the requirement for comparability pursuant to § 1902(a)(10)(B)), deduct the following in the respective order:

(a) An amount for the maintenance needs of the individual which is equal to the categorically needy income standard for a noninstitutionalized individual.

(b) For an individual with only a spouse at home, the community spousal income allowance determined in accordance with § 1924(d) of the Social Security Act.

c. For an individual with a family at home, an additional amount for the maintenance needs of the family determined in accordance with § 1924(d) of the Social Security Act.

d. Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges and necessary medical or remedial care recognized under state law but covered under the Plan.

2. For individuals to whom § 1924(d) does not apply, deduct the following in the following order:

(a) An amount for the maintenance needs of the individual which is equal to the categorically needy income standards for a noninstitutionalized individual.

(b) For an individual with a family at home, an additional amount for the maintenance needs of the family which shall be equal to the medically needy income standard for a family of the same size.

(c) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges and necessary medical or remedial care recognized under state law but covered under the state Medical Assistance Plan.

C. Assessment and authorization of home and community-based care services.

1. To ensure that Virginia's home and community-based care waiver programs serve only individuals who would otherwise be placed in a nursing home facility, home and community-based care services shall be considered only for individuals who are seeking nursing home facility admission or for individuals who are at imminent risk of nursing home facility admission. Home and community-based care services shall be the critical service that enables the individual to remain at home rather than being placed in a nursing home facility.

2. The individual's status as an individual in need of home and community-based care services shall be determined by the Nursing Home Preadmission

Screening Team after completion of a thorough assessment of the individual's needs and available support. Screening and preauthorization of home and community-based care services by the Nursing Home Preadmission Screening Committee/Team or DMAS staff is mandatory before Medicaid will assume payment responsibility of home and community-based care services.

3. An essential part of the Nursing Home Preadmission Screening Team's assessment process is determining the level of care required by applying existing criteria for skilled and intermediate nursing home facility care according to established Nursing Home Preadmission Screening process.

4. The team shall explore alternative settings and services to provide the care needed by the individual. If nursing home facility placement or a combination of other services is determined to be appropriate, the screening team shall initiate referrals for service. If Medicaid-funded home and community-based care services are determined to be the critical service to delay or avoid nursing home facility placement, the screening team shall develop an appropriate plan of care; compute cost effectiveness and initiate referrals for service.

5. To ensure that Virginia's home and community-based care services continue to be a cost-effective alternative to institutionalization, home and community-based care services shall be considered only for individuals for whom the cost of Medicaid-reimbursed home and community-based care would not exceed the Medicaid cost of institutional care. Reserved.

6. Home and community-based care services shall not be offered to any individual who resides in an intermediate or skilled nursing facility, an intermediate facility for the mentally retarded, a hospital, or an adult home licensed by the DSS.

7. Medicaid will not pay for any home and community-based care services delivered prior to the authorization date approved by the Nursing Home Preadmission Screening Committee/Team.

8. Any authorization and Plan of Care for home and community-based care services will be subject to the approval of the DMAS prior to Medicaid reimbursement for waiver services.

§ 3. General conditions and requirements for all home and community-based care participating providers.

A. General requirements.

Providers approved for participation shall, at a minimum, perform the following activities:

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1. Immediately notify DMAS, in writing, of any change in the information which the provider previously submitted to DMAS.

2. Assure freedom of choice to recipients in seeking medical care from any institution, pharmacy, practitioner, or other provider qualified to perform the ~~service(s)~~ service or services required and participating in the Medicaid Program at the time the service was or services were performed.

3. Assure the recipient's freedom to reject medical care and treatment.

4. Accept referrals for services only when staff is available to initiate services.

5. Provide services and supplies to recipients in full compliance with Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the grounds of race, color, religion, or national origin and of Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of a handicap.

6. Provide services and supplies to recipients in the same quality and mode of delivery as provided to the general public.

7. Charge DMAS for the provision of services and supplies to recipients in amounts not to exceed the provider's usual and customary charges to the general public.

8. Accept Medicaid payment from the first day of eligibility.

9. Accept as payment in full the amount established by the DMAS.

10. Use Program-designated billing forms for submission of charges.

11. Maintain and retain business and professional records sufficient to document fully and accurately the nature, scope and details of the health care provided.

a. Such records shall be retained for at least five years from the last date of service or as provided by applicable state laws, whichever period is longer. If an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception resolved. Records of minors shall be kept for at least five years after such minor has reached the age of 18 years.

b. Policies regarding retention of records shall apply even if the agency discontinues operation. DMAS shall be notified in writing of storage, location, and procedures for obtaining records for review should the need arise. The location, agent, or trustee shall be within the Commonwealth of Virginia.

12. Furnish to authorized state and federal personnel, in the form and manner requested, access to records and facilities.

13. Disclose, as requested by DMAS, all financial, beneficial, ownership, equity, surety, or other interests in any and all firms, corporations, partnerships, associations, business enterprises, joint ventures, agencies, institutions, or other legal entities providing any form of health care services to recipients of Medicaid.

14. Hold confidential and use for authorized DMAS purposes only all medical assistance information regarding recipients.

15. Change of ownership. When ownership of the provider agency changes, DMAS shall be notified within 15 calendar days.

B. Requests for participation.

Requests will be screened to determine whether the provider applicant meets the basic requirements for participation.

C. Provider participation standards.

For DMAS to approve contracts with home and community-based care providers the following standards shall be met:

1. Staffing requirements,
2. Financial solvency,
3. Disclosure of ownership, and
4. Assurance of comparability of services.

D. Adherence to provider contract and special participation conditions.

In addition to compliance with the general conditions and requirements, all providers enrolled by the Department of Medical Assistance Services shall adhere to the conditions of participation outlined in their individual provider contracts.

E. Recipient choice of provider agencies.

If there is more than one approved provider agency in the community, the individual will have the option of selecting the provider agency of their choice.

F. Termination of provider participation.

DMAS may administratively terminate a provider from participation upon 60 days' written notification. DMAS may also cancel a contract immediately or may give notification in the event of a breach of the contract by

the provider as specified in the DMAS contract. Such action precludes further payment by DMAS for services provided recipients subsequent to the date specified in the termination notice.

G. Reconsideration of adverse actions.

Adverse actions may include, but shall not be limited to: disallowed payment of claims for services rendered which are not in accordance with DMAS policies and procedures, caseload restrictions, and contract limitations or termination. The following procedures will be available to all providers when DMAS takes adverse action which includes termination or suspension of the provider agreement:

1. The reconsideration process shall consist of three phases:

- a. A written response and reconsideration to the preliminary findings,
- b. The informal conference, and
- c. The formal evidentiary hearing.

2. The provider shall have 30 days to submit information for written reconsideration, 15 days from the date of the notice to request the informal conference, and 15 days to request the formal evidentiary hearing.

3. An appeal of adverse actions shall be heard in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) and that the State Plan for Medical Assistance provided for in § 32.1-325 of the Code of Virginia. Court review of the final agency determination shall be made in accordance with the Administrative Process Act.

H. Participating provider agency's responsibility for the recipient information form (DMAS-122).

It is the responsibility of the provider agency to notify DMAS and the DSS, in writing, when any of the following circumstances occur:

1. Home and community-based care services are implemented,
2. A recipient dies,
3. A recipient is discharged or terminated from services, or
4. Any other circumstances (including hospitalization) which cause home and community-based care services to cease or be interrupted for more than 30 days.

I. Changes or termination of care.

1. Decreases in amount of authorized care by the provider agency.

a. The provider agency may decrease the amount of authorized care only if the recipient and the participating provider both agree that a decrease in care is needed and that the amount of care in the revised plan of care is appropriate.

b. The participating provider is responsible for devising the new Plan of Care and calculating the new hours of service delivery.

c. The individual responsible for supervising the recipient's care shall discuss the decrease in care with the recipient or family, or both, document the conversation in the recipient's record, and shall notify the recipient or family of the change by letter.

d. If the recipient disagrees with the decrease proposed, the DMAS shall be notified to conduct a special review of the recipient's service needs.

2. Increases in amount of authorized care. If a change in the recipient's condition (physical, mental, or social) necessitates an increase in care, the participating provider shall contact the DMAS Utilization Review Analyst assigned to the provider who will assess the need for increase and, if appropriate, authorized the increase. If the increase is needed immediately for an emergency situation, a begin and an end date will be provided by DMAS for the temporary emergency increase develop a plan of care for services to meet the changed needs. The provider may implement the increase in hours without approval from DMAS as long as the amount of service does not exceed the amount established by DMAS as the maximum for the level of care designated for that recipient. Any increase to a recipient's plan of care which exceeds the number of hours allowed for that recipient's level of care or any change in the recipient's level of care must be preapproved by the DMAS utilization review analyst assigned to the provider.

3. Nonemergency termination of home and community-based care services by the participating provider. The participating provider shall give the recipient or family five days written notification of the intent to terminate services. The letter shall provide the reasons for and effective date of the termination. The effective date of services termination shall be at least five days from the date of the termination notification letter.

4. Emergency termination of home and community-based care services by the participating provider. In an emergency situation when the health and safety of the recipient or provider agency personnel is endangered the DMAS must be notified

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prior to termination. The five-day written notification period shall not be required.

5. DMAS termination of home and community-based care services. The effective date of termination will be at least 10 days from the date of the termination notification letter. DMAS has the responsibility and the authority to terminate home and community-based care services to the recipient for any of these reasons:

- a. The home and community-based care service is not the critical alternative to prevent or delay institutional placement.
- b. The recipient no longer meets the level-of-care criteria.
- c. The recipient's environment does not provide for his health, safety, and welfare.
- d. An appropriate and cost-effective plan of care cannot be developed.

J. Suspected abuse or neglect.

Pursuant to § 63.1-55.3 of the Code of Virginia, if a participating provider agency knows or suspects that a home and community-based care recipient is being abused, neglected, or exploited, the party having knowledge or suspicion of the abuse/neglect/exploitation shall report this to the local DSS.

K. DMAS is responsible for assuring continued adherence to provider participation standards. DMAS shall conduct ongoing monitoring or compliance with provider participation standards and DMAS policies and annually recertify each provider for contract renewal with DMAS to provide home and community-based services. A provider's noncompliance with DMAS policies and procedures, as required in the provider's contract, may result in a written request from DMAS for a corrective action plan which details the steps the provider will take and the length of time required to achieve full compliance with deficiencies which have been cited.

§ 4. Adult day health care services.

The following are specific requirements governing the provision of adult day health care:

A. General.

Adult day health care services may be offered to individuals in a congregate daytime setting as an alternative to more costly institutional care. Adult day health care may be offered either as the sole home and community-based care service that avoids institutionalization or in conjunction with personal care or respite care, or both. When the individual referred for adult day health care is already receiving another home and community-based care service, the DMAS utilization

review staff shall assess the need for the additional home and community-based care service and authorize the service if it is deemed necessary to avoid institutionalization.

B. Special provider participation conditions.

In order to be a participating provider, the adult day health care center shall :

1. Be an adult day care center licensed by DSS. A copy of the current license shall be available to the DMAS for verification purposes prior to the applicant's enrollment as a Medicaid provider and shall be available for DMAS review prior to yearly contract renewal.

2. Adhere to the DSS adult day care center standards. The DMAS special participation conditions included here are standards imposed in addition to DSS standards which shall be met in order to provide Medicaid adult day health care services.

3. ~~[Be open and provide services for a minimum of 10 hours a day Monday through Friday. The participant may attend the center all or a portion of that day according to the Plan of Care developed for that individual.]~~ The center shall be able to provide a separate room or area equipped with one bed or cot for every six Medicaid adult day health care participants.

4. Employ sufficient interdisciplinary staff to adequately meet the health, maintenance, and safety needs of each participant. The following staff are required by DMAS:

- a. The adult day health care center shall maintain a minimum staff-participant ratio of one staff member to every six participants (Medicaid and other participants).

- b. There shall be at least two staff persons at the center at all times when there are Medicaid participants in attendance.

- c. In the absence of the director, a professional staff member shall be designated to supervise the program.

- d. Volunteers shall be included in the staff ratio only when they conform to the same standards and requirements as paid staff and meet the job description standards of the organization.

- e. Any center that is collocated with another facility shall count only its own separate identifiable staff in the center's staff/participant ratio.

- f. The adult day health care center shall employ the following:

(1) A director who shall be responsible for overall management of the center's programs. This individual shall be the provider contact person for DMAS staff and shall be responsible for contracting, and receipt and response to communication from DMAS. The director shall be responsible for assuring the initial development of the Plan of Care for adult day health care participants. The director has ultimate responsibility for directing the center program and supervision of its employees. The director can serve as activities director also if those qualifications are met.

(2) An activities director who shall be responsible for directing recreational and social activities for the adult day health care participants.

(3) Program aides who shall be responsible for overall assistance with care and maintenance of the participant (assistance with activities of daily living, recreational activities and other health and therapeutic related activities).

g. The adult day health care center shall employ or subcontract with a registered nurse who shall be responsible for administering and monitoring the health needs of the adult day health care participants. The nurse shall be responsible for the planning, organization, and management of a treatment plan involving multiple services where specialized health care knowledge shall be applied. The nurse shall be present a minimum of [~~two hours each day one day each month~~] at the adult day health care center to render direct services to Medicaid adult day health care participants. The DMAS may require the nurse's presence at the adult day health care center for more than [~~two hours each day this minimum standard~~] depending on the number of participants in attendance and according to the medical and nursing needs of the participants. Although the DMAS does not require that the nurse be a full-time staff position, there shall be a nurse available, either in person or by telephone at a minimum, to the center's participants during all times the center is in operation.

h. The director shall assign a professional staff member to act as adult day health care coordinator for each participant and shall document in the participant's file the identity of the care coordinator. The adult day health care coordinator shall be responsible for management of the participant's plan of care and for its review with the program aides.

C. Minimum qualifications of adult day health care staff.

Documentation of all staffs' credentials shall be maintained in the provider agency's personnel file for review by DMAS staff.

1. Program aide. Each program aide hired by the

provider agency shall be screened to ensure compliance with minimum qualifications as required by DMAS. The aide shall, at a minimum, have the following qualifications:

a. Be able to read and write.

b. Be physically able to do the work.

c. Have a satisfactory work record, as evidenced by references from prior job experience, including no evidence of possible abuse neglect or exploitation of incapacitated or older adults and children .

d. Have satisfactorily completed an educational curriculum related to the needs of the elderly and disabled. Acceptable curriculum are offered by educational institutions, nursing homes, and hospitals. Curriculum titles include: Nurses Aide, Geriatric Nursing Assistant, and Home Health Aide. Documentation of successful completion shall be maintained in the aide's personnel file and be available for review by the DMAS staff. Training consistent with DMAS training guidelines may also be given by the center's professional staff. The content of the training shall be approved by DMAS prior to assignment of the aide to a Medicaid participant.

2. Registered nurse. The registered nurse shall:

a. Be registered and licensed to practice nursing in the Commonwealth of Virginia.

b. Have two years of related clinical experience (which may include work in an acute care hospital, rehabilitation hospital, or nursing home).

c. Have a satisfactory work record, as evidenced by references from prior job experience, including no evidence of possible abuse or neglect of incompetent or incapacitated individuals.

3. Activities director. The activities director shall:

a. Have a minimum of [~~a Bachelors degree 48 semester hours or 72 quarter hours of post secondary education~~] from an accredited college or university with a major in recreational therapy, occupational therapy, or a related field such as art, music, or physical education.

b. Have one year of related [~~clinical~~] experience which may include work in an acute care hospital, rehabilitation hospital, nursing home, or have completed a course of study including any prescribed internship in occupational, physical, and recreational therapy or music, dance, art therapy, or physical education.

c. Have a satisfactory work record, as evidenced by

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references from prior job experience, including no evidence of possible abuse, neglect or exploitation of incapacitated or older adults and children.

4. Director. The director shall meet the qualifications specified in the DSS standards for adult day care for directors.

D. Service responsibilities of the adult day health care center and staff duties are:

1. Aide responsibilities. The aide shall be responsible for assisting with activities of daily living, supervising the participant, and assisting with the management of the participant's Plan of Care.

2. Nursing responsibilities. These services shall include:

a. Periodic evaluation of the nursing needs of each participant,

b. Provision of the indicated nursing care and treatment, and

c. Monitoring, recording, and administering of prescribed medications [, if no other individual is designated by the individual's physician to administer medications in the adult day care center,] or supervising the individual in self-administered medication.

3. Rehabilitation services coordination responsibilities. These services are designed to ensure the participant receives all rehabilitative services deemed necessary to improve or maintain independent functioning, to include the coordination and implementation of physical therapy, occupational therapy, and speech-language therapy. Rendering of the specific Rehabilitative Therapy is not included in the ADHC center's fee for service but must be rendered as a separate service by a DMAS approved rehabilitative provider.

4. Transportation responsibilities. Every DMAS approved adult day health care center shall provide transportation when needed in emergency situations (i.e., primary caregiver has an accident and cannot transport the participant home) for all Medicaid participants to and from their homes. Any adult day health care center which is able to provide participants with transportation routinely to and from the center can be reimbursed by DMAS based on a per trip (to and from the participant's residence) fee. This reimbursement for transportation shall be preauthorized by either the Nursing Home Preadmission Screening Team or DMAS utilization review staff.

5. Nutrition responsibilities. The adult day health care center shall provide one meal per day which supplies one-third of the daily nutritional requirements. Special

diets and counseling shall be provided to Medicaid participants as necessary.

6. Adult day health care coordination. The designated adult day health care coordinator shall coordinate the delivery of the activities as prescribed in the participants' Plans of Care and keep it updated, record 30-day progress notes, and review the participants' daily logs each week.

7. Recreation and social activities responsibilities. The adult day health care center shall provide planned recreational and social activities suited to the participants' needs and designed to encourage physical exercise, prevent deterioration, and stimulate social interaction.

E. Documentation required.

The adult day health care center shall maintain all records of each Medicaid participant. These records shall be reviewed periodically by DMAS staff. At a minimum, these records shall contain:

1. Long-term care Information Assessment Instrument, the Nursing Home Preadmission Screening Authorization, and the Screening Team Plan of Care.

2. Interdisciplinary Plan of Care developed by adult day health care center professional staff and the participant and relevant support persons.

3. Documentation of interdisciplinary staff meetings which shall be held at least every three months to reassess each participant and evaluate the adequacy of the adult day health care Plan of Care and make any necessary revisions.

4. At a minimum, 30-day goal oriented progress notes recorded by the individual designated as the adult day health care coordinator. If a participant's condition and treatment plan changes more often, progress notes shall be written more frequently than every 30 days.

5. The adult day health care center shall obtain a rehabilitative progress report and updated treatment plan from all professional disciplines involved in the participant's care every 30 days (physical therapy, speech therapy, occupational therapy, home health and others).

6. Daily log of service services provided. The daily log shall contain the specific services delivered by adult day health care center staff. The log shall also contain the arrival and departure time of the participant and be signed weekly by the participant and an adult day health care center professional staff member. The daily log shall be completed on a daily basis, neither before nor after the date of service delivery. At least once a week, a staff member shall chart significant comments regarding care given to the participant. If

the staff member writing comments is different from the staff signing the weekly log, that staff member shall sign the weekly comments.

7. All correspondence to the participant and to DMAS.

8. All DMAS utilization review forms and plans of care.

§ 5. Personal care services.

The following requirements govern the provision of personal care services :

A. General.

Personal care services may be offered to individuals in their homes as an alternative to more costly institutional care. Personal care may be offered either as the sole home and community-based care service that avoids institutionalization or in conjunction with adult day health care or respite care, or both. When the individual referred for personal care is already receiving another home and community-based care service, the DMAS utilization review staff shall assess the need for the additional home and community-based care service and authorize the service if it is deemed necessary to avoid institutionalization.

B. Special provider participation conditions.

The personal care provider shall:

1. Demonstrate a prior successful health care delivery.
2. Operate from a business office.
3. Employ (or subcontract with) and directly supervise a registered nurse (RN) who will provide ongoing supervision of all personal care aides.

a. The RN shall be currently licensed to practice in the Commonwealth of Virginia and have at least two years of related clinical nursing experience (which may include work in an acute care hospital, public health clinic, home health agency, or nursing home).

b. The RN supervisor shall make an initial assessment home visit prior to the start of care for all new recipients admitted to personal care.

c. The RN shall make supervisory visits as often as needed to ensure both quality and appropriateness of services. A minimum frequency of these visits is every 30 days.

d. During visits to the recipient's home, the RN shall observe, evaluate, and document the adequacy and appropriateness of personal care services with regard to the recipient's current functioning status, medical, and social needs. The personal care aide's record shall be reviewed and the recipient's (or

family's) satisfaction with the type and amount of service discussed. The RN summary shall note:

(1) Whether personal care services continue to be appropriate, (2) Whether the plan is adequate to meet the need or changes are indicated in the plan,

(3) Any special tasks performed by the aide and the aide's qualifications to perform these tasks,

(4) Recipient's satisfaction with the service,

(5) Hospitalization or change in medical condition or functioning status,

(6) Other services received and their amount, and

(7) The presence or absence of the aide in the home during the RN's visit.

e. The registered nurse shall be available to the personal care aide for conference pertaining to individuals being served by the aide and shall be available to aides by telephone at all times that the aide is providing services to personal care recipients. Any change in the identity of the RN providing coverage shall be reported immediately to DMAS.

f. The RN supervisor shall evaluate the aides' performance and the recipient's individual needs to identify any gaps in the aides' abilities to function competently and shall provide training as indicated.

4. Employ and directly supervise personal care aides who will provide direct care to personal care recipients. Each aide hired by the provider agency shall be evaluated by the provider agency to ensure compliance with minimum qualifications as required by DMAS. Each aide shall:

a. Be able to read and write.

b. Complete 40 hours of training consistent with DMAS standards. Prior to assigning an aide to a recipient, the provider agency shall ensure that the aide has satisfactorily completed a training program consistent with DMAS standards.

c. Be physically able to do the work.

d. Have a satisfactory work record, as evidenced by references from prior job experience, including no evidence of possible abuse, neglect or exploitation of incapacitated or older adults and children.

e. Not be a member of the recipient's family (e.g., family is defined as parents, spouses, children, siblings, grandparents, and grandchildren).

C. Provider inability to render services and substitution

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of aides.

1. When a personal care aide is absent and the agency has no other aide available to provide services, the provider agency is responsible for ensuring that services continue to recipients. The agency may either obtain a substitute aide from another agency, if the lapse in coverage is to be less than two weeks in duration, or may transfer the recipient to another agency. If no other provider agency is available, the provider agency shall notify the recipient or family so they may contact the local health department to request a Nursing Home Preadmission Screening if nursing home placement is desired.

2. During temporary, short-term lapses in coverage (not to exceed two weeks in duration), the following procedure shall apply:

a. The personal care agency having recipient responsibility shall provide the registered nurse supervision for the substitute aide.

b. The agency providing the substitute aide shall send to the personal care agency having recipient care responsibility a copy of the aide's signed daily records signed by the recipient.

c. The provider agency having recipient responsibility shall bill DMAS for services rendered by the substitute aide.

3. If a provider agency secures a substitute aide, the provider agency shall be responsible for ensuring that all DMAS requirements continue to be met, including documentation of services rendered by the substitute aide and documentation that the substitute aide's qualifications meet DMAS requirements.

D. Required documentation in recipients' records.

The provider agency shall maintain all records of each personal care recipient. At a minimum these records shall contain:

1. *The most recently updated* Long-Term Care Assessment Instrument, the Preadmission Screening Authorization, the Screening Team Plan of Care, all provider agency plans of care, and all DMAS-122's.

2. All DMAS utilization review forms and plans of care.

3. Initial assessment by the RN supervisory nurse completed prior to or on the date services are initiated.

4. Nurses' notes recorded and dated during any contacts with the personal care aide and during supervisory visits to the recipient's home.

5. All correspondence to the recipient and to DMAS.

6. Reassessments made during the provision of services.

7. Contacts made with family, physicians, DMAS, formal, informal service providers and all professionals concerning the recipient.

8. All personal care aide records. The personal care aide record shall contain:

a. The specific services delivered to the recipient by the aide and the recipient's responses,

b. The aide's arrival and departure times,

c. The aide's weekly comments or observations about the recipient to include observations of the recipient's physical and emotional condition, daily activities, and responses to services rendered,

d. The aide's and recipient's weekly signatures to verify that personal care services during that week have been rendered, and

Signatures, times and dates shall not be placed on the aide record prior to the last date of the week that the services are delivered.

9. *All recipient progress reports.*

E. Recipient progress report.

The provider is required to submit to DMAS annually for every recipient a recipient progress report, an updated Long-Term Care Assessment and four aide log sheets. This information is used to assess the recipient's ongoing need for Medicaid funded long-term care and appropriateness and adequacy of services rendered.

§ 6. Respite care services.

These requirements govern the provision of respite care services.

A. General.

Respite care services may be offered to individuals in their homes as an alternative to more costly institutional care. Respite care is distinguished from other services in the continuum of long-term care because it is specifically designed to focus on the need of the caregiver for temporary relief. Respite care may only be offered to individuals who have a primary caregiver living in the home who requires a temporary relief to avoid institutionalization of the individual. The authorization of respite care is limited to 30 24-hour days over a 12-month period. Reimbursement shall be made on an hourly basis for any amount authorized up to eight hours [*within a 24-hour period*]. Any amount over an eight-hour day will

be reimbursed on a per diem basis. The option of respite care may be offered either as a secondary home and community-based care service to those individuals who receive either personal care or adult day health care or as the sole home and community-based care service received in lieu of nursing [~~home facility~~] placement.

B. Special provider participation conditions.

To be approved for respite care contracts with DMAS, the respite care provider shall:

1. Demonstrate a prior successful health care delivery.
2. Operate from a business office.
3. Employ (or subcontract with) and directly supervise a registered nurse (RN) who will provide ongoing supervision of all respite care aides.

a. The RN shall be currently licensed to practice in the Commonwealth and have at least two years of related clinical nursing experience (which may include work in an acute care hospital, public health clinic, home health agency, or nursing home).

b. Based on continuing evaluations of the aides' performance and the recipients' individual needs, the RN supervisor shall identify any gaps in the aides' abilities to function competently and shall provide training as indicated.

c. The RN supervisor shall make an initial assessment visit prior to the start of care for any recipient admitted to respite care.

d. The RN shall make supervisory visits as often as needed to ensure both quality and appropriateness of services.

(1) When respite care services are received on a routine basis, the minimum acceptable frequency of these visits shall be every 30 days.

(2) When respite care services are not received on a routine basis, but are episodic in nature (i.e., respite care offered for one full week during a six-month period), the RN shall not be required to conduct a supervisory visit every 30 days. Instead, the nurse supervisor shall conduct the initial home visit with the respite care aide immediately preceding the start of care and make a second home visit within after the respite care period has concluded.

(3) When respite care services are routine in nature and offered in conjunction with personal care, the 30-day supervisory visit conducted for personal care may serve as the RN visit for respite care. However, the RN supervisor shall document supervision of respite care separately. For this

purpose, the same recipient record can be used with a separate section for respite care documentation.

e. During visits to the recipient's home, the RN shall observe, evaluate, and document the adequacy and appropriateness of respite care services with regard to the recipient's current functioning status, medical, and social needs. The respite care aide's record shall be reviewed and the recipient's (or family's) satisfaction with the type and amount of service discussed. The RN shall document in a summary note:

(1) Whether respite care services continue to be appropriate,

(2) Whether the plan of care is adequate to meet the recipient's needs or if changes need to be made in it,

(3) The recipient's satisfaction with the service,

(4) Any hospitalization or change in medical condition or functioning status,

(5) Other services received and their amount, and

(6) The presence or absence of the aide in the home during the visit.

f. In all cases, the RN shall be available to the respite care aide for conference pertaining to recipient's being served by the aide.

g. The RN providing supervision to respite care aides shall be available to them by telephone at all times that services are being provided to respite care recipients. Any lapse in RN coverage shall be reported immediately to DMAS.

4. Employ and directly supervise respite care aides who provide direct care to respite care recipients. Each aide hired by the provider agency shall be evaluated by the provider agency to ensure compliance with minimum qualifications as required by DMAS. Each aide must:

a. Be able to read and write.

b. Have completed 40 hours of training consistent with DMAS standards. Prior to assigning an aide to a recipient, the provider agency shall ensure that the aide has satisfactorily completed a training program consistent with DMAS standards.

c. Be evaluated in his job performance by the RN supervisor.

d. Have the physical ability to do the work.

e. Have a satisfactory work record, as evidenced by

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references from prior job experience, including no evidence of possible abuse or neglect of incompetent or incapacitated individuals.

f. Not be a member of a recipient's family (e.g., family is defined as parents, spouses, siblings, grandparents, and grandchildren).

5. The Respite Care Agency may employ a licensed practice nurse to deliver respite care services which shall be reimbursed by DMAS under the following circumstances:

a. The individual receiving care has a need for routine skilled care which cannot be provided by unlicensed personnel. These individuals would typically require a skilled level of care if in a nursing home (i.e., recipients on a ventilator, recipients requiring nasogastric, or gastrostomy feedings, etc.).

b. No other individual in the recipient's support system is able to supply the skilled component of the recipient's care during the caregiver's absence.

c. The recipient is unable to receive skilled nursing visits from any other source which could provide the skilled care usually given by the caregiver [, *unless such skilled nursing visits would be more costly than the respite care requested*].

d. The agency can document the circumstances which require the provision of services by an LPN.

C. Inability to provide services and substitution of aides.

When a respite care aide is absent and the respite care provider agency has no other aide available to provide services, the provider agency is responsible for ensuring that services continue to recipients.

1. If a provider agency cannot supply a respite care aide to render authorized services, the agency may either obtain a substitute aide from another agency, if the lapse in coverage is to be less than two weeks in duration, or may transfer the recipient's care to another agency.

2. If no other provider agency is available who can supply an aide, the provider agency shall notify the recipient or family so that they may contact the local health department to request a Nursing Home Preadmission Screening if nursing home placement is desired.

3. During temporary, short-term lapses in coverage, which shall not exceed two weeks in duration, a substitute aide may be secured from another respite care provider agency or other home care agency. Under these circumstances, the following procedures apply:

a. The respite care agency having recipient responsibility shall be responsible for providing the RN supervision for the substitute aide;

b. The agency providing the substitute aide shall send to the respite care agency having recipient care responsibility a copy of the aide's daily records signed by the recipient and the substitute aide. All documentation of services rendered by the substitute aide shall be in the recipient's record. The documentation of the substitute aide's qualifications shall also be obtained and recorded in the personnel files of the agency having recipient care responsibility.

c. The provider agency having recipient responsibility shall bill DMAS for services rendered by the substitute aide. { The two agencies involved shall negotiate the financial arrangements of paying the substitute aide. }

4. Substitute aides obtained from other agencies may be used only in cases where no other arrangements can be made for recipient respite care services coverage and may be used only on a temporary basis. If a substitute aide is needed for more than two weeks, the case shall be transferred to another respite care provider agency that has the aide capability to serve the recipient(s).

5. If a provider agency secures a substitute aide it is the responsibility of the provider agency having recipient care responsibility to ensure that all DMAS requirements continue to be met, including documentation of services rendered by the substitute aide and documentation that the substitute aide's qualifications meet DMAS requirements.

D. Required documentation for recipients records.

The provider agency shall maintain all records of each respite care recipient. These records shall be separated from those of other non-home and community-based care services, such as companion services or home health. These records shall be reviewed periodically by the DMAS staff. At a minimum these records shall contain:

1. Long-Term Care Assessment Instrument, the Nursing Home Preadmission Screening Authorization, all Respite Care Assessment and Plans of Care, and all DMAS-122's.

2. All DMAS utilization review forms and plans of care.

3. Initial assessment by the RN supervisory nurse completed prior to or on the date services are initiated.

4. Registered nurse's notes recorded and dated during significant contacts with the respite care aide and

during supervisory visits to the recipient's home.

5. All correspondence to the recipient and to DMAS.
6. Reassessments made during the provision of services.
7. Significant contacts made with family, physicians, DMAS, and all professionals concerning the recipient.
8. Respite care aide record of services rendered and recipient's responses. The aide record shall contain:
 - a. The specific services delivered to the recipient by the respite care aide or LPN, and the recipient's response,
 - b. The arrival and departure time of the aide for respite care services only,
 - c. Comments or observations recorded weekly about the recipient. Aide comments shall include but not be limited to observation of the recipient's physical and emotional condition, daily activities, and the recipient's response to services rendered,
 - d. The signature by the aide or LPN, and the recipient once each week to verify that respite care services have been rendered.

Signature, times, and dates shall not be placed on the aide record prior to the last date of the week that the services are delivered

9. Copies of all aide records shall be subject to review by state and federal Medicaid representatives.
10. If a respite care recipient is also receiving any other service (meals on wheels, companion, home health services, etc.) the respite care record shall indicate that these services are also being received by the recipient.

E. Authorization of combined services.

Respite care, when offered in conjunction with another home and community-based care service, is considered by DMAS a secondary home and community-based care service necessary for the recipients' continued maintenance in the community. Respite care is only available to caregivers as an adjunct to another primary home and community-based care service under the following conditions:

1. The individual has been authorized to receive a primary home and community-based care service by the Nursing Home Preadmission Screening Team and such care has been initiated.
2. The primary home and community-based care services offered to the individual are determined to be

insufficient to prevent the breakdown of the caregiver due to the physical burden and emotional stress of providing continuous support and care to the dependent individual.

~~3. The amount of respite care needed, when added to the cost of other home and community-based care services, still maintains overall individual cost effectiveness on an annual basis.~~

F. Provider responsibility.

The provider of the primary home and community-based care service shall contact the DMAS utilization review staff when the need for respite care as a secondary home and community-based care service has been identified according to the criteria above. DMAS shall conduct an assessment of the individual caregiver's need for respite care and, if appropriate, authorize respite care.

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-4.1940:1. Nursing Home Payment System: Nursing Facility Rate Change.

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

Effective Dates: July 5, 1991 through July 4, 1992.

Summary:

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled "Nursing Facility Rate Change". This amendment provides this Department with the regulatory authority to adjust nursing facility per diem operating rates.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding Nursing Facility Rate Change. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Joseph Teefey for
Bruce U. Kozlowski
Director
Date: June 20, 1991

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: June 21, 1991

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: July 5, 1991

6. **BACKGROUND:** This emergency regulation adds § 2.8.1 to the current Nursing Home Payment System (NHPS) in the State Plan for Medical Assistance.

The 1991 General Assembly mandated that the Secretary of Health and Human Resources achieve savings in fiscal year 1992 through an adjustment of Medicaid reimbursement policies or rates for NF cost. As a result, DMAS will adjust per diem operating rates effective on or after July 1, 1991, for all NFs to produce a reduction of \$5.0 million (\$2.5 million in General Funds) during the period from July 1, 1991 through June 30, 1992.

7. **AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of 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) § 9-6.14:4.1(C)(5), for this agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the agency will promulgate permanent regulations with opportunity for public comment.

Section 1902(a)(13)(A) of the Social Security Act is implemented by Title 42 of the Code of Federal Regulations Part 447 Subpart C. This section "requires that the State Plan provide for payment for hospital and long-term care facility services through the use of rates that the state finds, and made assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities to provide services in conformity with state and federal laws, regulations and quality and safety standards and assure that individuals eligible for medical assistance have reasonable access (taking into account geographic location and reasonable travel time) to "[care]. of adequate quality."

Nursing facilities were first separated into peer groups in 1982 and medians, which became ceilings, were established. During 1989, 58% of all nursing facilities had operating costs which were below their peer group ceilings. This amendment allows the Commonwealth to share in the benefits of these facilities' cost management efficiencies accomplished since 1982.

Without an emergency regulation, this amendment 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. Therefore, an emergency regulation is needed by July 1, 1991, to enable DMAS to comply with the mandate to reduce operating rates to produce a General Funds savings.

8. **FISCAL/BUDGETARY IMPACT:** The 1991 General Assembly mandated the Secretary of Health and Human Resources to achieve savings in fiscal year 1992 through an adjustment of Medicaid reimbursement policies or rates for NF cost. As a result, DMAS will adjust per diem operating rates effective on or after July 1, 1991, for all NFs to produce a reduction of \$5.0 million (\$2.5 million in General Funds).

9. **RECOMMENDATION:** Recommend approval of this request to take an emergency adoption action to become effective once adopted and filed with the Registrar of Regulations on July 1, 1991. From its effective date, these regulations are to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without effective emergency regulations, DMAS lacks the authority to implement the General Assembly's

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mandate to reduce NF operating rates.

10. APPROVAL SOUGHT for VR 460-03-4.1940:1. 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 following regulation:

VR 460-03-4.1940:1. Nursing Home Payment System.

§ 2.8. Phase-in period.

A. To assist NFs in converting to the PIRS methodology, a phase-in period shall be provided until June 30, 1992.

B. From October 1, 1990 through June 30, 1991, a NF's prospective operating cost shall be a blended rate calculated at 33 percent of the PIRS operating cost rates determined by § 2.7 above and 67 percent of the "current" operating rate determined by D below.

C. From July 1, 1991 through June 30, 1992 a NF's prospective operating cost rate shall be a blended rate calculated at 67 percent of the PIRS operating cost rates determined by § 2.7 above and 33 percent of the "current" operating rate determined by, D below.

D. The following methodology shall be applied to calculate a NF's "current" operating rate:

1. Each NF shall receive as its base "current" operating rate, the weighted average prospective operating cost per diems and efficiency incentive per diems if applicable, calculated by DMAS to be effective September 30, 1990.

2. The base "current" operating rate established above shall be the "current" operating rate for the NF's first partial fiscal year under PIRS. The base "current" operating rate shall be adjusted by appropriate allowance for historical inflation and 50 percent of the forecasted inflation based on the methodology contained in § 2.7.B. at the beginning of each of the NF's fiscal years which starts during the phase-in period, October 1, 1990 through June 30, 1992, to determine the NF's prospective "current" operating rate. See Appendix IV for example calculations.

§ 2.8.1. Nursing Facility Rate Change.

For the period beginning July 1, 1991, and ending June 30, 1992, the per diem operating rate for each NF shall be adjusted. This shall be accomplished by applying a uniform adjustment factor to the rate of each NF.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-01-39. Food Stamp Program Administrative Disqualification Hearings.

Statutory Authority: § 63.1-124.2 of the Code of Virginia.

Effective Dates: July 9, 1991 through July 8, 1992.

Summary:

Pursuant to § 63.1-124 of the Code of Virginia, the State Board of Social Services has been authorized to establish regulations governing conduct of administrative disqualifications hearings and denial of benefits.

Federal regulations in Volume 7 of the Code of Federal Regulation, Part 273.16, promulgated by the U.S. Department of Agriculture (USDA) to implement the Food Stamp Act of 1977, as amended, require states to implement administrative disqualification hearings to determine whether acts of intentional program violation have occurred. These regulations exempt states which have a state law which require that such cases be referred to a court of appropriate jurisdiction for prosecution, from conducting the administrative hearings. Virginia had been exempted under this provision. The Code of Virginia, at § 63.1-124 was changed to allow the State to determine whether an intentional program violation had been committed either through an administrative disqualification hearing or by referral for prosecution to a court of appropriate jurisdiction.

Immediately after this emergency regulation is approved and published in The Virginia Register, the Department of Social Services will initiate the procedure for the development of the regulation using the regular (non-emergency) procedure. Public comment will be solicited through a sixty-day comment period.

Preamble:

Federal regulations to Volume 7 of the Code of Federal Regulations, Part 273.16, promulgated by the U.S. Department of Agriculture (USDA) to implement the Food Stamp Act of 1977, as amended, require states to implement administrative disqualification hearings to determine whether acts of intentional program violation have occurred. These regulations exempt states which have a state law which require that such cases be referred to a court of appropriate jurisdiction for prosecution, from conducting the administrative hearings. Virginia had been exempted under this provision. The Code of Virginia, at § 63.1-124 was changed to allow the State to determine whether an intentional program violation had been committed either through an administrative disqualification hearing or by referral for prosecution to a court of appropriate jurisdiction.

It is not anticipated that implementation of administrative disqualification hearings will have any fiscal impact on the State in that the hearings will be conducted by current fair hearings staff. Inasmuch as food stamp benefits are funded totally by the federal

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government, any change in total benefits issued will be borne by them.

Immediately after this emergency regulation is approved and published in *The Virginia Register*, the Department of Social Services will initiate the procedure for the development of the regulation using the regular (non-emergency) procedure. Public comment will be solicited through a sixty-day public comment period.

Emergency approval of the Governor is needed to allow the Department to implement the administrative disqualification hearing process allowed by the Code of Virginia and, now, required, in Virginia, by the Code of Federal Regulations.

The absence of such regulations will result in a failure to implement these hearings, as required.

VR 615-01-39. Food Stamp Program Administrative Disqualification Hearings.

PART I. DEFINITIONS.

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

“Administrative Disqualification Hearing (ADH)” means an impartial review by a hearings officer of a household member’s actions involving a alleged intentional program violation for the purpose of rendering a decision of guilty or not guilty of committing an intentional program violation (IPV).

“Authorization to Participate (ATP)” means a document authorizing a household to receive a food stamp allotment in a specific amount for a specific entitlement period from an authorized food coupon issuance agent.

“Hearings Officer” means an impartial representative of the State to whom requests for administrative disqualification hearings are assigned by whom they are heard. The hearings officer is given the authority to conduct and control hearings and to render decisions.

“Intentional Program Violations (IPV)” means any action by an individual who intentionally made a false or misleading statement to the local agency either orally or in writing, to obtain benefits to which the household is not entitled; concealed information or withheld facts to obtain benefits to which the household is not entitled; or, committed any act that constitutes a violation of the Food Stamp Act, Food Stamp Regulations, or any state statutes relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or authorization to participate (ATP) cards.

PART II.

REFERRAL OF ALLEGED INTENTIONAL PROGRAM VIOLATIONS.

§ 2.1. The local agency shall be responsible for investigating any case of alleged intentional program violation and ensuring that appropriate cases are acted upon either through referral for an administrative disqualification hearing or for prosecution by a court of appropriate jurisdiction.

PART III. INITIATION OF AN ADMINISTRATIVE DISQUALIFICATIONS. HEARING.

§ 3.1. In order for a local agency to request an ADH, there must be clear and convincing evidence which demonstrates the household member committed or intended to commit an IPV.

§ 3.2. The local agency shall ensure that the evidence against the household member alleged to commit an IPV is reviewed by either an eligibility supervisor or the agency superintendent for purposes of certifying that such evidence warrants referral for an ADH.

§ 3.3. Prior to submitting the referral for an ADH to the State Hearing Authority, the local agency shall provide written notification to the household member suspected of IPV that the member can waive his/her right to an ADH by signing a waiver request and returning it to the local agency within 10 days from the date notification is sent to the household in order to avoid submission of the referral for an ADH.

§ 3.4. If a signed waiver is received, no ADH is conducted and the disqualification period is imposed in accordance with federal regulation.

PART IV. ADVANCE NOTICE OF AN ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 4.1. The hearings officer will schedule a date for the ADH and provide written notice to the household member suspected of an IPV, by certified mail - return receipt requested, at least 30 days in advance of the date the ADH has been scheduled.

§ 4.2. If proof of receipt of the advance notification of the ADH or refusal to accept the notice have been received, the requirement to notify the individual alleged to have committed the IPV has been met.

§ 4.3. Without sufficient evidence that the advance notification was received or refused, the ADH is not to be held.

PART V. TIME AND PLACE OF THE ADMINISTRATIVE DISQUALIFICATION HEARING

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§ 5.1. The time and place of the ADH shall be arranged so that the hearing is accessible to the household member suspected of an IPV.

§ 5.2. The member or member's representative may request a postponement of the ADH if the request for postponement is made at least 10 days in advance of the date of the scheduled hearing.

PART VI. FAILURE OF THE HOUSEHOLD MEMBER TO APPEAR AT THE ADH.

§ 6.1. The ADH can be held even if the member or member's representative subsequently cannot be located or fails to appear without good cause.

§ 6.2. Even though the household member is not represented, the hearings officer must carefully consider the evidence and determine if an IPV was committed, based on clear and convincing evidence.

§ 6.1. If the household member is found to have committed an IPV, but a hearings officer later determines there was good cause for not appearing, the previous decision is no longer valid and a new ADH shall be conducted.

PART VII. PARTICIPATION WHILE AWAITING A HEARING.

§ 7.1. A pending ADH shall not affect the household's right to be certified and participate in the Food Stamp Program.

PART VIII. CONDUCT OF THE ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 8.1. The ADH is attended by persons directly concerned with the issue at hand.

§ 8.2. The hearing officer shall:

A. Identify those present for the record.

B. Advise the household member or representative that he/she may refuse to answer questions during the hearing.

C. Explain the purpose of the ADH, the procedure, how and by whom a decision will be reached and communicated, and the option of either the local agency or the household to request State Board review of the hearing officer's decision.

D. Consider all relevant issues. Even if the household is not present, the hearings officer is to carefully consider the evidence and determine if an IPV was committed based on clear and convincing evidence.

E. Request, receive and make part of the record all

evidence determined necessary to render a decision.

F. Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing.

§ 8.3. The household member alleged to have committed an IPV and the representative must be given adequate opportunity to:

A. Examine all documents and records to be used at the ADH at a reasonable time prior to the ADH as well as during the ADH.

B. Present its case or have it presented by legal counsel or another person.

C. Bring witnesses.

D. Advance arguments without undue interference.

E. Question or refute any testimony or evidence, including the opportunity to confront and cross-examine witnesses.

F. Submit evidence to establish all pertinent facts and circumstances in the case.

PART IX. NOTIFICATION OF DECISION OF THE ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 9.1. The hearings officer is responsible for rendering a decision based on clear and convincing evidence from the hearing record which can be substantiated by supporting evidence and applicable regulations.

§ 9.2. The hearings officer shall prepare a written report of the substance of the findings, conclusions, decisions, and appropriate recommendations.

§ 9.3. The hearings officer shall notify the household member of the decision in writing and of the household's right to request a State Board review of the decision.

§ 9.4. If the hearings decision is that the household member has been found guilty of an IPV, the written decision shall advise the household that disqualification shall occur.

§ 9.5. The determination of IPV by the hearings officer cannot be reversed by a subsequent fair hearing decision.

PART X. IMPLEMENTATION OF THE ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 10.1. Upon receipt of the notice of a decision from the hearings officer finding the household member guilty of an IPV, the local agency shall inform the household of the reason for the disqualification and the date the disqualification will take effect.

Emergency Regulations

Submitted by:

/s/ Larry D. Jackson
Commissioner
Date: April 30, 1991

Approved by:

Lawrence Douglas Wilder
Governor of the Commonwealth
Date: July 5, 1991

Filed by:

Joan W. Smith
Registrar of Regulations
Date: July 9, 1991

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

* * * * *

AT RICHMOND, JUNE 25, 1991

AT RICHMOND, JUNE 25, 1991

COMMONWEALTH OF VIRGINIA, ex rel.

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

CASE NO. SEC910058

CASE NO. SEC910057

Ex Parte, in re: Promulgation
of rules pursuant to Va. Code
§ 13.1-572 (Retail Franchising Act)

Ex Parte, in re: Promulgation
of rules pursuant to Va. Code
§ 13.1-523 (Securities Act)

ORDER ADOPTING RULES

ORDER ADOPTING RULES

On or about April 26, 1991, the Division of Securities and Retail Franchising of the State Corporation Commission mailed notice to interested persons of proposed rules, rules changes, and forms designed to implement 1991 amendments of the Retail Franchising Act (Va. Code § 13.1-557 et seq.), to bring some existing rules into conformity with the current guidelines of the North American Securities Administrators Association, Inc. on which such rules are patterned, and to clarify some existing rules. The notice included a summary of the proposals, an invitation to submit written comments, and information about obtaining copies of, as well as requesting a hearing on, the proposals. Several persons filed comments, but no one requested an opportunity to be heard.

On or about April 26, 1991, the Division of Securities and Retail Franchising of the State Corporation Commission mailed notice to interested persons of proposed rules, rules changes, and forms designed to implement 1991 amendments of the Securities Act (Va. Code § 13.1-501 et seq.), to bring some existing rules into conformity with the current guidelines of the North American Securities Administrators Association, Inc. on which such rules are patterned, and to clarify some existing rules. The notice included a summary of the proposals, an invitation to submit written comments, and information about obtaining copies of, as well as requesting a hearing on, the proposals. Several persons filed comments, but no one requested an opportunity to be heard.

The Commission, upon consideration of the proposals, the comments filed by interested persons and the recommendations of the Division, is of the opinion and finds that the proposals should be adopted as proposed; it is, therefore,

The Commission, upon consideration of the proposals, the comments filed by interested persons and the recommendations of the Division, is of the opinion and finds that certain proposed changes should be modified, as follows:

ORDERED that the proposed additions and amendments to the Retail Franchising Act Rules considered in this proceeding, a copy of which is attached hereto and made a part hereof, be, and they hereby are, adopted and shall become effective as of July 1, 1991.

Rules 212, 219, and 1104: Delete the proposed substitution of the word "association" for the word "connection." This deletion will leave the substantive provisions of these Rules unchanged.

AN ATTESTED COPY hereof, including the attachment, shall be sent to each of the following by the Clerk of the Commission: Any person who filed comments in this proceeding; the Commission's Division of Information Resources; Securities Regulation and Law Report, c/o The Bureau of National Affairs, Inc., 1231 25th Street, N.W., Washington, D.C. 20037; and, Blue Sky Law Reporter, c/o Commerce Clearing House, Inc., 4025 W. Peterson Avenue, Chicago, Illinois 60646.

Rule 404: In accordance with the additional "Notice to the Public" circulated by the Division on or about May 22, 1991, delete the reference to the proposed renewal form (Form S.A. 9) and insert a reference to the facing page of Form U-1.

NOTICE: Due to its length, the Division of Securities and Retail Franchising's regulation entitled "Retail Franchising Act Rules," as amended July 1, 1991, is not being published. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations, General Assembly Building, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219 and in the Clerk's Office of the State Corporation Commission.

Rules 305, 500, 502, 503, 504 and 505: The 1991 amendment of § 13.1-514 (1991 Va. Acts, Ch. 223) redesignates the subsections and renumbers the subdivisions of this Code section. The references in these Rules to subsections and subdivisions of § 13.1-514 have been changed accordingly.

The Commission is further of the opinion and finds that the other proposed changes should be adopted as proposed; it is, therefore,

ORDERED that the proposed additions and amendments, as modified, to the Securities Act Rules considered in this proceeding, a copy of which is attached hereto and made

State Corporation Commission

a part hereof, be, and they hereby are, adopted and shall become effective as of July 1, 1991.

AN ATTESTED COPY hereof, including the attachment, shall be sent to each of the following by the Clerk of the Commission: Any person who filed comments in this proceeding; the Commission's Division of Information Resources; Securities Regulation and Law Report, c/o The Bureau of National Affairs, Inc., 1231 25th Street, N.W., Washington, D.C. 20037; and, Blue Sky Law Reporter, c/o Commerce Clearing House, Inc., 4025 W. Peterson Avenue, Chicago, Illinois 60646.

NOTICE: Due to their length, the regulations entitled: "Rules and Forms Pertaining to the Registration and Exemption from Registration of Securities (Volume I)" and "Rules and Forms Pertaining to the Registration and Regulation of Broker-Dealers, Broker-Dealer Agents, Agents of the Issuer, Investment Advisors and Investment Advisor Representatives (Volume II)," as amended July 1, 1991, are not being published. The full text of the regulations is available for public inspection at the office of the Registrar of Regulations, General Assembly Building, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219 and in the Clerk's Office of the State Corporation Commission.

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER SIXTEEN (91)

VIRGINIA'S NINETEENTH INSTANT GAME LOTTERY: "JOKER'S WILD," FINAL RULES FOR GAME OPERATION

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's nineteenth instant game lottery, "Joker's Wild." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: June 28, 1991

MARINE RESOURCES COMMISSION

FINAL REGULATIONS

NOTICE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purpose of promulgating regulations. However, the Commission is required to publish the full text of final regulations.

Title of Regulation: VR 450-01-0034. Pertaining to the Taking of Striped Bass.

Statutory Authority: §§ 28.1-28 and 28.1-50 of the Code of Virginia.

Effective Date: July 3, 1991.

Preamble:

This regulation establishes a limited commercial and recreational fishery for striped bass in Virginia. The purpose of this regulation is to provide for a transitional fishery and to ensure the continued recovery of the Chesapeake Bay stocks of striped bass. These changes comply with the recommendations of the Interstate Fishery Management Plan for Striped Bass.

Section 10 11 of this regulation authorizes the aquaculture of striped bass and hybrid striped bass and sets forth the terms and conditions required for their culture.

VR 450-01-0034. Pertaining to the Taking of Striped Bass.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ ~~28.1-23~~ 28.1-28 and 28.1-50 of the Code of Virginia.

B. This regulation amends previous regulation VR 450-01-0034, Pertaining to the Taking of Striped Bass, which was promulgated and made effective on ~~September 17, 1990~~ March 31, 1991 .

C. The effective date of this regulation is ~~March 31, 1991~~ July 3, 1991 .

§ 2. Purpose.

The purpose of this regulation is to provide for the continued recovery of Virginia's striped bass stocks.

The provisions pertaining to aquaculture serve to prevent escapement of cultured hybrid striped bass into the natural environment and to minimize the impact of cultured fish in the market place on the enforcement of other provisions in this regulation.

§ 3. Definitions.

A. Striped bass - any fish of the species *Morone saxatilis* including any hybrid striped bass.

B. Spawning rivers - the James, Pamunkey, Mattaponi and Rappahannock Rivers including all their tributaries.

C. Spawning reaches - sections within the spawning rivers as follows:

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

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

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

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

§ 4. Fishing and possession seasons. Commercial fishing, recreational fishing, and marketing seasons.

A. Except as provided in § 7 of this regulation, the open fishing season for striped bass in Virginia tidal waters shall be ~~November 5, 1990, to December 5, 1990, both dates inclusive. It shall be unlawful for any person to take or catch any striped bass other than during the open fishing season. The open fishing season may be adjusted as described in § 7 of this regulation as specified below .~~

1. Pound net. November 5, 1991, through December 5, 1991.

2. Haul seine. November 5, 1991, through December 5, 1991.

3. Fyke net. November 5, 1991, through December 5, 1991, and March 1, 1992, through March 31, 1992.

4. Gill net. November 5, 1991, through November 20, 1991, and December 6, 1991, through December 20, 1991, and that additional season in 1992 corresponding to the legal shad fishing season as established by VR 450-01-0069. During the shad season, fishing for striped bass in the spawning reaches defined in § 3 C is not allowed after March 31, 1991.

B. During the period ~~September 17, 1990, to March 31, 1991, August 31, 1991, both dates inclusive, it shall be lawful for any person to possess striped bass, including striped bass taken from waters other than Virginia tidal waters, under the following conditions: The open recreational fishing seasons, including fishing from charter boats and vessels, for striped bass in Virginia tidal waters shall be October 11, 1991, through October 27, 1991, and November 21, 1991, through December 5, 1991.~~

Marine Resources Commission

1. The striped bass shall have been harvested legally in Virginia or another jurisdiction.

2. When the striped bass are in the possession of the harvester, the striped bass shall be accompanied with a copy of the permit or license authorizing their harvest or a receipt indicating the name of the permit holder, the permit number, date of catch, and number or pounds of fish in possession.

3. When striped bass are in the possession of any person other than the original harvester, the striped bass shall be accompanied by a bill of sale which shall include the name of the seller, the permit or license number of the seller if such permit or license is required in the jurisdiction of origin, the date of sale, the pounds of striped bass in possession, the location of catch and the gear type used to harvest the striped bass.

C. During the period September 1, 1991, to September 16, 1991, e aboard any boat or both dates inclusive, it shall be unlawful for any person to possess, transport, process, sell or offer for sale any striped bass.

C. It shall be unlawful for any person to take or catch any striped bass from the tidal waters of Virginia other than during the applicable open fishing season as specified in subsections A and B above, or as modified by § 7 of his regulation.

D. It shall be lawful for any person to possess striped bass, including striped bass taken from waters other than Virginia tidal waters, at any time, under the following conditions.

1. The striped bass shall have been harvested legally in Virginia or another jurisdiction.

2. The striped bass shall be within the lawful minimum and maximum size limits as specified in § 5 of this regulation.

3. When the striped bass are in the possession of the harvester, the striped bass shall be accompanied with a copy of the permit or license authorizing their harvest or a receipt indicating the name of the permit holder, the permit number, date of catch, and number or pounds of fish in possession.

4. When the striped bass are in the possession of any person other than the original harvester, the striped bass shall be accompanied by a bill of sale which shall include the name of the seller, the permit or license number of the seller if such permit or license is required in the jurisdiction of origin, the date of sale, the pounds of striped bass in possession, the location of catch and the gear type used to harvest the striped bass.

§ 5. Minimum and maximum size limits, total length

determination.

A. It shall be unlawful for any person to possess any striped bass measuring less than 18 inches, total length.

B. It shall be unlawful for any person to possess any striped bass taken from the Territorial Sea of any state, including Virginia, or the ocean waters under the jurisdiction of the federal government measuring less than 28 inches, total length.

C. It shall be unlawful for any person to possess any striped bass measuring greater than 36 inches total length.

D. It shall be unlawful for any person, while aboard any boat or vessel or while fishing from shore or pier, to alter any striped bass or to possess any altered striped bass such that its total length cannot be determined.

E. Total length shall be measured in a straight line from the tip of the nose of the striped bass to the tip of its tail.

§ 6. Gear restrictions.

A. During the period April 1 to May 31, of each year, both dates inclusive, a person may not set or fish any anchored or staked gill net within the spawning reaches. Drift (float) gill nets may be set or fished within the spawning reaches during this time period, but the fishermen must remain with such net while that net is in the fishing position and shall return all striped bass to the water immediately.

B. The minimum mesh size of any gill net used for the harvest of striped bass during the November 5, through December 20, 1991, gill net fishing seasons shall be five inches, stretched measure.

C. Persons utilizing a vessel or boat in the harvest of striped bass by gill net during the November 5, 1991, through November 20, 1991, and December 6, through December 20, 1991, gill net fishing seasons shall be limited to 1800 feet of gill net per vessel.

D. During the November 5, 1991, through November 20, 1991, and December 6, 1991, through December 20, 1991, gill net fishing season, it shall be unlawful for any person utilizing a vessel or boat to harvest fish by gill net to have on board, possess or land striped bass in a vessel equipped with more than 1800 feet of gill net, or net with mesh size of less than 5 inches stretched measure.

E. It shall be unlawful for any person to spear, to gaff or attempt to spear or gaff any striped bass, at any time.

§ 7. Commercial harvest quotas.

A. During the open fishing seasons it shall be unlawful to harvest striped bass for commercial purposes by any method other than by gill net, pound net, haul seine, or

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fyke net. The harvest of striped bass by any person using a gill net, pound net, haul seine, or fyke net shall be presumed to be for commercial purposes and the amounts of such harvest shall be summed to the total allowable level of commercial harvest.

B. During the legal commercial harvest seasons of any calendar year, the total allowable sum of commercial harvest of striped bass by all legal harvest methods shall be 211,000 pounds of whole fish. At such time as the total harvest of striped bass reaches 211,000 pounds it shall be unlawful for any person to take, catch or land any striped bass by any method for commercial purposes.

C. During the November 5, 1991, through November 20, 1991, gill net season, the total allowable level of commercial striped bass harvest by gill net shall be ~~147,700~~ 73,850 pounds of whole fish. During the December 6, 1991, through December 20, 1991 gill net season, the total allowable level of commercial striped bass harvest by gill net shall be 73,850 of whole fish. During the 1992 shad fishing season as established by VR 450-01-0069, the total allowable level of commercial striped bass harvest by gill net shall be 73,850 pounds of whole fish. At such time as harvest of striped bass by gill net totals ~~147,700~~ 73,850 pounds for each season, it shall be unlawful for any person to take, catch or land any striped bass by gill net.

D. The total allowable level of commercial striped bass harvest by pound net shall be 52,750 pounds of whole fish. At such time as the harvest of striped bass by pound net totals 52,750 pounds, it shall be unlawful for any person to take or land any striped bass by pound nets net.

E. The total allowable level of commercial striped bass harvest by haul seine shall be 6,330 pounds of whole fish. At such time as the harvest of striped bass by haul seine totals 6,330 pounds, it shall be unlawful for any person to take or land any striped bass by haul seine.

F. The total allowable level of commercial striped bass harvest for fyke net during the 1991 season shall be 4,220 pounds of whole fish. The total allowable level of commercial striped bass harvest by fyke net during the 1992 season shall be 4,220 pounds of whole fish. At such time as the harvest of striped bass by fyke net totals 4,220 pounds for either season, it shall be unlawful for any person to take or land any striped bass by fyke net.

G. In the event that the harvest of striped bass by any single commercial gear exceeds its harvest level provided for in the preceding paragraphs such that the total allowable level of commercial harvest reaches or exceeds 211,000 pounds, then all commercial harvest of striped bass shall cease. Such cessation of fishing shall apply to all gears even in the event other single gear quotas are not reached.

§ 8. Recreational gear limitation, Bag limit, sale of recreational catch.

A. It shall be unlawful for any person to take or to catch striped bass for recreational purposes with any gear other than a hook-and-line, rod-and-reel or hand line.

A B. It shall be unlawful for any person using hook-and-line, rod-and-reel, spear, or cast net to take or catch from Virginia tidal waters more than two striped bass per day. Any striped bass taken after the bag limit of two fish has been reached shall be returned to the water immediately.

B. C. When fishing from any boat or vessel, the daily bag limit shall be equal to the number of persons permitted as described in § 10, on board the boat or vessel multiplied by 2. Retention of the legal number of striped bass is the responsibility of the vessel captain or owner.

C. D. It shall be unlawful for any person to sell, offer for sale, trade or barter any striped bass taken by hook-and-line, rod-and-reel, spear, or cast net hand line.

§ 9. Daily commercial catch limits.

A. Daily commercial catch limits of striped bass for each type of commercial gear used to legally harvest striped bass are as specified below:

1. Pound net. 1500 pounds, whole fish, per day, for each licensed and permitted fisherman.
2. Haul seine. 1000 pounds, whole fish, per day, for each licensed and permitted fisherman.
3. Fyke net. 500 pounds, whole fish, per day, for each licensed and permitted fisherman.
4. Gill net. 100 pounds, whole fish, per day, for each licensed and permitted fisherman during the shad fishing season as specified by VR 450-01-0069.

B. It shall be unlawful for any person to land striped bass in excess of the specified daily catch limit for the gear utilized.

C. It shall be unlawful for any person harvesting striped bass to land or sell any striped bass unless that person is the holder of the commercial fishing license required by Title 28.1 of the Code of Virginia and is the holder of a commercial striped bass permit required by § 10 of this regulation.

§ 9 10. Permits and Reports:

A. Except as provided in subsection B of this section, it shall be unlawful for any commercial harvester, recreational harvester, or charter boat captain to take or attempt to take, striped bass without first having obtained a permit from the Marine Resources Commission or their agents.

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B. It shall be lawful for a recreational fisherman to fish for striped bass from a charter boat or charter vessel without having a permit provided the captain of the boat is permitted under subsection A of this section and is the holder of a Coast Guard charter license.

C. It shall be unlawful for any person to purchase striped bass from a commercial harvester or to market one's own catch of striped bass without first obtaining a permit from the Marine Resources Commission.

D. Possession of a striped bass permit shall authorize Marine Resources Commission personnel or their designees to inspect, measure, weigh, and take biological samples of the striped bass catch.

E. All commercial harvesters of striped bass shall report to the Marine Resources Commission on forms provided by the Commission all quantities of striped bass harvested, the gear utilized to harvest, the water body fished, and the amount of hours or days fished on a weekly basis .

1. Weekly reports shall cover the period Monday through the following Sunday. Seasonal reports shall cover the specified season.

2. All weekly seasonal reports shall be forwarded to the Commission immediately and shall be postmarked no later than the first Wednesday immediately following the week last day of the season described in the report.

F. All buyers of striped bass from commercial harvesters and all individuals marketing their own catch shall verbally report to the Marine Resources Commission on a daily basis the quantities of striped bass purchased, the permit number of the harvesters selling the fish and the gear utilized by the harvesters. Written reports of daily purchases and sales for each commercial fishing season shall be forwarded to the Commission no later than the first Wednesday following the last day of each open season.

G. Recreational fishermen and charter boat captains shall report to the Marine Resources Commission on forms provided by the Commission all daily quantities of striped bass harvested and daily fishing hours by themselves or their customers, respectively, at the end of the open fishing season. Written reports shall be forwarded to the Commission immediately at the end of the season and shall be postmarked no later than December 31, ~~1990~~ 1991

H. Failure of any person permitted to harvest, buy or sell striped bass, to submit the required written or oral report for any fishing day shall constitute a violation of this regulation.

I. Permits must be in the possession of the permittee while harvesting, selling, or possessing striped bass. Failure to possess the appropriate permit shall constitute a

violation of this regulation.

§ 10. 11. Aquaculture of striped bass and hybrid striped bass.

A. Permit required.

It shall be unlawful for any person, firm, or corporation to operate an aquaculture facility without first obtaining a permit from the Marine Resources Commission. Such permit shall authorize the purchase, possession, sale, and transportation of striped bass or hybrid striped bass in accordance with the other rules contained in this section.

B. Application for and term of permit.

The application for a striped bass aquaculture facility shall state the name and address of the applicant, the type and location of the facility, type of water supply, location of nearest tidal waters or tributaries to tidal water, and an estimate of production capacity. All aquaculture permits shall expire on December 31 of the year of issue and are not transferable. Permits shall be automatically renewed by the Marine Resources Commission provided no structural changes in the facility have been made, the facility has been adequately maintained, and the permittee has complied with all of the provisions of this regulation.

C. Display of permit.

1. The original of each permit shall be maintained and prominently displayed at the aquaculture facility described therein.

2. A copy of such permit may be used as evidence of authorization to transport striped bass or hybrid striped bass to sell the fish away from the permitted facility under the conditions imposed in subsection G in this section.

D. Water supply; outfall; prevention of entry and escapement.

1. A striped bass or hybrid striped bass aquaculture facility may consist of one or more ponds, artificial impoundments, closed recirculating systems or a combination of the above.

2. No pond or impoundment used for striped bass or hybrid striped bass aquaculture may be constructed or situated on a natural water course that originates beyond the boundaries of private land upon which the pond or impoundment is located.

3. There shall be no direct and unscreened discharge from any facility to any natural watercourse. Except as provided in subdivision 4 below, outfall from any pond or impoundment shall be processed according to one of the following systems:

a. The outfall shall pass over a dry ground

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percolation system in which ground absorption of the water is sufficient to prevent the formation of a watercourse which is capable of reaching any natural watercourse. The outfall shall pass through a screened filter box prior to entering the percolation area.

b. The outfall shall pass through a chlorination process and retention pond for dechlorination. The outfall shall pass through a filter box prior to entering the chlorination system. Such facilities must also comply with regulations of the State Water Control Board.

4. If the outfall from an aquaculture facility may not conform to the systems described in subdivision 3 a or subdivision 3 b, above, then all of the following conditions shall be required:

a. The aquaculture of striped bass or hybrid striped bass shall be restricted to the use of cage culture. Such cages shall be constructed of a vinyl coated wire or high density polyethylene mesh material sufficient in size to retain the fish and all cages must be securely anchored to prevent capsizing. Covers shall be required on all cages.

b. The outfall from the pond or impoundment shall pass through a screened filter box. Such filter box shall be constructed of a mesh material sufficient in size to retain the fish and shall be maintained free of debris and in workable condition at all times; and

c. The outfall from the screened filter box shall pass into a containment basin lined and filled with quarry rock or other suitable material to prevent the escapement of the fish from the basin.

5. Those facilities utilizing embankment ponds shall maintain sufficient freeboard above the spillway to prevent overflow.

E. Acquisition of fish, fingerlings, fry, and eggs.

Striped bass or hybrid striped bass fingerlings, fry, or eggs, may be obtained only from state permitted fish dealers and must be certified by the seller as striped bass or hybrid striped bass having a disease free status. Each purchase or acquisition of striped bass or hybrid striped bass must be accompanied by a receipt or other written evidence showing the date, source, species, quantity of the acquisition and its destination. Such receipt must be in the possession of the permittee prior to transportation of such fish, fingerlings, fry, or eggs to the permitted facility. All such receipts shall be retained as part of the permittee's records. The harvesting of striped bass from the tidal waters of Virginia for the purpose of artificially spawning in a permitted aquaculture facility shall comply with all of the provisions of this regulation and state law including minimum size limits, maximum size limits, and closed

harvesting seasons and areas.

F. Inspection of facilities.

1. Inspection. Agents of the Marine Resources Commission and the Department of Game and Inland Fisheries are authorized to make periodic inspection of the facilities and the stock of each operation permitted under this section. Every person engaged in the business of striped bass aquaculture shall permit such inspection at any reasonable time.

2. Diseased fish. No person permitted under this section shall maintain in the permitted facility any fish which shows evidence of any contagious disease listed in the then current list by the United States Fish and Wildlife Services as "certifiable diseases" except for the period required for application of standard treatment procedures or for approved disposition.

3. Disposition. No person permitted under this section shall sell or otherwise transfer possession of any striped bass or hybrid striped bass which shows evidence of a "certifiable disease" to any person, except that such transfer may be made to a fish pathologist for examination and diagnosis.

G. Sale of fish.

All striped bass or hybrid striped bass except fingerlings, fry, and eggs, which are the product of an aquaculture facility permitted under this section shall be packaged with a printed label bearing the name, address, and permit number of the aquaculture facility. When so packaged and labelled such fish may be transported and sold at retail or at wholesale for commercial distribution through normal channels of trade until reaching the ultimate consumer. Every such sale must be accompanied by a receipt showing the date of sale, the name, address and permit number of the aquaculture facility, the numbers and species of fish sold, and the name of the purchaser. Each subsequent resale must be accompanied by a receipt clearly identifying the seller by name and address, showing the number and species of the fish sold, the date sold, the permit number of the aquaculture facility and, if the sale is to other than the ultimate consumer, the name and address of the purchaser. The purchaser in possession of such fish must exhibit the receipt on demand of any law-enforcement officer. A duplicate copy of each such receipt must be retained for one year by the seller as part of the records of each transaction.

H. Records.

Each permitted aquaculture facility operator shall maintain a chronological file of the receipts or copies thereof showing the dates and sources of acquisitions of striped bass or hybrid striped bass and quantities thereof; and a chronological file of copies of the receipts of his

sales required under subsection G of this section. Such records shall be segregated as to each permit year, shall be made available for inspection by any authorized agent of the Marine Resources Commission or Department of Game and Inland Fisheries, and shall be retained for at least one year following the close of the permit year to which they pertain.

I. Revocation and nonrenewal of permit.

In addition to the penalties prescribed by law, any violation of § 7 shall be grounds for revocation or suspension of the permit for the aquaculture facility for the balance of the permit year. No person whose permit has been revoked shall be eligible to apply for an aquaculture facility permit for a period of two years after the date of such revocation.

J. Importation of striped bass for the consumer market.

Striped bass or hybrid striped bass which are the product of an approved and state permitted aquaculture facility in another state may be imported into Virginia for the consumer market. Such fish shall be packaged and labelled in accordance with the provisions contained in subsection G of this section. Any sale of such fish also shall be accompanied by receipts as described in subsection G of this section.

K. Release of live fish.

Under no circumstance shall striped bass or hybrid striped bass which are the product of an aquaculture facility located within or outside the Commonwealth of Virginia be placed into the waters of the Commonwealth without first having notified the commission and having received written permission from the commissioner.

§ 11. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

GOVERNOR

EXECUTIVE ORDER NUMBER THIRTY-FOUR (91)

CONTINUING CERTAIN DECLARATIONS OF STATES OF EMERGENCY DUE TO NATURAL DISASTERS IN THE COMMONWEALTH

By virtue of the authority vested in me as Governor by Section 44-146.17 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, and to reserve powers, I hereby continue the states of emergency declared in the following executive orders:

Executive Order Number 65 (85), Declaration of a State of Emergency for Flash Flooding and Mudslides Occurring Throughout the Commonwealth of Virginia as continued by Executive Orders Number 15 (86), 46 (87), 60 (88), 69 (89) and 10 (90);

Executive Order Number 75 (89), Declaration of State of Emergency Arising From Hurricane Hugo as continued by Executive Order Number 10 (90);

Executive Order Number 76 (89), Declaration of State of Emergency Arising From Flooding in Buchanan County, Virginia as continued by Executive Order Number 10 (90); and

Executive Order Number 29 (91), Declaration of State of Emergency Arising From a Fire Near Wakefield, Virginia.

This Executive Order will become effective July 1, 1991, and will remain in full force and effect until June 30, 1992, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 28th day of June, 1991.

/s/ Lawrence Douglas Wilder
Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

Title of Regulation: VR 155-01-2. Regulations of the Board of Audiology and Speech Pathology.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon satisfying the concerns raised by the Department of Planning and Budget, the Board of Health Professions, and upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Title of Regulation: VR 173-02-01. Chesapeake Bay Preservation Area Designation and Management Regulations.

Governor's Comment:

I recommend approval of these proposed amendments, pending public comment.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Title of Regulation: VR VR 320-01-04. Curriculum for Resident Trainee Program.

Governor's Comment:

I concur with the concept of this proposal. My final approval will be contingent upon the agency's consideration of the Department of Planning and Budget's suggestions and a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

VIRGINIA STATE LIBRARY AND ARCHIVES

Title of Regulation: VR 440-01-137.1. Standards for the Microfilming of Public Records for Archival Retention.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

* * * * *

Title of Regulation: VR 440-01-137.2. Archival Standards for Recording Deeds and other Writings by a Procedural Microphotographic Process.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

* * * * *

Title of Regulation: VR 440-01-137.4. Standards for the Microfilming of Ending Law Chancery and Criminal Cases of the Circuit Courts Prior to Disposition.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

* * * * *

Title of Regulation: VR 440-01-137.5. Standards for Computer Output Microfilm (COM) for Archival Retention.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

* * * * *

Title of Regulation: VR 440-01-137.6. Standards for Plats.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

* * * * *

Title of Regulation: VR 440-01-137.7. Standards for Recorded Instruments.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

* * * * *

Title of Regulation: VR 440-01-137.8. Standards for Paper for Permanent Circuit Court Records.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
(BOARD OF)

Title of Regulation: VR 460-03-4.1943. Cost Management Initiatives for PIRS and Amount, Duration, Scope of Services.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

* * * * *

Title of Regulation: VR 460-04-8.12. Home and Community Based Services for Individuals with Mental Retardation.

Governor's Comment:

I approve of the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: June 25, 1991

* * * * *

Title of Regulation: VR 460-05-3000. Drug Utilization Review.

Governor

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: July 5, 1991

BOARD OF MEDICINE

Title of Regulation: VR 465-03-01. Regulations Governing the Practice of Physical Therapy.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: June 28, 1991

VIRGINIA GAS AND OIL BOARD

Title of Regulation: VR 480-05-22.2. Virginia Gas and Oil Board Regulations.

Governor's Comment:

The proposed regulations are intended to ensure that Virginia's gas and oil resources are used in an effective and environmentally safe manner. The proposed regulations also are intended to establish equitable standards to protect the rights of gas and oil owners. Pending public comment, I recommend approval.

/s/ Lawrence Douglas Wilder
Governor
Date: July 12, 1991

FORMS

STATE WATER CONTROL BOARD

NOTICE: The U.S. Environmental Protection Agency recently approved a new form associated with VR 680-14-01 for use in Virginia for fish farm discharges. The form entitled "Fish Farm Questionnaire" is available at the State Water Control Board, 2111 N. Hamilton Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, Room 262, Richmond, Virginia.

VIRGINIA STATE WATER CONTROL BOARD
FISH FARM QUESTIONNAIRE

1. The Facility's Legal Name Is:

- The Facility's Address Is:

- The Facility's Phone Number Is (Including Area Code):

2. If the Facility is Also Known by Another Unofficial Name, the Unofficial Name Is:

3. The Facility Is Owned By: (Give Legal Name or Names)

4. The Owner Is: (Private Individual, Partnership, Corporation, Public Entity, or Combination of Any of These)

5. The Owner's Tax Identification Number Is: (If More Than One Owner, Give Tax ID Numbers for Each Owner)

FISH FARM QUESTIONNAIRE
Page 2

6. An Operator of a Facility Is the Person or Entity Who Controls the Day-to-Day Operation of the Facility. The Operator of the Facility Is: (Give Legal Name; If Same as Owner, Skip to Question 9 After Answering This Question)

7. The Operator Is: (Private Individual, Partnership, Corporation, Public Entity, or Combination of Any of These)

8. The Operator's Tax Identification Number Is: (If More Than One Operator, Give Tax ID Number for Each Operator)

9. The Operator's Mailing Address and Telephone Number Are:

10. The Name, Title, Mailing Address and Telephone Number of the Person Who Should be Contacted By the VWCB About this Permit Application Are: (May or May Not Be Same as Owner or Operator)

11. The Geographic Location of the Facility Is: (If the Facility Is Not Located on a Street or Road That Has a Street Name or Route Number, Please Indicate Approximate Location, e.g., one-quarter mile north of intersection of Routes 450 and 27)

12. Please Attach a Map That Shows the Location of the Facility. The Map Should Show All of the Following Things:
 - a. An area extending at least one mile in all directions beyond the property boundaries;
 - b. The legal property boundaries of the property on which the facility is located;

FISH FARM QUESTIONNAIRE
Page 3

- c. The location of each existing and proposed intake and discharge structure. If these structures have serial numbers, please show them on the map next to their corresponding structures. If these structures do not have serial numbers, please assign a different number or letter to each structure and show them on the map;
 - d. All surface waters (rivers, streams, etc.) springs and drinking water wells within a quarter mile of the facility. (Public records at the county or city government offices may help you locate these.)
 - e. The source of water used by the facility;
 - f. Location of manure disposal areas, structures or facilities; and
 - g. The map's scale, an arrow pointing north, the longitude and latitude to the nearest whole second, the direction in which any river shown on the map is flowing, the directions of the ebb and flow tides if any tidal waters are shown on the map.
- You may put this information on a U.S. Geological Survey (USGS) map, if you like. USGS maps are available from:
Eastern Mapping Center, USGS
National Center, Mail Stop 567
Reston, Virginia 22092
(703) 648-6002.
13. The Name of the Source of Water Used by the Facility Is (e.g., Blackwater Creek or Roanoke River):

 14. Does The Facility Already Exist or Will It Be Constructed in the Future?

 15. Does The Facility Have Any Environmental Permits Already? (If So, Please Give Permit Type and Permit Number of Each Permit)

FISH FARM QUESTIONNAIRE
Page 4

16. Does the Facility Have an EPA Identification Number? (If So, Please Give Number)
17. Is the Facility Located On Indian Lands?

18. Give the Maximum Daily Flow for Each Outfall at the Facility: (An outfall is a point, such as a pipe or drainage ditch, at which the waste or wastewater is discharged into a surface body of water, such as a river or a creek. For each outfall, use the numbers or letters assigned to each outfall on the map that you attached. Maximum Daily Flow is the maximum measured of gallons flowing out over a calendar day. If the facility has not been constructed yet, get your engineer to give an estimate for each outfall.)

<u>Outfall No.</u>	<u>Maximum Daily Flow</u>
--------------------	---------------------------

19. Give the Maximum 30-Day Flow for Each Outfall: (The Maximum 30-Day Flow is the average of the measured daily flows over the calendar month of highest flow. If the facility has not been constructed yet, get your engineer to give an estimate for each outfall.)

<u>Outfall No.</u>	<u>Maximum 30-Day Flow</u>
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FISH FARM QUESTIONNAIRE
Page 5

20. Give the Long Term Average Flow for Each Outfall: (The Long Term Average is the average of the measured daily flows over a calendar year. If the facility has not been constructed yet, get your engineer to give an estimate for each outfall.)

<u>Outfall No.</u>	<u>Long Term Average Flow</u>
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21. Give the Name of the Body of Water that Will Receive the Discharge From Each Outfall:

<u>Outfall No.</u>	<u>Receiving Water</u>
--------------------	------------------------

22. Please indicate the total number of ponds, raceways and similar structures in your facility:

<u>Structure</u>	<u>Number</u>
a. Ponds	_____
b. Raceways	_____
c. Water Recycling	_____
d. Oxygen Injection	_____
e. Mechanical aeration	_____
f. Other (describe)	_____

FISH FARM QUESTIONNAIRE
Page 6

23. Is there or will there be discharge from the facility into surface receiving water(s) at least 30 days per year?

24. Please describe your manure management system (e.g., land application, discharge into water, storage and treatment system, etc.)

25. Please list the species of fish and other aquatic animals held and fed at your facility. The name of the fish species should be the proper, common, or scientific names as given in Publication No. 6 of the American Fisheries Society, "A List of Common and Scientific Names of Fishes from the United States and Canada." Copies of this publication are available at the VWCB.

Please give for each species the total weight produced by your facility per year in pounds of harvestable weight and the maximum weight present at any one time. The weight values should be representative of your normal operation.

a. Cold Water Species

Species	Harvestable Weight Total Yearly	Maximum
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Warm Water Species

Species	Harvestable Weight Total Yearly	Maximum
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

FISH FARM QUESTIONNAIRE
Page 7

26. Please give the total pounds of food fed during the calendar month of maximum feeding:

Month	Pounds of Food
_____	_____

The following certification must be signed as follows:

- a. For a corporation, by a principal executive officer of at least the level of vice president;
- b. For a partnership or sole proprietorship, by a general partner or the sole proprietor, respectively; or
- c. For a municipality, State, federal or other public facility, by either a principal executive officer or ranking elected official.

I certify under penalty of law that I have personally examined the information submitted in this application and all attachments submitted by the applicant and, to the best of my knowledge and belief, such information is true, accurate and complete.

_____ Name (Printed or typed)	_____ (Phone no.)
_____ Title (Printed or typed)	
_____ Signature	_____ (Date signed)

THIS ISSUE . . .

- 1** HJR 312: Second Injury Fund Subcommittee
- 3** HJR 251: Oil and Gas Drilling Under the Chesapeake Bay
- 4** HJR 300: Southside Economic Development Commission
- 6** SJR 118: Commission on Health Care for All Virginians
- 8** SJR 166: Joint Rules Committee Studying the Legislative Process and Reconvened Session

HJR 312: Second Injury Fund Subcommittee

June 6, 1991, Richmond

The Second Injury Fund Subcommittee, chaired by Delegate Joan Munford, met in the Capitol on June 6 to discuss the fund's current performance and determine whether changes in its scope and structure are desired.

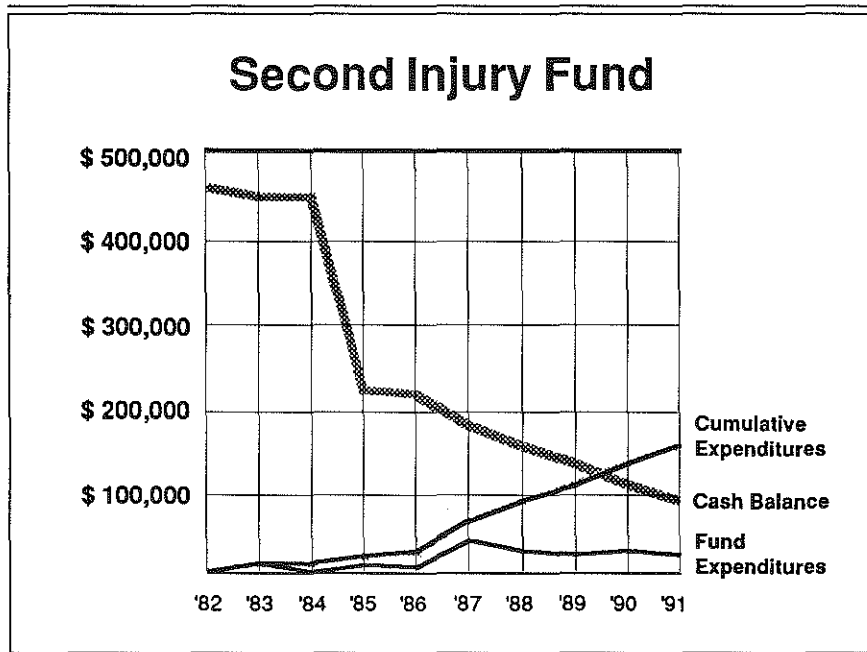
JLARC Report

A 1990 report of the Joint Legislative Audit Review Commission (JLARC) on Virginia's workers' compensation system stimulated this legislative study, authorized by HJR 312 of the 1991 session. The JLARC report concluded that the fund is "underutilized" and not achieving its purpose.

The JLARC report noted that less than a quarter-million dollars has been disbursed from the fund to disabled employees with work-related injuries in their current employment since it was established in 1975. JLARC staff member Steve Fox told the subcommittee that 13 states with eligibility criteria more restrictive than Virginia's had a comparatively higher utilization rate. The report concluded that further study of the fund's eligibility criteria and utilization level was warranted.

Beyer Commission

A special commission studying the needs of disabled workers and related issues, headed by Lt. Governor Beyer (the "Beyer Commission"), successfully recommended further study of the Second Injury Fund to the 1991 General Assembly. Department of Rehabilitative Services field services director Mike Scione served on the Commission and addressed the subcommittee. Members



of the Beyer Commission, he said, viewed the fund as a potentially valuable resource for the disabled and shared JLARC's view that further study of its performance was warranted. Responding to subcommittee questions, however, he said he was unaware of any study concluding that second injury funds boosted disabled employment.

Virginia's Second Injury Fund

Virginia's Second Injury Fund was established by the 1975 session of the General Assembly. Its coverage, then and now, is extended to those individuals with extremity-related disabilities sustaining like injuries (i.e., the "second injury") on the job. Employers must pay standard compensation benefits for any disability related solely to the second injury. However, if a preexisting disability and second injury combine to create a cumulative disability level greater than that caused by the second injury alone, the Second Injury Fund generally pays for the excess disability.

For example, a job-related leg amputation, alone, results in a permanent, partial disability under Virginia's workers' compensation laws. However, if a worker sustaining a job-related amputation was previously disabled by complete paralysis in the nonamputated leg, the worker's cumulative disability is permanent and total. Under Virginia law, a worker receives 175 weeks of compensation for the loss of a leg; the loss of two legs, however, entitles him to 500 weeks. In this case, the Second Injury Fund will pay the difference between the two levels of compensation: the employer pays the first 175 weeks; the Second Injury Fund pays the subsequent 325 weeks.

As a matter of procedure, the employer provides the Industrial Commission notice of the second injury, pays compensation benefits for the cumulative disability, and then seeks reimbursement for excess disability payments from the fund.

Noting JLARC's characterizations of the fund and its current eligibility requirements, Mr. Scione suggested a restrictive, little-used second injury fund may provide little incentive to hire disabled workers; he encouraged the subcommittee to look at other states' funds — particularly those with less restrictive coverage criteria. While the availability of Virginia's fund is limited to individuals with previous injuries to extremities such as hands, arms, and feet, some states, he noted, make their funds available to those hired with diabetes, epilepsy and other comparatively common disabilities.

History of Fund Operations

Staff Attorney Arlen Bolstad described the fund's background and operation. He noted that the fund is underwritten by insurance carriers' issuing compensation policies together with employers who self-insure their workers' compensation obligations. A 0.25% tax is levied on compensation carriers' premiums and self-insured employers' payrolls to generate the fund.

When the fund is above \$250,000, no further taxes may be assessed until it drops below \$125,000. According to the JLARC report, a fund tax was levied in 1976 to create the initial funding; no levy has been made since. No claims were made against the fund until 1982, when its balance stood at nearly \$500,000. As evident from the chart on page 1, the fund's balance dropped \$250,000 in 1985 when that amount was appropriated to the general fund. Subcommittee members recalled that the State Corporation Commission's administrative fund was similarly tapped that same year.

The fund's balance has dropped below \$125,000, currently standing at \$90,000+. Consequently, as confirmed by Commissioner O'Neill, a fund tax will be assessed at the end of calendar year 1991. If the 0.25% statutory formula is followed, he said, nearly \$1 million will be generated. Subcommittee member J. Thomas Fowlkes questioned the propriety of levying fund taxes until the \$250,000 appropriated to the general fund is returned. Had that amount remained in the fund, he stressed, it would require no replenishment in the near term.

The subcommittee reviewed the fund's utilization record as well. Commissioner O'Neill reported that 50 claims have been made against the fund since its inception. To date, the Industrial Commission has approved 6 claims (3 are presently in active payment status); 20 claims are pending, some dating back to 1987; and 12 claims have been denied. The pending category, he added, includes claims not followed through to payment. James Roberts submitted that some insurers may abandon second injury fund claims or decline to initiate them when it appears ultimately less expensive to pay the full claim rather than seek partial reimbursement from the fund.

This, according to Mr. Roberts, underscores the fund's closed-loop character: insurers can choose to stabilize the fund indirectly by declining to use it, or elect to fund it directly by depleting it and necessitating another round of fund taxes. Either way, the insurers and self-insured employers pay the bill. The key variables determining the frequency of fund taxes are injury categories covered by the fund and the level of utilization.

Americans With Disabilities Act

The federal Americans With Disabilities Act was enacted by Congress in 1991 and signed into law. The act's key labor provisions prohibiting employment discrimination against the disabled and requiring employers to reasonably accommodate disabled workers' needs become effective in 1992. Several subcommittee members viewed this act as potentially more effective in generating employment opportunities for disabled workers than expanding

the second injury fund's coverage, and they requested more information about the act's provisions. In a related request, Senator Fears asked for details of past legislative initiatives linking employer tax incentives to the employment of disabled persons.

Chairman Munford concluded the meeting by reviewing key issues raised by subcommittee members and asked the staff to arrange for presentations on the following at the subcommittee's next meeting on August 22:

- An analysis of second injury fund laws of 3 of the 13 states JLARC identified as having comparatively more restrictive eligibility requirements but higher utilization levels;
- Pertinent provisions of the Americans with Disabilities Act;
- Summary of past legislation introduced in the General Assembly aimed at linking employer tax credits to employment of disabled individuals.

◆

The Honorable Joan H. Munford, *Chairman*

◆

Arlen K. Bolstad, *Senior Staff Attorney*

Mark C. Pratt, *Research Associate*

Division of Legislative Services

Judy Divers, *Special Assistant
to Lt. Governor Beyer*

HJR 251: Oil and Gas Drilling Under the Chesapeake Bay

◆

June 7, 1991, Richmond

1990 Review

At its first meeting of 1991, the subcommittee received a summary of the testimony it heard during 1990. The focus of the study in 1990 was two-fold: (i) to familiarize members with the fundamentals of directional drilling and the state of the oil and gas industry and (ii) to examine the characteristics (geology and hydrology) of the bay, how drilling is regulated in Virginia, and how Maryland has addressed the issue of drilling for hydrocarbons in the bay. Experts appearing before the subcommittee in 1990 included representatives from the Department of Mines, Minerals and Energy, the Virginia Institute of Marine Science, the Virginia Marine Resources Commission, the Virginia Oil and Gas Association, Texaco, and the state of Maryland.

The subcommittee continued its examination of the issues surrounding drilling in the Chesapeake Bay by reviewing federal regulation of drilling activities and the position of the Chesapeake Bay Foundation on the risks of drilling in sensitive areas.

Drilling Safeguards in Federal Waters

E. P. Danenburger, Chief of the Engineering and Technology Division of Minerals Management Service (MMS) of the Department of the Interior, addressed safeguards for drilling near environmentally sensitive areas. Mr. Danenburger explained that the MMS has developed a comprehensive program for the review, approval, and monitoring of oil and gas drilling operations. The regulatory program has been developed over a 30-year period and covers 30,000 wells, one-third of which have been directionally drilled. The key components of the program include well planning, drilling program review and approval, prescriptive regulations, inspection and enforcement, training, research, monitoring at sensitive locations, and contingency planning. Mr. Danenburger focused on the specifics of each component, how it related to the others, and the applicability to drilling in the Chesapeake Bay.

One question raised by the subcommittee was the frequency, risk and cause of "blowouts." Mr. Danenburger provided statistics showing that between

1971 and 1989, on the outer continental shelf, there were 79 natural gas blowouts; the rate for blowouts being 1 in 254 wells. To date, there have been two oil blowouts: Santa Barbara in 1969 and the Gulf of Mexico in 1965. He emphasized that proper well planning is imperative in preventing blowouts and that the "number one" factor in blowouts is the presence of shallow gas.

Chesapeake Bay Foundation

William C. Baker, President of the Chesapeake Bay Foundation, a nonprofit conservation organization with approximately 82,000 members, stated the foundation's position that Virginia's current two-year ban on exploration, development, or production of oil or gas resources under the Chesapeake Bay should be permanent. Likewise, the current prohibition on drilling in or under Resource Protection Areas should also be permanent. Mr. Baker said that, given the potential extent of environmental damage from drilling activities, "this position is the most environmentally appropriate one for the protection of the bay."

Mr. Baker went on to highlight the risks associated with hydrocarbon drilling and production. He said that waste would be produced at a great rate and that wastes from oil and gas operations have endangered human health and caused environmental damage. He also cited the risks of accidents and spills. According to Coast Guard records, approximately 120 reported spills occurred in Virginia waters between 1987 and 1988.

Additionally, Mr. Baker stated that "the indirect impacts of oil and gas production—industrialization, and boom and bust development—make it one of the least desirable forms of economic growth." He said that the true value of any drilling activities and economic growth is offset by the costs of meeting greater infrastructure demands. He contrasted the transient nature of growth due to oil and gas production with the value of the industries presently supported by the bay, which have been valued at \$678 billion to the states of Virginia and Maryland.

Controlling and Restricting Drilling

If, however, Virginia allows drilling and production under the bay and in and under its shorelines, Mr. Baker had several recommendations:

- Make the current moratorium permanent and expand it to include the watershed of the bay.
- If the current moratorium is not expanded, establish stringent setbacks for drilling operations from environmentally sensitive areas.
- Require that the Department of Mines, Minerals and Energy "be bound" by the recommenda-

tions of the Council on the Environment regarding the environmental impact assessment.

- Prohibit the leasing of lands under the bay and its tributaries for the purpose of oil and gas exploration production.
- Authorize a locality to implement whatever local drilling and production restrictions it deems necessary to protect the welfare of its citizens.

Options for Consideration

Delegate Murphy outlined a series of options for consideration by the subcommittee members, including expanding the moratorium throughout eastern Virginia, making the provisions of the present moratorium permanent, or reducing its scope. Delegate Murphy asked staff to prepare a paper for the subcommittee's consideration outlining the options, including actions taken in other states, the guidelines from the Council on the Environment, and the regulations provided by the Minerals Management Service.

The subcommittee will meet on September 19, 1991, in Richmond.

◆
The Honorable W. Tayloe Murphy, Jr., *Chairman*
The Honorable Joseph V. Gartlan, Jr., *Vice Chairman*

◆
Deanna C. Sampson, *Staff Attorney*
Martin G. Farber, *Senior Research Associate*
Division of Legislative Services

HJR 300: Southside Economic Development Commission

◆
June 17, 1991, Altavista

Congressman L.F. Payne addressed the Commission, urging cooperation between federal, state, and local governments to effect change in economic development. Citing rural to urban migration, he encouraged increased focus on positive business environments, education, and infrastructure.

Superport

Congressman Payne then described a proposed "superport" that might be located in eastern Virginia, now the focus of a federally funded study requested by Hampton Roads. A feasibility study of the project will be followed by examination of potential sites, environmental concerns, and population growth issues. The facility was originally planned for a northern site, but interest in placing it south of the James—perhaps as far west as Fort Pickett—has increased. Congressman Payne noted the critical need to tie Southside to this superport, largely through surface transportation.

Transportation

Pending federal legislation, the Moynihan bill, encourages transportation spending in more populous areas and focuses on modes other than ground transportation. A proposed House bill supports funds for a highway system of "national significance." Congressman Payne urged the Commission to identify those corridors that should be under consideration for inclusion in this system. He stated that the final legislation would likely be a blend of the House and Senate bills. A conference on the two bills is expected to occur in August.

Water and Sewer Innovation

Congressman Payne also noted Southside's natural amenities, such as Buggs Island Lake and Smith Mountain Lake, and briefly cited an innovative water and sewer system, incorporating plants and a trench using landfill lining, that has been established in Hurt, Virginia. This technology has been used elsewhere in the United States and abroad; any use in Virginia is contingent upon Water Control Board and Health Department regulation. Estimated cost savings of 60% have been realized through this technology, which is supported by NASA. Its 80% efficiency rating is comparable to that of other treatment systems.

Rural Development

Secretary of Economic Development Lawrence H. Framme then addressed the Commission and contrasted visions of Southside as a potential "low wage capital" and as a leader in education reform and economic diversification. He reviewed the Governor's Rural Development Plan and cited education and development as the keys to Southside's future. He described efforts to streamline existing economic development tools; VEDCorp, community block grants, and indoor plumbing initiatives were briefly described.

CORD

To meet the need for a strategic plan for rural development, the proposed Center on Rural Development (CORD) will serve as a central point of assistance for rural communities. Among CORD's goals are fostering partnerships between the public and private sectors, providing research and information, and advocating regional development. The Center has an initial appropriation of \$700,000.

Secretary Framme then noted other initiatives to enhance rural development, including efforts by the Secretary of Agriculture and land grant universities to expand diversification and a joint study of financing alternatives by the Secretaries of Finance and Economic Development. A layman's guide to regulatory permit approvals is also proposed. Increased promotion of tourism and a rural health care plan were cited as well.

Environment

Secretary of Natural Resources Elizabeth Haskell discussed combining economic development with environmental protection. She cited Southside's parks, abundant water supply, and clean air as critical to the region's short- and long-term growth and said that Virginia ranks 50th in its per capita investment in state parks. Turning to environmental permitting, Secretary Haskell described the "three C's" of resource management: courage to protect the natural resource base, common sense in providing flexibility and guidance to industry, and communication in the approval process.

Secretary Haskell described recent attempts to cooperate and coordinate with localities and industry to promote growth while protecting the environment. Deteriorating air quality in Shenandoah Park prompted concern over a proposed Halifax power plant. It was determined, however, that the lower air quality was due to out-of-state activity and that the plant will help improve air quality. Challenges in meeting phosphorus regulations for the Chesapeake Bay were addressed by allowing Smithfield Food an additional year to comply. The firm had threatened to locate in North Carolina to avoid these regulations. Responding to Commission questions regarding consumption of natural resource "increments," Secretary Haskell noted that the inexact mathematical models used to compute increments render these indicators more useful as a tool in policy development, rather than as a final determinant in environmental decision-making.

Dillon Rule

Commission members discussed the advisability of revising the Dillon Rule. The Speaker noted the protection the Dillon Rule affords Southside; even if communities had increased taxing power, they probably would not use it. Any revision would actually be of greater benefit to more affluent areas.

Discussion also focused on Virginia's inclusion within EPA's Division III for purposes of processing environmental regulatory permit approvals. Secretary Haskell noted that the designation is based on internal decisions at EPA; the Commission might focus its efforts on urging uniformity in permit approval processing among the regions, rather than attempting to shift the Commonwealth to another region.

Population

The Commission also heard from Katherine Imhoff, Executive Director of the Commission on Population Growth and Development. The 33-member Commission has a five-year term and will be conducting a series of public hearings to explore growth issues. Kenneth A. Rowe, Director of the Department of Aviation, then briefly cited the airports in Southwest Virginia as a key to that region's growth. He noted that Southside's 19 airports comprise 25% of the licensed airports in the Commonwealth.

The Commission expects to develop its proposed recommendations at a July 26 meeting. Public hearings on these recommendations and a draft report are tentatively scheduled for late August.



The Honorable A.L. Philpott

Speaker, House of Delegates, *Chairman*

The Honorable Whittington W. Clement

Vice Chairman

The Honorable Howard P. Anderson

Vice Chairman



Kathleen G. Harris, *Staff Attorney*

John A. Garka, *Division Manager*

Nancy L. Roberts, *Division Manager*

Division of Legislative Services

Robert M. de Voursney

Sim Ewing

University of Virginia

Center for Public Service

SJR 118: Commission on Health Care for All Virginians

◆
June 11, 1991, Richmond

The Commission's agenda included briefings on the status of JLARC's study on Medicaid; a comparison of the 1986 and 1990 Commonwealth Polls on Virginia's uninsured population; a synopsis of HealthAmerica, a recent Congressional proposal; reviews of current health care articles and periodicals; and a viewing of the first program in Dr. C. Everett Koop's nationally televised series on health care.

Within his opening remarks, Chairman Stanley C. Walker announced that representatives from the Health Care Financing Administration of the United States Department of Health and Human Resources will brief the Commission members in July on federal initiatives. In a continuation of last year's action of meeting in various regions of the Commonwealth to gain insights on areas' health care service delivery systems, the Commission will meet in August in Southwest Virginia.

SJR 180

In the 1991 Session, Commission-sponsored SJR 180 directed the Joint Legislative Audit and Review Commission to execute a comprehensive two-year study of the Virginia Medicaid Program and indigent health care appropriations to the state teaching hospitals and the Medical College of Hampton Roads. Further, Item 13 of the 1991 Appropriations Act directs JLARC to assess "whether contracting with a private firm for automation and management of the Medicaid Program under a risk sharing agreement would generate program savings while maintaining reimbursement for essential services under the program."

JLARC principal legislative analyst Susan E. Massart presented background information on Virginia's Medicaid program, an overview of JLARC's study plan including issues and research activities, and the project's schedule. Among her key points:

During FY 1990, Virginia's Medicaid program served more than 365,000 recipients at a total cost of about \$1 billion. FY 1991's Medicaid budget is about \$1.3 billion.

In Virginia, funding for Medicaid clients' care is shared equally by the federal government and

Virginia. In FY 1990, the General Assembly appropriated about \$69 million in indigent care funding to state teaching hospitals and the Medical College of Hampton Roads.

JLARC has developed study issues in three major areas: administration of the Medicaid program, Medicaid claims management, and provisions of indigent care at state teaching hospitals.

Five separate research efforts are necessary to fully address the issues: (i) administration of the Medicaid Program, (ii) reimbursement of Medicaid services, (iii) Medicaid claims management, (iv) provision of indigent care at state teaching hospitals, and (v) a summary of indigent health care programs in Virginia.

JLARC will offer its interim findings to the Commission in December.

Virginia's Uninsured

In 1986 the State Corporation Commission funded a comprehensive state survey conducted through the Commonwealth Poll to determine the number and characteristics of Virginia's uninsured. The poll, conducted two or three times annually by the Survey Research Laboratory at Virginia Commonwealth University, is a ongoing survey of Virginia's population addressing various issues. Clients can purchase a module of questions on the poll, and Blue Cross/Blue Shield of Virginia, interested in an update on the uninsured, purchased questions in a survey taken between December 6, 1990, and January 13, 1991, covering 814 randomly selected households. Judith B. Bradford, associate director of the laboratory, stated that while the 1990/1991 survey was more narrowly focused and not as detail-specific as the 1986 survey, some comparisons and contrasts of data could be made.

People without health insurance and those with inadequate coverage are described as underinsured. According to a 1986 poll, approximately one million Virginians were underinsured, of whom about 578,000 had no insurance. The 1990/1991 poll showed that approximately one and a half million Virginians were underinsured, of whom about 992,000 had no insurance. (These are estimated numbers which are subject to both sampling and non-sampling error).

HealthAmerica (Senate Bill 1227)

Bruce U. Kozlowski, director of the Department of Medical Assistance Services, briefed the Commission on the important features of proposed U.S. Senate Bill 1227. Patroned by the Senate Democratic majority and introduced June 6, 1991, the bill's legislative goal is to assure every American basic health care coverage through either mandated employer-based health benefit plans or through a federal-state public insurance program titled AmeriCare that will replace Medicaid.

Under SB 1227, all employed persons working 17.5 or more hours per week and their families must be offered health care coverage by their

employer or the employer must contribute an amount equal to a set percentage of payroll costs to a national trust fund. This option is sometimes colloquially referred to as "play or pay." All unemployed persons and all persons for whom employers choose to make a contribution to the trust fund rather than provide health coverage will be eligible to receive coverage under the AmeriCare plan, which will replace Medicaid except for long-term care. Mr. Kozlowski commented that states will still be responsible for that item.

Employees will be required to accept coverage for themselves and their families and to pay co-payments and deductibles and a maximum of 20% of the premium costs if their income is above the federal poverty level. The public plan will subsidize the premium share of workers with family incomes below 200% of poverty.

Among the cited features of the proposal are that states will be required to pay a share of administrative costs for the program at their current percentage for the Medicaid program, with the federal government bearing a share of the administrative costs of AmeriCare, including the trust fund into which employer contributions will be paid.

Additional features of SB 1227 include special assistance for small and medium sized businesses, major reforms for small group insurance, and cost containment measures. The proposal, if adopted, would be implemented in three phases over a five-year period, ultimately incorporating all Americans.

Mr. Kozlowski commented that some provisions of AmeriCare are currently occurring in Virginia or have been offered to the State for examination. The "play or pay" provision was recommended in the 1990 Report of the Technical Advisory Panel of the Virginia Indigent Health Care Trust Fund. Further, AmeriCare offers a program of minimum benefits, already in the Code; and SB 1227 proposes access to managed care. DMAS is presently establishing managed care pilot programs for Medicaid clients, a recommendation of the Commission adopted by the 1991 General Assembly.

Because SB 1227 is not yet completely defined, it is difficult to accurately assess its potential impact on Virginia.



The Honorable Stanley C. Walker, *Chairman*
The Honorable Ford C. Quillen, *Vice Chairman*



Lillian W. Raible, *Special Assistant*
Norma E. Szakal, *Senior Attorney*
Joan E. Putney, *Staff Attorney*
Division of Legislative Services

Jane N. Kusiak, *Deputy Staff Director*
House Appropriations Committee

Stephen W. Harms, *Analyst*
Senate Finance Committee

Subcommittees

Cost containment subcommittee (Senator Dudley J. Emick, Jr., Chairman). Kathryn Langwell of the Congressional Budget Office discussed factors contributing to the rapidly escalating costs of health care and various strategies used to control those costs. She concluded that a multifaceted, comprehensive strategy might include a unified payer system, functional health planning, regulatory controls on technology, price controls or fixed budget targets, cost sharing, managed care, and utilization review.

Business participation/insurance reform subcommittee (Delegate Robert B. Ball, Sr., Chairman). Robert Archer, chairman of the Technical Advisory Panel of the Virginia Indigent Health Care Trust Fund, reviewed the Panel's 1990 report which contained several suggestions including a "play or pay" plan for certain small employers, a risk pool, and reinsurance. Myde Rigsby, policy and research analyst with DMAS, discussed other states' initiatives regarding health care. The subcommittee agreed that its main objective would be to formulate proposals regarding business, insurance, and health care that could be combined with the other subcommittees' proposals.

Medical technology/health outcome review subcommittee (Delegate J. Samuel Glasscock, Chairman). Following staff briefings on research articles and conferences, subcommittee members proposed topics for examination to execute their work plan, including determining the components of a basic health care system for Virginia; reviewing various "basic benefit" plans; determining the costs of the final year of life for the elderly and acutely ill in the Commonwealth; ascertaining state regional variations in the utilization of specified procedures and the efficacy of specified high technology; and collecting and comparing pertinent health care data from other states and countries.

**SJR 166: Joint Rules Committee
Studying the Legislative Process and Reconvened Session**

◆
June 5, 1991, Richmond

Nearly 15 years have passed since the Commission on the Legislative Process completed its comprehensive review of the legislative facilities and procedures designed for the efficient operations of the Virginia General Assembly. Likewise, a full decade has passed since the Constitution was amended to require the General Assembly to reconvene to consider measures vetoed by the Governor or returned by the Governor with suggestions for amendments. Although most vetoes have been for the purpose of eliminating duplicative enactments, and most amendments have been offered to cure technical problems, much attention at these sessions has shifted to vetoes and amendments with substantive impact.

Purpose of the Study

Growth in the importance of the reconvened session has triggered a number of constitutional questions regarding the powers and responsibilities of the executive and the legislature. In addition, the development of new techniques and innovations to streamline the work of the General Assembly has led to the need for a comprehensive review of the legislative process. In response, the General Assembly passed SJR 166 in 1991, requesting the Joint Rules Committee to conduct the study of the legislative process and the reconvened session.

Subcommittees Established

During its June 5th meeting, the Committee reviewed the objectives outlined in SJR 166. The Committee determined that the major work of the study could be best carried forth in subcommittees delegated with individual areas of responsibility, of which three were established.

The subcommittee studying proposed changes in the legislative sessions was charged with examining several issues relating to operations and procedures, including House and Senate communications, subcommittee structure, the legislative calendar, and a technical review of constitutional provisions relating to the reconvened session.

The subcommittee studying the development of legislation was assigned the task of reviewing interim activities, including the prefiling of bills, the disposition of carry-over legislation and the work of interim study committees and commissions.

The subcommittee studying fiscal and administrative innovations was directed to conduct an analysis of the legislative budget process and to review the procedures for purchasing computer equipment.

Specific appointments to these subcommittees is expected from the Speaker within the next few weeks.

◆
The Honorable A.L. Philpott, Speaker, House of Delegates, *Chairman*

◆
Virginia A. Adkins, *Staff Attorney*
Division of Legislative Services

The Legislative Record summarizes the activities of all Virginia legislative study commissions and joint subcommittees. Published monthly in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia.

E.M. Miller, Jr. *Director*
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Special Projects, Division of Legislative Services
910 Capitol Street, 2nd Floor, Richmond, Virginia 23219 804/786-3591

The Legislative Record is also published monthly in *The Virginia Register of Regulations*, available from the Virginia Code Commission, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219. Notices of upcoming meetings of all legislative study commissions and joint subcommittees appear in the Calendar of Events in *The Virginia Register of Regulations*.

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 Fuels Law.** The purpose of the proposed action is to adopt a uniform system of color code identification for underground petroleum storage tanks. This action is at the request of the 1991 Virginia General Assembly contained in House Joint Resolution 304. Public comment is particularly welcome relating to the "unusual circumstances" or "other methods" mentioned in the final paragraph of the resolution that may not require a regulation.

GENERAL ASSEMBLY OF VIRGINIA--1991 SESSION HOUSE JOINT RESOLUTION NO. 304

Requesting the Department of Agriculture and Consumer Services to amend its regulations relating to petroleum product and motor fuel storage tanks:

Agreed to by the House of Delegates, January 29, 1991
Agreed to by the Senate, February 12, 1991

WHEREAS, at filling stations and similar facilities, motor fuels and other petroleum products are typically stored in underground storage tanks; and

WHEREAS, it is common for any given filling station to have several such storage tanks, each used to store a different type or grade of motor fuel or other petroleum product; and

WHEREAS, products stored in these tanks are ordinarily replenished from tank trucks by means of hoses inserted into the fill connections of these storage tanks; and

WHEREAS, it is highly desirable, in order to protect the health, safety, and welfare of the public, that prudent and effective measures be taken to prevent the accidental mixing of motor fuels or other petroleum products by refilling any such tank with a product other than that with which it was originally filled; and

WHEREAS, the American Petroleum Institute has recommended the use of color codes on the fill connections of these storage tanks to prevent accidental mixing of motor fuels or other petroleum products; and

WHEREAS, the Bureau of Weights and Measures of the Department of Agriculture and Consumer Services is responsible for regulating matters associated with the dispensing of properly identified and accurately measured motor fuels by filling stations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Agriculture and Consumer Services is requested to amend its regulations to require, except where justified by unusual circumstances or where other methods may be more appropriate, the use of a uniform statewide color code on the fill connections of motor fuel and petroleum product storage tanks in order to safeguard the public health, safety, and welfare by preventing accidental mixture of motor fuels and other petroleum products when such tanks are refilled.

Written comments may be submitted until August 19, 1991, 9 a.m.

Statutory Authority: § 59.1-156 of the Code of Virginia.

Contact: J. Alan Rogers, Program Manager, VDACS, Office of Weights and Measures, P.O. Box 1163, Richmond, VA

23209-1163, telephone (804) 786-2476.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Rules Relating to Certification of Criminal Justice Instructors.** The purpose of the proposed action is to amend and revise the Rules Relating to Certification and Recertification of Criminal Justice Instructors.

Written comments may be submitted until August 29, 1991, to L.T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Statutory Authority: § 9-170 of the Code of Virginia.

Contact: Paula Scott, Staff Executive, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Services Officers and Officers of the Department of Corrections, Division of Adult Institutions.** The purpose of the proposed action is to amend and revise the Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Adult Institutions.

Written comments may be submitted until August 29, 1991, to L.T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Statutory Authority: § 9-170 of the Code of Virginia.

Contact: Paula Scott, Staff Executive, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

DEPARTMENT OF HEALTH (STATE BOARD OF)

General Notices/Errata

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Health intends to consider amending regulations entitled: **VR 355-33-02. Regulations for the Licensure of Home Health Agencies.** The purpose of the proposed action is to amend existing regulations governing the licensure of home health agencies to incorporate statutory revisions to Article 7.1 Chapter 5 of Title 32.1 that now provide for the licensure of home care organizations.

Written comments may be submitted until August 28, 1991.

Statutory Authority: § 32.1-162.12 of the Code of Virginia.

Contact: Stephanie A. Sivert, Division of Licensure and Certification, Assistant Director, Acute Care, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2104.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Case Management for the Elderly.** The purpose of the proposed action is to promulgate permanent regulations to supersede the current emergency regulations which provide for the administration of case management requirements for the elderly.

Written comments may be submitted until August 12, 1991, to Ann E. Cook, Eligibility and Regulatory Consultant, Division of Policy and Research, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Methods and Standards for Establishing Payment Rates - Other Types of Care: Fee-for-Service Reimbursement for Home Health Services.** The purpose of the proposed action is to promulgate permanent regulations to supersede the current emergency regulations which provide for fee-for-service reimbursement for home health agencies in place of the previous cost based reimbursement methodology.

Written comments may be submitted until August 12, 1991, to N. Stanley Fields, Manager, Division of Cost Settlement and Audit, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Nursing Home Reimbursement Methodology (PIRS): Mortgage Dept Refinancing; Nursing Facility Rate Change; Technical Amendment to Ceiling Methodology.** The purpose of the proposed action is to promulgate permanent regulations to supersede the current emergency regulations which provide for: an incentive to providers to refinance mortgages when to do so benefits both the provider and the Commonwealth; an adjustment to the per diem rate for nursing facilities; technical amendment to the ceiling methodology.

Written comments may be submitted until August 12, 1991, to Joseph J. Beck, Hearings Officer, Division of Cost Settlement and Audit, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Amount, Duration, and Scope of Services: Reduction of Threshold Days for Hospital Utilization Review.** The purpose of the proposed action is to promulgate permanent regulations to supersede the current emergency regulations which provide for the reduction of the number of inpatient hospital days which will be paid for without the manual review of the hospital claim.

Written comments may be submitted until August 12, 1991, to Jim Cohen, Manager, Division of Client Services, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Amount, Duration, and Scope of Services: Elimination of Second Surgical Opinion Program**. The purpose of the proposed action is to eliminate the Second Surgical Opinion Program and its concomittant requirements.

Written comments may be submitted until August 12, 1991, to Mike Jurgenson, Analyst, Division of Policy and Research, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Community Mental Health and Mental Retardation Services (revised)**. The purpose of the proposed action is to promulgate permanent regulations based on the revised emergency regulation which became effective July 1, 1991.

Written comments may be submitted until August 12, 1991, to Ann E. Cook, Regulatory and Eligibility Consultant, Division of Policy and Research, DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council**. The

purpose of the proposed action is to amend §§ 6.1 and 6.7 of the rules and regulations to require health care institutions to file certified audited financial statements with the council no later than 120 days after the end of the institution's fiscal year. A 30-day extension could be granted for extenuating circumstances. A late charge of \$10 per working day would be assessed for filings submitted past the due date.

Written comments may be submitted until August 26, 1991.

Statutory Authority: §§ 9-159(A)(i) and 9-164(2) of the Code of Virginia.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-05-01. Regulations Governing Physician's Assistants**. The purpose of the proposed action is to amend the license renewal period by deleting annual and enacting a biennial renewal period in each even-numbered year in the licensee's birth month.

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

Written comments may be submitted until August 1, 1991.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-05-01. Regulations Governing Physician's Assistants**. The purpose of the proposed action is to amend § 2.1 General Requirements; § 2.2(D)(2) Renewal Reporting; and § 4.1(E) One-hour rule; and technical amendments for deleting "certificate" and inserting "license" where appropriate.

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

Written comments may be submitted until August 15, 1991.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925.

Notice of Intended Regulatory Action

General Notices/Errata

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-07-01. Regulations Governing the Licensure and Practice of Nurse Practitioners** (issued jointly with the Board of Nursing). The purpose of the proposed action is to establish standards governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure appropriate standard of care for patients.

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

Written comments may be submitted until September 16, 1991.

Contact: Hilary H. Conner, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9908.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-09-01. Certification for Optometrists to Prescribe for and Treat Certain Diseases or Abnormal Conditions of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents**. The purpose of the proposed action is to review the regulations in response to the Governor's request. The board will entertain written comments for consideration on the present regulations.

Copies of the present regulations may be secured by phone request at (804) 662-9925.

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

Written comments may be submitted until September 3, 1991.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

BOARD OF NURSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing intends to consider amending regulations entitled: **VR 495-02-1. Regulations Governing the Licensure of Nurse Practitioners** (adopted jointly with the Board of Medicine). The purpose of the proposed regulation is to establish standards governing the prescriptive authority of nurse practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

Written comments may be submitted until September 16, 1991.

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

Contact: Corinne F. Dorsey, R.N., Executive Director, Virginia Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909.

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 promulgating regulations entitled: **VR 615-01-36. General Relief (GR) Program - Locality Options**. The purpose of the proposed action is to adopt the expanded options included in the current emergency regulation VR 615-01-36 that was published in Volume 7, Issue 13, dated March 25, 1991, in the Virginia Register.

Written comments may be submitted until August 14, 1991, to Diana Salvatore, Program Manager, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-0899.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Contact: Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, Division of Planning and Program Review, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-0899, telephone (804) 662-9217.

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 allow the department to administratively deviate from the child support guidelines. In response to public comment, the Department of Social Services plans to (i) study the issue of administrative deviation from the child support guidelines, and if determined appropriate, (ii) promulgate revisions allowing the department to deviate from the guidelines.

Written comments may be submitted until August 15, 1991, to Penelope Boyd Pellow, Division of Child Support Enforcement, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Contact: Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, Division of Planning and Program Review, Department of Social Services, 8007 Discovery Dr.,

Richmond, VA 23229-0899, telephone (804) 662-9217.

GENERAL NOTICES

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Public Notice

Take notice that a referendum will be conducted by mail ballot among Virginia small grains producers regardless of age who sold small grains during two of the past three years preceding October 4, 1991. The word "small grains" includes all barley, oats, rye, and wheat sold in the Commonwealth.

The purpose of this referendum is to allow Virginia farmers producing small grains to vote on whether or not they are willing to access themselves in the amount and manner below stated. The assessment shall be used by the Virginia Small Grains Board for research, education, publicity, and promotion of the sale and use of small grains.

The assessment to be voted on is 1/2 of one per cent of the selling price per bushel when sold. The processor, dealer, shipper, exporter or any other business entity who purchases small grains from the producer shall deduct the 1/2 of one per cent levy thereon and the levy shall be remitted to the Virginia State Tax Commissioner.

Producers must establish their eligibility to vote in this referendum by properly completing a certification form and returning the form to the Virginia Department of Agriculture and Consumer Services no later than August 30, 1991.

Eligible voters will be mailed a ballot and return envelope. Each eligible voter must return the ballot and ballot must be received by the Director, Division of Marketing, Virginia Department of Agriculture and Consumer Services on or before 5 p.m. October 4, 1991.

Producers may obtain eligibility certification forms from the following sources: County Extension Agent Offices; Virginia Small Grains Association, P.O. Box 400, Heathsville, VA 22473; Virginia Department of Agriculture and Consumer Services, Division of Marketing, P.O. Box 1163, Richmond, VA 23209.

COUNCIL ON THE ENVIRONMENT

Public Notice

Notice of the Availability for Public Review

An Environmental Impact Assessment for an Exploratory Oil or Gas Well to be Drilled in King George County, Virginia.

Purpose of Notice: This notice informs persons interested in reviewing and commenting on the environmental impact assessment described herein of the availability of the assessment as required by § 62.1-195.1(D) of the Code of Virginia. A general description of the proposed activity, its location, and the content of the environmental impact assessment follow.

Location: Texaco, Inc. has proposed locating an exploratory oil or gas well in King George County. The site for the exploratory well is to be located on a tract of land bordered by Route 205 on the south, approximately one mile west of Ninde, Virginia, and is roughly opposite the cultural feature identified as "Prince Cemetery" on the Dahlgren quadrangle, USGS topographic map, 7.5 minute series. The proposed well site and associated lease boundaries are generally described in the accompanying map.

Project Description: The proposed exploratory well drilling operation will be conducted to evaluate the potential for marketable quantities of oil or gas resources to exist in the Taylorsville basin located in Tidewater Virginia. The proposed drilling operation would require three to four weeks for site preparation, 12 to 14 weeks for drilling, four to six weeks for completion and testing as warranted, and three to four weeks for site restoration. The well site will require a maximum area of 3.5 acres. The site is currently unused pastureland. Employees will live on-site and there will be on-site sewage treatment facilities. The drill site will be designed to contain a discharge of all fluids generated within the drill site. The drilling operations will be conducted 24 hours per day.

The environmental impact assessment submitted for the proposed project includes a description of the proposed well drilling site and the vicinity, a description and evaluation of the potential environmental impacts that may result if the exploratory well is constructed, an assessment of the potential environmental impacts that may result from accidental events, methodologies which would be put in place to minimize the likelihood of an accidental event, and control measures to minimize impacts should an accidental event occur. A discussion of the types and magnitude of environmental impacts which may occur as a result of longer-term production activities is included should the exploratory well prove successful.

Location of the Assessment: A copy of the assessment may be reviewed during regular business hours at the offices of the Council on the Environment, 202 North Ninth Street, 9th Floor, Suite 900, Richmond, Virginia. Another copy of the assessment will be available for review at the Smoot Memorial Library located in King George, Virginia, on Route 3 next to the King George County Courthouse. The summer library hours are 10 a.m. to 9 p.m. Tuesday through Thursday and 10 a.m. to 5 p.m. Friday and

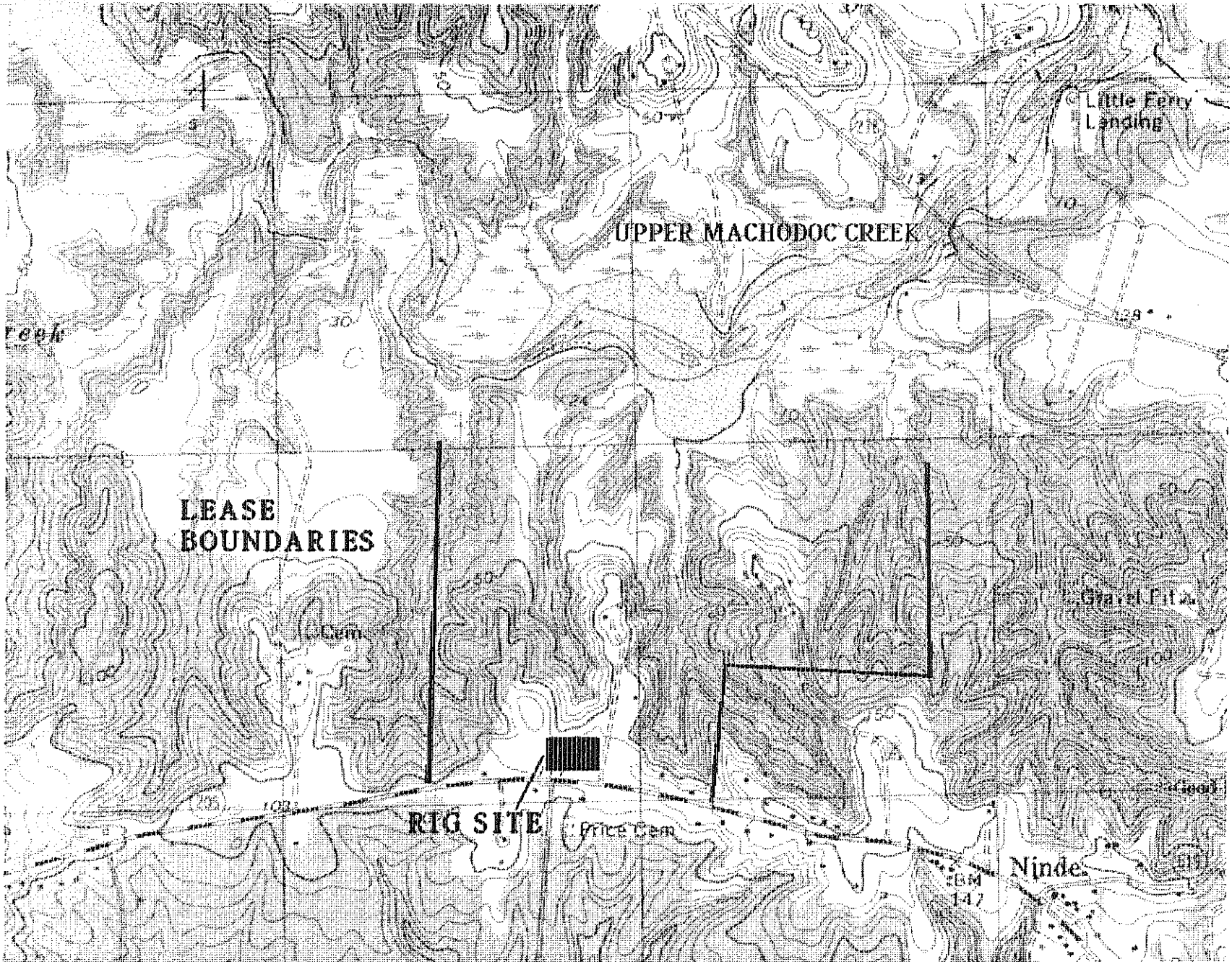
General Notices/Errata

Saturday.

Deadline for Public Comment: Written comments on the environmental impacts of the proposed activity may be submitted until 5 p.m., August 16, 1991. Comments must be addressed to:

Keith J. Buttlerman, Administrator
Virginia Council on the Environment
202 N. Ninth Street
Suite 900
Richmond, VA 23219

Contact: For additional information, contact Jay Robers, Council on the Environment at the address indicated above or call (804) 786-4500 or (804) 371-7604/TDD.



**EXPLORATORY WELL
KING GEORGE COUNTY, VA**

Prepared By:
VA Council on the Environment
EcoMAP System

General Notices/Errata

Public Notice

Notice of the Availability for Public Review

An Environmental Impact Assessment for an Exploratory Oil or Gas Well to be Drilled in Westmoreland County, Virginia.

Purpose of Notice: This notice informs persons interested in reviewing and commenting on the environmental impact assessment described herein of the availability of the assessment as required by § 62.1-195.1(D) of the Code of Virginia. A general description of the proposed activity, its location, and the content of the environmental impact assessment follow.

Location: Texaco, Inc. has proposed locating an exploratory oil or gas well in Westmoreland County. The site is depicted on the Champlain quadrangle, USGS topographic map, 7.5 minute series. The proposed well site and associated lease boundaries are generally described in the accompanying map.

Project Description: The proposed exploratory well drilling operation will be conducted to evaluate the potential for marketable quantities of oil or gas resources to exist in the Taylorsville basin located in Tidewater Virginia. The proposed drilling operation would require three to four weeks for site preparation, 12 to 14 weeks for drilling, four to six weeks for completion and testing as warranted, and three to four weeks for site restoration. The well site will require a maximum area of 3.5 acres. The site is currently unused pastureland. Employees will live on-site and there will be on-site sewage treatment facilities. The drill site will be designed to contain a discharge of all fluids generated within the drill site. The drilling operations will be conducted 24 hours per day.

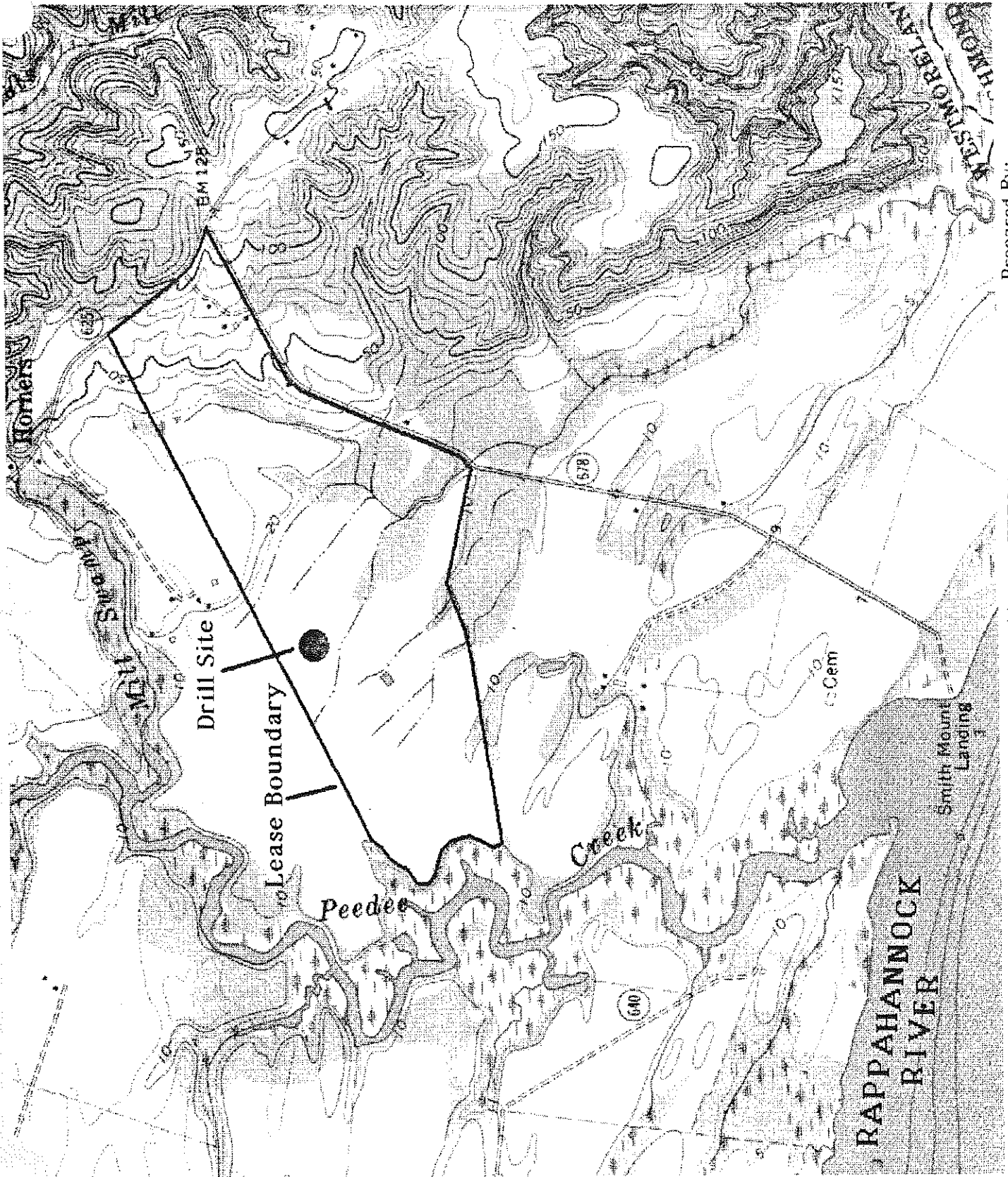
The environmental impact assessment submitted for the proposed project includes a description of the proposed well drilling site and the vicinity, a description and evaluation of the potential environmental impacts that may result if the exploratory well is constructed, an assessment of the potential environmental impacts that may result from accidental events, methodologies which would be put in place to minimize the likelihood of an accidental event, and control measures to minimize impacts should an accidental event occur. A discussion of the types and magnitude of environmental impacts which may occur as a result of longer-term production activities is included should the exploratory well prove successful.

Location of the Assessment: A copy of the assessment may be reviewed during regular business hours at the offices of the Council on the Environment, 202 North Ninth Street, 9th Floor, Suite 900, Richmond, Virginia. Other copies of the assessment will be available for review through the Central Rappahannock Regional Library. A Copy of the assessment will be available at the Hague, Montross, Colonial Beach, and Fredericksburg branches of the Regional Library system.

Deadline for Public Comment: Written comments on the environmental impacts of the proposed activity may be submitted until 5 p.m., August 30, 1991. Comments must be addressed to:

Keith J. Buttleman, Administrator
Virginia Council on the Environment
202 N. Ninth Street
Suite 900
Richmond, VA 23219

Contact: For additional information, contact Jay Robers, Council on the Environment at the address indicated above or call (804) 786-4500 or (804) 371-7604/TDD.



Prepared By:
VA Council on the Environment
EcoMAP System

EXPLORATORY WELL
WESTMORELAND COUNTY, VA



General Notices/Errata

STATE BOARD OF HEALTH

Public Notice

Legal Notice of Opportunity to Comment on Proposed State Plan of Operations and Administration of Special Supplemental Food Program for Women, Infants and Children (WIC) for Federal Fiscal Year 1992

Pursuant to the authority vested in the State Board of Health by § 32.1-12 and in accordance with the provisions of Title 9, Chapter 1.1:1 of Public Law 95-627, notice is hereby given of a public comment period to enable the general public to participate in the development of the Special Supplemental Food Program for Women, Infants and Children (WIC) for Federal Fiscal Year 1992.

Written comments on the proposed plan which are postmarked no later than July 31, 1991, will be accepted in the office of the Director, WIC Program, State Department of Health, P.O. Box 2448, Richmond, Virginia 23218.

The proposed State Plan of WIC Program Operations and Administration may be reviewed at the office of your health district headquarters during public business hours beginning July 1, 1991. Please contact your local health department for the location of this office in your area.

VIRGINIA SWEET POTATO BOARD

A referendum will be held between July 10, 1991, and August 1, 1991. The purpose of the referendum is to determine if sweet potato growers in the state wish to tax themselves two cents per bushel of sweet potatoes grown in lieu of one cent with the revenue to be used for further research, education and promotion.

Additional information may be obtained from: L. William Mapp, Secretary, P.O. Box 26, Onley, Virginia 23418, telephone (804) 787-5867

DEPARTMENT FOR THE VISUALLY HANDICAPPED

† Public Notice

The Virginia Department for the Visually Handicapped (DVH) invites public inspection of and comment on its draft transition plan for structural changes to its facilities to achieve program accessibility for persons with disabilities. This public notice is in accordance with Part III, § 3.1 D of state regulations entitled, "Nondiscrimination Under State Grants and Programs," published by the Board for Rights of Virginians with Disabilities and effective October 1, 1990. The above-referenced regulations implement § 51.1-40 of the Code of Virginia.

Any interested party may obtain additional information and a copy of the agency's draft transition plan by contacting Carter D. Hamlett, Assistant Deputy Commissioner for Services, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia 23227, telephone 804/371-3140 (Voice/TDD) or toll-free 1-800-622-2155. Closing date for receipt of comments will be September 29, 1991.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Division of Solid Waste

† Notice of Availability of Draft Solid Waste Disposal Facility Permit, Tentative Decision to Grant Variance to Certain Permitting Requirements, and Scheduled Public Hearing on the Draft Permit for the Virginia Fibre Industrial Landfill Proposed by Virginia Fibre Corporation, Amherst County, Virginia.

Pursuant to the requirements of Part VII of the Virginia Solid Waste Management Regulations (Permitting of Solid Waste Management Facilities), the draft Solid Waste Disposal Facility Permit for the development of an industrial landfill, proposed by Virginia Fibre Corporation, is available for public review and comment. The permit allows the proposed facility to accept only authorized, nonhazardous wastes which result from the operations of Virginia Fibre Corporation. The proposal incorporates design elements for a synthetic cap, and synthetic drainage layers for the cap and side slopes of the base liner, which are not provided for in the regulations. Virginia Fibre petitioned for these features pursuant to the requirements of Part IX of the regulations (Rulemaking Petitions and Procedures), and the Department of Waste Management has granted tentative approval.

The Department of Waste Management will hold a public hearing on the draft permit on Wednesday, August 28, 1991, at 7 p.m. in the Board Room of the School Administration Building, Washington Street, Town of Amherst, Virginia. The public comment period shall extend until 5 p.m. on Monday, September 9, 1991. During this period, the Department of Waste Management is soliciting comments on the tentative decision to grant the variance, and on the technical merits of the draft permit as it pertains to this proposed facility. Comments on this draft should be in writing and directed to Hassan Vakili, Technical Services Administrator, Department of Waste Management, Division of Solid Waste, Eleventh Floor Monroe Building, 101 North Fourteenth Street, Richmond, Virginia 23219. For more information, call E.D. Gillispie at (804) 371-0514.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Change of Address: Our new mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you do not follow-up with a mailed in copy. Our FAX number is: 371-0169.

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
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
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

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulations: VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1990.

Publication: V.A.R. 7:18 2596-2623 June 3, 1991.

Correction to Proposed regulation:

Page 2608, § 118.1.1., line 7 should read, "...before either the damage occurred or the start of..."

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

BOARD FOR ACCOUNTANCY

† August 5, 1991 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to (i) respond to public comments; (ii) adopt final regulations; (iii) consider old business; (iv) consider new business; and (v) consider routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

August 2, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to amend regulations entitled: **VR 105-01-02. Board for Accountancy Regulations.** The proposed regulations establish continuing professional education requirements for original licensure and license renewal.

Statutory Authority: § 54.1-201(5) of the Code of Virginia.

Contact: Roberta L. Banning, Assistant Director, 3600 W.

Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

August 2, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to adopt regulations entitled: **VR 105-01-03. Continuing Professional Education Sponsor Registration Rules and Regulations.** The proposed regulations establish entry requirements, renewal/reinstatement requirements and establish the standards of practice for continuing professional education sponsors.

Statutory Authority: §§ 54.1-201(5) and 54.1-2002(C) of the Code of Virginia.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

DEPARTMENT OF AIR POLLUTION CONTROL

† July 30, 1991 - 2 p.m. - Public Hearing
Randolph Elementary School, 1552 Sheppard Town Road,
Crozier, Virginia. ☒ (Interpreter for deaf provided upon request)

A public hearing on the proposed modifications and operation of the Anderson Creek Quarry in Goochland County, Virginia, by Martin Marietta Aggregates.

Contact: Mark Williams, Senior Environmental Engineer, DAPC, 8205 Hermitage Road, Richmond, VA 23228, telephone (804) 371-3067.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† August 1, 1991 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to (i) approve minutes of June, 6, 1991 meeting; (ii) review new correspondence; (iii) review enforcement files; and (iv) consider draft regulations as proposed.

Calendar of Events

Board for Architects

† August 22, 1991 - 9:30 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to (i) approve minutes of April 18, 1991 meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Contact: Bonnie S. Saizman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Professional Engineers

† August 13, 1991 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to (i) approve minutes of May 10, 1991 meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

COMMISSION FOR THE ARTS

† August 12, 1991 - noon - Open Meeting
† August 13, 1991 - 9 a.m. - Open Meeting
Virginia Housing Development Authority, 601 South
Belvidere Street, Richmond, Virginia. ☒

VCA quarterly business meeting.

Contact: Virginia Commission for the Arts, 223 Governor Street, Richmond, Virginia 23219-2010, telephone (804) 225-3132.

ASAP POLICY BOARD - MOUNT ROGERS

† August 7, 1991 - 9 a.m. - Open Meeting
Oby's Restaurant, Marion, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting of the Mount Rogers ASAP Board of Directors. The board meets every month to conduct business. The order of business at all regular meetings shall be (i) call to order; (ii) roll call; (iii) approval of minutes; (iv) unfinished business; (v) new business, and (vi) adjournment.

Contact: J.L. Reedy, Jr., Director, 1102 North Main Street, Marion, VA 23454, telephone (703) 783-7771.

ASAP POLICY BOARD - ROCKBRIDGE

July 30, 1991 - 3 p.m. - Open Meeting
2044 Sycamore Avenue, Buena Vista, Virginia. ☒

The board will conduct their regular business meeting.

Contact: S. Diane Clark, Director, 2044 Sycamore Ave., Buena Vista, VA 24416, telephone (804) 261-6281.

AUCTIONEERS BOARD

August 13, 1991 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

An open meeting to conduct regulatory review and other matters which require board action.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

BOARD FOR BARBERS

† August 12, 1991 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th
Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) review and disposition of enforcement cases; and (iv) consider routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

August 21, 1991 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol
Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by August 14, 1991.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☒

CHILD-DAY CARE COUNCIL

† August 8, 1991 - 9 a.m. - Open Meeting
Koger Executive Center, West End, Blair Building,
Conference Rooms A and B, 8007 Discovery Drive,

Calendar of Events

Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss issues, concerns, and programs that impact child care centers, camps, school age programs, and preschool/nursery schools. A public comment period is scheduled for 1 p.m.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

* * * * *

† **September 16, 1991 - 3:30 p.m.** – Public Hearing
Roanoke Municipal Building, Council Chambers, 4th Floor,
215 Church Avenue, S.W., Roanoke, Virginia.

† **September 17, 1991 - 3 p.m.** – Public Hearing
Washington Gas and Light Company, The Auditorium, 6801
Industrial Road, Springfield, Virginia.

† **September 19, 1991 - 3 p.m.** – Public Hearing
Williamsburg Regional Library, The Arts Center Theatre,
515 Scotland Street, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Child Day-Care Council intends to adopt regulations entitled: **VR 175-08-01. Minimum Standards for Licensed Child Care Centers, Nursery Schools, and Child Day Care Camps Serving Children of Preschool Age or Younger.** This regulation describes the requirements that child care centers, nursery schools, and child day care camps serving children of preschool age or younger must meet to become licensed. VR 175-08-01 replaces VR 175-02-01, 175-05-01, and 175-07-01 since it was decided to consolidate these regulations. VR 175-02-01 will be repealed effective July 1, 1992.

STATEMENT

Substance: The regulation, Minimum Standards for Licensed Child Care Centers, Nursery Schools, and Child Day Care Camps Serving Children of Preschool Age or Younger (VR 175-08-01) is being proposed for a 60-day period of public comment. This regulation consolidates three of the regulations that were to be developed separately for the above types of centers (VR 175-02-01, VR 175-05-01, and 175-06-01).

The proposed regulation describes the requirements that child care centers, nursery schools, and child day care camps serving children of preschool age or younger must meet to become licensed by the Department of Social Services. With the passage of HB 1035 by the 1990 General Assembly Session, certain camps, before and after school programs, and nursery schools will become subject to licensure effective July 1, 1992. This bill also deletes the child care center licensure exception for hospital and

governmental sponsors of child care.

Issues: This document is comprised of the following issues which impact child care centers, nursery schools, and camps serving children of preschool age or younger that are subject to licensure by the Department of Social Services: administration, personnel, physical plant, staffing and supervision, program, special care provisions and emergencies, and special services.

Basis: Section 63.1-202 of the Code of Virginia provides the statutory basis for the Child Day-Care Council to promulgate regulations for child care centers, nursery schools, and child day care camps. On June 27, 1991, the Child Day-Care Council approved the proposed regulation for a 60-day public comment period.

Purpose: The purpose of the proposed regulation is to provide protective oversight of preschool and younger children in child care centers, nursery schools, and child day care camps. More specifically the purpose is to ensure that the activities, services, and facilities of the centers are conducive to the well-being of these children and that the risks in the environment of the centers are reduced for these children.

Impact: As of June 21, 1991, there were 1,145 child care centers licensed by the Department of Social Services. They have a licensed capacity for 97,644 children ranging from birth to 18 years of age. Centers serving children of preschool age or younger, and the children of preschool age and younger enrolled in these centers will be affected by this regulation.

It is not known how many child care centers sponsored by governmental agencies or hospitals and how many nursery schools and child day care camps will become subject to licensure effective July 1, 1992. According to the JLARC report completed in 1989, it was estimated that 2,613 licensed and unlicensed child care centers, nursery schools, and extended day programs exist in Virginia. The following types of services may become subject to licensure effective July 1, 1992, and may need to meet this regulation: local parks and recreation programs offering child care, preschool special education programs offered by public schools, nursery schools, nonresidential camps, pilot four-year-old programs operated by public schools, hospital operated child care centers, Head Start centers, and lab schools operated by high schools and colleges.

Statutory Authority: §§ 63.1-202 and 63.1-202.1 of the Code of Virginia.

Written comments may be submitted until September 29, 1991, to Peg Spangenthal, Chair, Child Day-Care Council, 8007 Discovery Drive, Richmond, Virginia 23229.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone

Calendar of Events

(804) 662-9217.

* * * * *

† **September 16, 1991 - 3:30 p.m. – Public Hearing**
Roanoke Municipal Building, Council Chambers, 4th Floor,
215 Church Avenue, S.W., Roanoke, Virginia.

† **September 17, 1991 - 3 p.m. – Public Hearing**
Washington Gas and Light Company, The Auditorium, 6801
Industrial Road, Springfield, Virginia.

† **September 19, 1991 - 3 p.m. – Public Hearing**
Williamsburg Regional Library, The Arts Center Theatre,
515 Scotland Street, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Child Day-Care Council intends to adopt regulations entitled: **VR 175-09-01. Minimum Standards for Licensed Child Care Centers, Before School and After School Child Care Programs, and Child Day Care Camps Serving School Age Children.** This regulation describes the requirements that child care centers, before school and after school child care programs, and child day care camps serving school age children must meet to become licensed. VR 175-08-01 replaces VR 175-02-01, 175-05-01, and 175-07-01 since it was decided to consolidate these regulations. VR 175-02-01 will be repealed effective July 1, 1992.

STATEMENT

Substance: The regulation, Minimum Standards for Licensed Child Care Centers, Before School and After School Child Care Programs, and Child Day Care Camps (VR 175-09-01), is being proposed for a 60-day period of public comment. This regulation repeals an existing regulation and consolidates three of the regulations that were to be developed separately for the above types of centers (VR 175-02-01, VR 175-05-01, and 175-06-01)

The proposed regulation describes the requirements that child care centers, before school and after school child care programs, and child day care camps serving school age children must meet to become licensed by the Department of Social Services. With the passage of HB 1035 by the 1990 General Assembly Session, certain camps, before and after school programs, and nursery schools will become subject to licensure effective July 1, 1992. This bill also deletes the child care center licensure exception for hospital and governmental sponsors of child care.

Issues: This document is comprised of the following issues which impact child care centers, before and after school programs, and camps serving children that are subject to licensure by the Department of Social Services: administration, personnel, physical plant, staffing and supervision, program, special care provisions and emergencies, and special services.

Basis: Section 63.1-202 of the Code of Virginia provides the statutory basis for the Child Day-Care Council to promulgate regulations for child care centers, before and after school child care programs, and child day care camps. On June 27, 1991, the Child Day-Care Council approved the proposed regulation for a 60-day public comment period.

Purpose: The purpose of the proposed regulation is to provide protective oversight of school age children in child care centers, before and after school child care programs, and child day care camps. More specifically the purpose is to ensure that the activities, services, and facilities of the centers are conducive to the well-being of these children and that the risks in the environment of the centers are reduced for these children.

Impact: As of June 21, 1991, there were 1,145 child care centers licensed by the Department of Social Services. They have a licensed capacity for 97,644 children ranging from birth to 18 years of age. Centers serving school age children and the children of preschool age and younger enrolled in these centers will be affected by this regulation.

It is not known how many child care centers sponsored by governmental agencies or hospitals and how many before school and after school child care programs and child day care camps will become subject to licensure effective July 1, 1992. According to the JLARC report completed in 1989, it was estimated that 2,613 licensed and unlicensed child care centers, nursery schools, and extended day programs exist in Virginia. The following types of services may become subject to licensure effective July 1, 1992, and may need to meet this regulation: school divisions offering before and after child care, local parks and recreation programs offering child care, nonresidential camps, and hospital operated child care centers.

Statutory Authority: §§ 63.1-202 and 63.1-202.1 of the Code of Virginia.

Written comments may be submitted until September 29, 1991, to Peg Spangenthal, Chair, Child Day-Care Council, 8007 Discovery Drive, Richmond, Virginia 23229.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

INTERAGENCY CONSORTIUM ON CHILD MENTAL HEALTH

August 7, 1991 - 9:15 a.m. – Open Meeting
September 4, 1991 - 9:15 a.m. – Open Meeting
Youth and Family Services, 700 Centre, 7th & Franklin Streets, Richmond, Virginia. ☐

A meeting to (i) discuss technical assistant position;

Calendar of Events

(ii) set date for quarterly review; (iii) review fiscal report; (iv) review old applications, and (v) review new applications.

Contact: Dian M. McConnel, Chair, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0700.

DEPARTMENT OF COMMERCE

† **August 13, 1991 - 10:30 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street,
Conference Room 3, Richmond, Virginia.

A formal hearing will be held for: File No. 90-02024,
Department of Commerce v. David E. Carter.

Contact: Gayle Eubank, Hearings Coordinator, Department
of Commerce, 3600 W. Broad Street, Fifth Floor,
Richmond, VA 23230, telephone (804) 367-8524.

COMPENSATION BOARD

August 28, 1991 - 5 p.m. – Open Meeting
September 26, 1991 - 5 p.m. – Open Meeting
Room 913/913A, 9th Floor, Ninth Street Office Building,
202 North Ninth Street, Richmond, Virginia. ☒ (Interpreter
for deaf provided upon request)

A routine meeting to conduct business of the board.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box
3-F, Richmond, Virginia 23206-0686, telephone (804)
786-3886/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

Soil and Water Conservation Board

September 18, 1991 - 6 p.m. – Dinner Meeting
The Ground Round, 102 Tower Drive, Danville, Virginia.

The board will hold its regular bi-monthly meeting.

Contact: Donald L. Wells, Assistant Director, Department
of Conservation and Recreation, 203 Governor St., Suite
206, Richmond, VA 23219, telephone (804) 786-4356.

BOARD FOR COSMETOLOGY

† **August 5, 1991 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Fifth
Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review
correspondence; (iii) review and disposition of
enforcement cases; (iv) conduct regulatory review; and
(v) consider routine board business.

Contact: Roberta Banning, Assistant Director, 3600 W.
Broad Street, Richmond, VA 23230-4917, telephone (804)
367-8590.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Court Appointed Special Advocate Program Advisory Committee

July 29, 1991 - 10 a.m. – Open Meeting
Virginia Housing Development Authority Building, 601
South Belvidere Street, Richmond, Virginia. ☒

The Advisory Committee will hold a general business
meeting.

Contact: Paula J. Scott, Staff Executive, Department of
Criminal Justice Services, 805 E. Broad St., Richmond, VA
23219, telephone (804) 786-4000.

CRIMINAL JUSTICE SERVICES BOARD

October 2, 1991 - 9 a.m. – Public Hearing
General Assembly Building, 910 Capitol Street, 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 240-03-1. Rules Relating to Compulsory Minimum
Training Standards for Private Security Services
Business Personnel.** The regulations set forth
minimum training standards and in-service training
requirements for private security services personnel.

Statutory Authority: § 9-182 of the Code of Virginia.

Written comments may be submitted until September 16,
1991, to L.T. Eckenrode, Department of Criminal Justice
Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Administrative Assistant, Department
of Criminal Justice Services, 805 E. Broad St., Richmond,
VA 23219, telephone (804) 786-4000.

BOARD OF DENTISTRY

July 31, 1991 - 1 p.m. – Open Meeting
August 1, 1991 - 8:30 a.m. – Open Meeting
August 2, 1991 - 8:30 a.m. – Open Meeting
August 3, 1991 - 8:30 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Surry Building, Richmond, Virginia. ☒

This is a public meeting and the public is invited to
observe. No public testimony will be received by the
board at this meeting.

On July 31, 1991, committees will meet from 1 p.m. to 5 p.m.

There will be a regular board business meeting on August 1, 2, and 3. The following committees will present their reports: Regulatory Committee, Advertising Committee, Executive Committee, Legislative Committee, Budget Committee, Exam Committee, and Dental Hygiene Endorsement Committee.

Formal hearings will be held on August 1 and 2.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9906.

STATE BOARD OF EDUCATION

August 14, 1991 - 7:30 a.m. - Open Meeting James Monroe Building, Conference Rooms D & E, 101 North Fourteenth Street, Richmond, Virginia. ☐ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

Contact: Margaret Roberts, Executive Director, Board of Education, State Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

September 5, 1991 - 5:30 p.m. - Open Meeting October 3, 1991 - 5:30 p.m. - Open Meeting Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. ☐

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Linda G. Furr, Assistant Emergency Services, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

August 19, 1991 - 1:30 p.m. - Open Meeting September 16, 1991 - 1:30 p.m. - Open Meeting 1 County Complex Court, Prince William, Virginia. ☐

The Local Emergency Planning Committee will meet

to discharge the provisions of SARA Title III.

Contact: Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William VA 22192-9201. telephone (703) 335-6800.

VIRGINIA EMERGENCY RESPONSE COUNCIL

September 11, 1991 - 10 a.m. - Open Meeting Conference Room B, Monroe Building, 101 North 14th Street, Richmond, Virginia. ☐

This meeting will update the VERC on new developments in SARA Title III, Emergency Planning and Community "Right-to-Know"; and will discuss the impact of waste minimization and pollution prevention initiatives on program activities.

Contact: Cathy L. Harris, Environmental Program Manager, Department of Waste Management, 14th Floor, Monroe Bldg., 101 N. 14th Street, Richmond, VA 23219, telephone (804) 225-2513, (804) 225-2631, toll-free 1-800-552-2075 or (804) 371-8737/TDD 5

COUNCIL ON THE ENVIRONMENT

September 4, 1991 - 7 p.m. - Public Hearing King George County Volunteer Fire Department, Route 3, King George, Virginia.

September 5, 1991 - 7 p.m. - Public Hearing Tappahannock Elementary School, Route 17, Auditorium, Tappahannock, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Council on the Environment intends to adopt regulations entitled: VR 305-02-01. Guidelines for the Preparation of Environmental Impact Assessments for Oil or Gas Well Drilling Operations in Tidewater Virginia. The proposed regulation establishes criteria and procedures to be followed by applicants preparing and persons reviewing an environmental impact assessment for an oil or gas well drilling operation and related activities in Tidewater Virginia.

Statutory Authority: § 62.1-195.1 of the Code of Virginia.

Written comments may be submitted until September 13, 1991.

Contact: Jay Roberts, Environmental Planner, 202 N. Ninth St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

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September 13, 1991 - Written comments may be submitted until this date.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Council on the Environment intends to adopt regulations entitled: **VR 305-01-001. Public Participation Guidelines.** The proposed regulation establishes the Council on the Environment's procedures for soliciting public participation in the formulation and development of regulations.

Statutory Authority: §§ 9-6.14:7.1, 10.1-1206, and 62.1-195.1 of the Code of Virginia.

Written comments may be submitted until September 13, 1991.

Contact: Jay Roberts, Environmental Planner, 202 N. Ninth St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

July 29, 1991 - 9 a.m. – Open Meeting
1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

The board will conduct its monthly board meeting and formal hearings. Public comment will be received during the last 30 minutes of the meeting.

July 30, 1991 - 9 a.m. – Open Meeting
1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

The board will hold informal conferences.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907.

BOARD OF GAME AND INLAND FISHERIES

† **August 29, 1991 - 9:30 a.m. – Open Meeting**
4010 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Committees of the Board of Game and Inland Fisheries will meet, beginning at 9:30 a.m. with the Planning Committee, followed by the Finance Committee, then the Liaison Committee, Wildlife and Boat Committee and the Law and Education Committee. Each committee will review those agenda items appropriate to its authority, and make recommendations for adoption or advertisement of such to the full board at its meeting on August 30, 1991.

† **August 30, 1991 - 9:30 a.m. – Open Meeting**
4010 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The Board will meet to adopt the 1991-92 migratory waterfowl seasons and to propose fish regulations. In addition, consideration will be given to modifications to the list of new state endangered and threatened species and changing the status of several species currently on this list. Other general and administrative matters, as necessary, will be discussed.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 W. Broad St., P. O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

BOARD FOR GEOLOGY

August 15, 1991 - 9:30 a.m. – Open Meeting
August 16, 1991 - 9:30 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia. ☒

The board will conduct its business meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

DEPARTMENT OF HEALTH

Office of Planning and Regulatory Services

† **August 13, 1991 - 10 a.m. – Public Hearing and Open Meeting**
House Room C, General Assembly Building, Richmond, Virginia. ☒

The morning session will be a public hearing to comment on the need to regulate Durable Medical Equipment management in the home. The study committee will meet in the afternoon to conduct a business meeting regarding comments made during the public hearing.

Contact: Raymond O. Perry, Assistant Health Commissioner, Department of Health, 1500 E. Main Street, Suite 105, Richmond, VA 23219, telephone (804) 786-6970.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

August 27, 1991 - 9:30 a.m. – Open Meeting
Blue Cross/Blue Shield, Virginia Room, 2015 Staples Mill Road, Richmond, Virginia. ☒

The council will conduct its monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting. The council's current bylaws will also be discussed and possibly amended.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804)

786-6371/TDD ☎

BOARD OF HISTORIC RESOURCES

† August 21, 1991 - 10:30 a.m. - Open Meeting
Senate Room A, General Assembly Building, Richmond,
Virginia. ☒ (Interpreter for the deaf provided upon
request)

A general business meeting.

Contact: Margaret Peters, 221 Governor Street, Richmond,
Virginia 23219, telephone (804) 786-3143 or (804)
786-1935/TDD ☎

DEPARTMENT OF HISTORIC RESOURCES

State Review Board

† August 20, 1991 - 10 a.m. - Open Meeting
Senate Room A, General Assembly Building, Richmond,
Virginia. ☒ (Interpreter for the deaf provided upon
request)

A meeting to consider the nomination of the following
properties to the Virginia Landmarks Register and the
National Register of Historic Places:

Black Wlanut, Halifax County
Chesterfield County Courthouse and Courthouse Square,
Chesterfield County
Front Royal Recreational Park, Front Royal, Warren
County
Hanger Mill, Augusta County
Huntingdon, Roanoke (City)
The Rectory, Albemarle County
Rothsay, Bedford County
Salem Presbyterian Parsonage, Salem
Cifax Rural Historic District, Bedford County
Clifton Forge Commercial Historic District, Clifton
Forge
Powhatan/Mount Ida Rural Historic District, King
George County
Pulaski South Residential and Industrial Historic
District, Town of Pulaski, Pulaski County
Southwest Mountains Rural Historic District, Albemarle
County

Contact: Margaret Peters, 221 Governor Street, Richmond,
Virginia 23219, telephone (804) 786-3143 or (804)
786-1935/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

August 6, 1991 - 9 a.m. - Open Meeting
September 3, 1991 - 9 a.m. - Open Meeting
Hopewell Community Center, Second & City Point Road,
Hopewell, Virginia. ☒ (Interpreter for the deaf provided

upon request)

Local Emergency Preparedness Committee Meeting on
Emergency Preparedness as required by SARA Title
III.

Contact: Robert Brown, Emergency Services Coordinator,
300 North Main Street, Hopewell, VA 23860, telephone
(804) 541-2298.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

August 5, 1991 - 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 Housing and
Community Development intends to amend regulations
entitled: **VR 394-01-06. Virginia Statewide Fire
Prevention Code/1990**. The proposed amendments are
necessary to incorporate fees for explosive permits
and blaster certification authorized by emergency
regulations effective January 1, 1991.

Statutory Authority: § 27-97 of the Code of Virginia.

Contact: Gregory H. Revels, Program Manager, Code
Development Office, 205 N. 4th St., Richmond, VA 23219,
telephone (804) 371-7772.

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August 5, 1991 - 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 Housing and
Community Development intends to amend regulations
entitled: **VR 394-01-21. Virginia Uniform Statewide
Building Code, Volume I - New Construction
Code/1990**. The proposed amendments are necessary
to incorporate provisions consistent with the National
Flood Insurance Program relating to alterations and
repairs of existing buildings located in a floorplan.

Statutory Authority: §§ 36-98 and 36-99 of the Code of
Virginia.

Contact: Gregory H. Revels, Program Manager, Code
Development Office, 205 N. 4th St., Richmond, VA 23219,
telephone (804) 371-7772.

† September 9, 1991 - 1 p.m. - Public Hearing
Virginia Housing Development Authority, 601 South
Belvidere Street, Richmond, Virginia. ☒

† September 11, 1991 - 10 a.m. - Public Hearing
Prince William Department of Social Services, 7987 Ashton
Avenue, Manassas, Virginia. ☒

Calendar of Events

† September 12, 1991 - 10 a.m. - Public Hearing
Hampton Public Library, 4207 Victoria Boulevard,
Hampton, Virginia. ☒

† September 13, 1991 - 10 a.m. - Public Hearing
Virginia Tech Donaldson Brown Center, Otey Street,
Blacksburg, Virginia. ☒

The Department of Housing and Community Development is holding four public hearings throughout the state to receive comments on the proposed Comprehensive Housing Affordability Strategy (CHAS) which is a statewide housing plan mandated by the National Affordable Housing Act of 1990. The proposed CHAS identifies needs, resources, and strategies for developing affordable housing and will serve as a guide for the expenditure of all federal and state housing assistance.

Comments on the proposed CHAS may be made at any of the public hearings or may be submitted in writing through September 30, 1991. Copies of the proposed CHAS may be obtained by calling or writing Ms. Sharon Kelleher, Department of Housing and Community Development, 205 North Fourth Street, Richmond, VA 23219, (804) 786-7891.

Contact: Alice Fascitelli, Program Manager, Department of Housing and Community Development, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 225-4299 or (804) 786-5405/TDD ☎

Regulatory Effectiveness Advisory Committee

August 8, 1991 - 8:30 a.m. - Open Meeting
Virginia Housing Development Authority, Training Room,
601 Belvidere Street, Richmond, Virginia. ☒

A meeting to develop positions relative to the challenges to the BOCA Committees actions on the 1991 proposed changes to the BOCA National Codes as presented in the Final Hearing Roster. REAC positions thus developed are forwarded as recommendations to the Board of Housing and Community Development (BHCD). Positions approved by the board will be presented at the BOCA Annual Conference in Indianapolis, Indiana, September 15 through 20, 1991.

Contact: Carolyn R. Williams, Building Code Supervisor,
205 N. 4th St., Richmond, VA 23219, telephone (804)
371-7772.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

August 15, 1991 - 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 Housing Development Authority intends to amend regulations

entitled: VR 400-02-0008. Rules and Regulations for Virginia Rental Rehabilitation Program. The purpose of this action is to amend the rules and regulations in conformance with amendments to the federal regulations applicable to the program.

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

Written comments may be submitted until August 15, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

CHANGE IN MEETING TIME

July 30, 1991 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

Revised Proposed Agenda: An appeal by Stanley Construction Co., Inc., of Ashland, Virginia, from the denial of a Variance Request, has been added to the agenda. The following items are also included:

1. Hazardous Waste Operations and Emergency Response; Final Rule; Corrections
2. Amendment to the Construction Industry Standard for Sanitation, 1926.51; Technical Corrections
3. Air Contaminants, Final Rule; Grant of Partial Stay for Nitroglycerin
4. Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite; Extension of Partial Stay
5. Occupational Exposure to Formaldehyde; Extension of Administrative Stay
6. Amendment to the Bylaws of the Safety and Health Codes Board
7. Amendment to the Lead Standard

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2384.

STATE LAND EVALUATION ADVISORY COUNCIL

August 23, 1991 - 10 a.m. - Open Meeting
September 9, 1991 - 10 a.m. - Open Meeting
Department of Taxation, 2220 West Broad Street,
Richmond, Virginia. ☒

Calendar of Events

The council will meet to adopt suggested ranges of values for agricultural, horticultural, forest and open space land use and the use value assessment program.

Contact: David E. Jordan, Assistant Division Director, Virginia Department of Taxation, Property Tax Division, P.O. Box 1-K, Richmond, VA 23201, telephone (804) 367-8020.

COMMISSION ON LOCAL GOVERNMENT

August 19, 1991 - 11 a.m. - Open Meeting
August 20, 1991 - (if needed) - Time to be announced - Open Meeting
City of South Boston, Halifax County - Site to be determined.

Oral presentations regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD ☎ by May 23, 1991.

August 20, 1991 - 7 p.m. - Public Hearing
City of South Boston, Halifax County area - Site to be determined.

Public hearing regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD ☎ by May 23, 1991.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONGWOOD COLLEGE

Board of Visitors

July 29, 1991 - 9 a.m. - Open Meeting
Longwood College, Ruffner Building, Virginia/Prince Edward Rooms, Farmville, Virginia. ☒

Committee meetings (Finance Committee and Facilities Committee). Meeting of full board to conduct routine business.

Contact: William F. Dorrill, President, Longwood College, Farmville, VA 23209, telephone (804) 395-2001.

STATE LOTTERY BOARD

† **August 26, 1991 - 10 a.m. - Open Meeting**
State Lottery Department, Conference Room, 2201 West Broad Street, Richmond, Virginia. ☒

A regular monthly meeting of the board. 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 West Broad Street, Richmond, VA 23201, telephone (804) 367-9433.

MARINE RESOURCES COMMISSION

August 27, 1991 - 9:30 a.m. - Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for deaf provided if requested)

The commission will hear and decide marine environmental matters at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

The commission will hear and decide fishery management items at approximately 2 p.m.: regulatory proposals; fishery management plans; fishery conservation issues; licensing; shellfish leasing.

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607, telephone (804) 247-8088 or (804) 247-2292/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

August 2, 1991 - 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: **State Plan for Medical Assistance Relating to Estimated Acquisition Costs Pharmacy Reimbursement Methodology. VR 460-02-4.1920. Methods and Standards for Establishing Payments**

Calendar of Events

Rates—Other Types of Care This regulation will supersede the existing emergency regulation relating to estimated acquisition cost pharmacy reimbursement methodology.

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

Written comments may be submitted until August 2, 1991, to Betty Cochran, Director, Division of Quality Care Assurance, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

August 2, 1991 – 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: **State Plan for Medical Assistance Relating to Enrollment of Psychologists Clinical. VR 460-03-3.1100. Amount, Duration, and Scope of Services.** This amendment proposes granting psychologists licensed by the Board of Psychology as psychologists clinical and eligible to enroll in the Virginia Medicaid Program as providers of Medicaid covered services.

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

Written comments may be submitted until August 2, 1991, to C. M. Brankley, Director, Division of Client Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

August 2, 1991 – 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 460-03-4.1921. Methods and Standards for Other Types of Services: Obstetric and Pediatric Payments.** This proposed regulation promulgates specific obstetric and pediatric maximum payment rates to become effective October 1, 1991.

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

Written comments may be submitted until August 2, 1991, to C. M. Brankley, Director, Division of Client Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

August 16, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to adopt regulations entitled: **VR 460-04-8.12. Home and Community Based Services for Individuals with Mental Retardation.** The purpose of this proposal is to promulgate permanent regulations for the provision of home and community-based services for persons with mental retardation, to supersede the temporary emergency regulation which became effective on December 20, 1990.

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

Written comments may be submitted until 4:30 p.m., August 16, 1991, to Chris Pruett, Division of QCA, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

September 13, 1991 – 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 460-04-29, 460-01-29.1, 460-01-31.1, 460-02-3.2100, and 460-03-4.1922. Coordination of Title XIX with Part A and Part B of Title XVIII.** The purpose of the proposed action is to limit the payment of coinsurance amount by Medicaid so that the combined payments of Medicare Part B and Medicaid would not exceed the Medicaid allowance for a particular procedure.

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

Written comments may be submitted until September 13, 1991, to C.M. Brankley, Director, Division of Client Services, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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September 13, 1991 – 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: **State Plan for Medical Assistance Relating to Home Health Services. VR 460-03-3.1100. Amount, Duration and Scope of Services; VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.** The purpose of the proposed action is to promulgate permanent regulation to control the use of home health services.

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

Written comments may be submitted until September 13, 1991, to Mary Chiles, Manager, Division of Quality Care Assurance, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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† **September 27, 1991** – 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: **State Plan for Medical Assistance Relating to Elimination of Medicaid Payment for Reserving Nursing Home Bed for Hospitalized Patients. VR 460-02-4.1930. Basis for Payment for Reserving Beds During a Recipient's Absence from an Inpatient Facility.** The purpose of the proposed action is to promulgate permanent regulations to supersede the emergency regulation which provides for the same policy.

STATEMENT

Basis and Authority: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of 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 Board of Medical Assistance Services approved in August, 1990, this policy as part of its cost management initiatives.

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 an

emergency adoption action, the agency is initiating the public notice and comment process as contained in Article 2 of the APA.

Purpose: This proposal promulgates permanent regulations to supersede the current emergency regulation providing for the elimination of the Medicaid policy of paying to reserve the bed of a nursing facility resident when that resident requires hospitalization.

Summary and Analysis: The section of the State Plan affected by this action is Attachment 4.19 C. This regulation is responsive to the administration's directive to identify potential cost savings initiatives.

On July 1, 1982, Virginia Medicaid policy was changed to terminate the practice of paying nursing facilities for reserving the beds of nursing facility residents during their hospitalization. As an integral part of this policy, facilities were required to ensure that a former resident discharged from a hospital was given the opportunity to be readmitted to that facility at the time of the next available vacancy.

Effective July 1, 1988, Virginia Medicaid policy was changed to provide for Medicaid payment to nursing facilities in a planning district whose occupancy rate was 96% or better, in order to hold a nursing home bed for up to 12 days for a hospitalized resident. The policy was instituted to ensure more timely discharge of residents from acute care hospitals; in fact, it had the opposite effect. A study of hospital lengths of stay for nursing home residents showed that those residents not covered by the bed hold policy were discharged from the hospital on average one day sooner than those covered by the policy. The average length of stay in planning districts with bed hold days was 9.32 days, while the length of stay in planning districts without bed hold days was 8.62 days (1990 claims data). This may be attributed in part to the fact that when families were paying private rates to hold the bed, they may have communicated more often with the hospital physician and pushed for an early discharge. Another phenomenon reported that hospitals were not always able to discharge first-time admissions to nursing facilities because beds were being held.

The department does not anticipate that eliminating this coverage policy will cause nursing facility residents to be displaced. When the policy of reserving nursing facility beds for hospitalized residents was eliminated in 1982, DMAS monitored closely the outcomes for hospitalized residents in three ways: first, it checked facility compliance as part of its inspection of care activities; second, it investigated charges of noncompliance; and third, it conducted a six-year telephone survey of policy results. Only 1-2% of all hospitalized residents were displaced to another nursing facility, but all who wanted to return to their original facility later did so.

Impact: The cost savings effected by this issue has already been implemented as a result of the emergency regulation.

Calendar of Events

There are 22 planning districts in the state. Based on the occupancy rates obtained from nursing facilities' cost reports filed with DMAS, 14 districts (1, 2, 4, 5, 6, 7, 11, 12, 13, 14, 15, 16, 17, 22) had facilities with an occupancy rate of 96% or above at the time of the most recent cost report filed as of June 30, 1990. Therefore, for fiscal year 1991, 104 of the 227 nursing facilities statewide are in planning districts that have bed hold day reimbursement.

In FY 1990, there were 3,720 acute hospitalizations of nursing facility residents. Of this total, 29% were from planning districts that did not have bed hold coverage, and 71% from those who did. Of the planning districts that were covered by bed hold days, Medicaid funds paid for 20,297 bed hold days. Based on an average nursing facility reimbursement rate of \$60 per day, this resulted in \$1,219,068 (\$600,000 NGF; \$600,000 GF) reimbursement to the facilities.

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

Written comments may be submitted until September 27, 1991, to Betty Cochran, Director, Division of Quality Care Assurance, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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† September 27, 1991 - 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. VR 460-02-3.1300. VR 460-04-3.1300. Outpatient Rehabilitative Services**. The purpose of the proposed action is to promulgate permanent regulations to supersede the existing emergency regulation which provides for substantially the same policies, requirements, and limitations.

STATEMENT

Basis and Authority: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of 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, the agency is initiating the public notice and comment process as contained in Article 2 of the APA.

This amendment was approved by the Board of Medical Assistance Services in August, 1990, for inclusion in the DMAS' submission to the Governor's budget as a cost management initiative.

The Code of Federal Regulations, Title 42, Part 456, grants states the authority to perform utilization review (UR) and authorization for outpatient rehabilitative services.

Purpose: The purpose of this proposal is to promulgate permanent regulations to supersede the current emergency regulations providing for the authorization and utilization review of intensive outpatient physical rehabilitation services and outpatient physical therapy and related services (physical and occupational therapies and speech-language pathology services).

Summary and Analysis: The sections of the State Plan affected by this proposed regulation are Attachment 3.1 C (Standards Established and Methods Used to Assure High Quality Care) and Attachment 3.1 A & B (Amount, Duration, and Scope of Services), Supplement 1. The state regulations affected by this action are VR 460-04-3.1300. The Durable Medical Equipment (DME) and Supplies Listing that was placed in Supplement 4 of Attachment 3.1 A & B of the emergency regulation is not being promulgated at the specific request of the Health Care Financing Administration. The DME listing is found in the provider manuals for rehabilitative services, DME, home health, and local health departments and will be periodically updated.

DMAS has reimbursed physical therapy and related rehabilitative services for Medicaid recipients since 1978. These services are provided by acute care inpatient hospitals, rehabilitation hospitals, rehabilitation agencies, home health providers, and outpatient hospitals. This proposed regulation provides for new limits and increased utilization review requirements on these services. DMAS' service limits policy will now require authorization for extensions of normal services for physical and occupational therapies and speech-language pathology services based upon individual medical needs.

An intensive rehabilitation program was implemented in February 1986 to provide a package of comprehensive rehabilitation services to include rehabilitation nursing, speech-language pathology services, social services, psychology, therapeutic recreation, durable medical equipment (to assist individuals being discharged from rehabilitation facilities), and physical, occupational, or cognitive therapies. This comprehensive package of services must be provided by a freestanding rehabilitation hospital, a Comprehensive Outpatient Rehabilitation Facility (CORF), or by an acute care hospital that has a physical rehabilitation unit which has been exempted from the Medicare Prospective Payment System.

By implementing the authorization and UR process for all intensive rehabilitation services and for physical and occupational therapies and speech-language pathology

Calendar of Events

services, DMAS expects to prevent unnecessary expenditures and ensure better quality of care.

Nothing in this regulation is intended to preclude DMAS from reimbursing for special intensive rehabilitative services on an exception basis and reimbursing for these services on an individually negotiated rate basis. DMAS places some individuals with complex intensive physical rehabilitative needs (such as high level spinal cord injury and ventilator dependency) in out-of-state rehabilitation facilities because in-state facilities cannot provide the necessary services within their existing reimbursement. This regulation will also allow Medicaid to negotiate individual contracts with in-state intensive physical rehabilitation facilities for those individuals with special needs. To ensure efficient use of available in-state services, negotiated rates for special intensive physical rehabilitative care will only be used when the patient meets the criteria for intensive physical rehabilitation.

Service limits have been determined for medically necessary medical supplies and equipment which will continue to be covered for Medicaid recipients who receive outpatient intensive physical rehabilitative services. Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. Requests for items not identified on the DME listing must be submitted to DMAS for individual consideration. When determined to be cost-effective by DMAS, payment may be made for rental of the equipment in lieu of purchase.

The proposed regulations are substantively the same as the emergency regulations that became operative on January 1, 1991. To date, DMAS has received no provider comment on these regulations. Differences in the proposed regulations from the emergency regulations include the removal of the DME Listing from the Plan, the addition of examples of non-covered items, and the expansion of rehabilitative therapists' qualifications to include certain therapists who are employed by school districts. Technical changes were also made for clarity.

Impact: Utilization review processes are expected to produce a net savings to DMAS of \$334,000 GF in FY91 and \$665,000 GF in FY92 in expenditures to rehabilitative agencies. Utilization review processes are expected to produce a net savings to DMAS of \$225,000 GF in FY91 and \$450,000 GF in FY92 for rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals. These savings have been identified in the FY 1992 budget submission and in previously issued emergency regulations.

Forms: Two new forms are required to implement this proposed regulation. The Rehabilitation Treatment Authorization (DMAS-125) is used by providers to request rehabilitative services beyond preauthorized limits. The DME and Supplies Authorization (DMAS-440) is used by providers to request DME and supplies that exceed the limits described in the DME listing for either quantity or

frequency.

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

Written comments may be submitted until September 27, 1991, to Mary Chiles, Manager, Division of Quality Care Assurance, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

BOARD OF MEDICINE

September 13, 1991 – 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 Medicine intends to amend regulations entitled: **VR 465-09-01. Certification for Optometrists to Prescribe for and Treat Certain Diseases Including Abnormal Conditions of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents.** These amendments replace emergency regulations in §§ 2.1-(3) and 6.1 of the regulations to provide alternate pathways for graduates of optometric training programs to be eligible to sit for the certification exam to treat ocular diseases with therapeutic pharmaceutical agents.

Statutory Authority: §§ 54.1-2400, 54.1-2957.1, and 54.1-2957.2 of the Code of Virginia.

Written comments may be submitted until September 13, 1991.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

Executive Committee

August 2, 1991 - 9 a.m. – Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

An open session to review closed cases, cases/files requiring administrative action, and consider any other items which may come before the committee. The committee will not receive public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Calendar of Events

Informal Conference Committee

August 6, 1991 - 9 a.m. – Open Meeting
Sheraton-Fredericksburg Resort and Conference Center,
I-95 & Route 3, Fredericksburg, Virginia. ☐

August 16, 1991 - 9 a.m. – Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W.,
Roanoke, Virginia. ☐

The Informal Conference Committee will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Karen D. Waldron, Deputy Executive Director, Disc., 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9908 or (804) 662-9943/TDD ☐

Legislative Committee

August 2, 1991 - 1 p.m. – Open Meeting
Department of Health Professions, Board Room 1, 1601
Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to review the proposed amendments to the Code of Virginia relating to the method of conduct for formal evidentiary hearings and develop recommendations to the full board. The committee will review other business which may come before it. The committee will not receive public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Committee on Optometry

September 13, 1991 - 10 a.m. – Open Meeting
Department of Health Professions, Board Room 2, 1601
Rolling Hills Drive, Richmond, Virginia. ☐

The committee will meet to review public written comments received on the Optometry Regulations VR 465-09-01, Certification for Optometrists to prescribe for and treat certain diseases or abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents. The committee will propose recommendations for presentation to the full board. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Board on Physical Therapy

August 23, 1991 - 9 a.m. – Open Meeting

September 6, 1991 - 9 a.m. – Open Meeting
Department of Health Professions, Board Room 2, 1601
Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to review and discuss regulations, bylaws, procedural manuals, and to receive reports and other items which may come before the advisory board. The advisory board will not receive public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Committee on Physician's Assistants

August 23, 1991 - 9 a.m. – Open Meeting
Department of Health Professions, Board Room 1, 1601
Rolling Hills Drive, Richmond, Virginia. ☐

The committee will review and prepare recommendations to the board on proposed amendments to regulations VR 465-05-01. The committee will not entertain public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

July 30, 1991 - 6 p.m. – Open Meeting
July 31, 1991 - 10 a.m. – Open Meeting
James Madison Building, 13th Floor Conference Room,
Richmond, Virginia. ☐

A regular monthly meeting. The agenda will be published on July 24. The agenda may be obtained by calling Jane Helfrich.

Tuesday: Informal Session - 6 p.m.

Wednesday: Committee Meetings - 8:45 a.m.
Regular Session - 10 a.m.

(See agenda for location.)

Contact: Jane V. Helfrich, Board Administrator, State MHMRSAS Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3912.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

August 1, 1991 - 7 p.m. – Open Meeting
502 South Main Street, No. 4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors

will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases before for eligibility to participate with the program. It will review the previous month's operation (budget and program related business).

Contact: Lisa Ann Peacock, Program Director, 502 S. Main St., No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

† **September 7, 1991 - 8:30 a.m.** – Open Meeting
Smith Hall Board Room, Virginia Military Institute, Lexington, Virginia. ☒

A regular meeting of the VMI Board of Visitors to (i) elect president for 1991-1992; and (ii) consider committee reports.

The BOV provides an opportunity for public comment at this meeting, immediately after the superintendent's comments (about 9 a.m.).

Contact: Colonel Edwin L. Dooley, Jr., Secretary to BOV, Virginia Military Institute, Lexington, Virginia, 24450, telephone (703) 464-7206.

DEPARTMENT OF MINES, MINERALS AND ENERGY

September 13, 1991 - 10 a.m. – Public Hearing
Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, 622 Powell Avenue, AML Conference Room, Big Stone Gap, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-03-19, Virginia Coal Surface Mining Reclamation Regulations**. This action amends standards for protection of historic, fish, and wildlife resources; administrative procedures to reinstate individuals who have forfeited bond; appeals of the director's decisions; review of lands unsuitable petitions and notification of bond release.

Statutory Authority: §§ 45.1-3.4 and 45.1-230 of the Code of Virginia.

Written comments may be submitted until September 13, 1991.

Contact: Bill Edwards, Policy Analyst, Department of Mines, Minerals and Energy, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-0330 or toll-free 1-800-552-3831.

BOARD OF NURSING

July 29, 1991 - 8:30 a.m. – Open Meeting
July 30, 1991 - 8:30 a.m. – Open Meeting
Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒
(Interpreter for deaf provided upon request)

A regular meeting to consider matters related to nursing education programs, discipline of licensees, licensure by examination and endorsement and other matters under the jurisdiction of the board.

Public comment will be received during an open forum session beginning at 11 a.m. on Monday, July 29, 1991.

Contact: Corinne F. Dorsey, R.N. Executive Director, 1601 Rolling Hills Drive, Richmond, Virginia 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☒

Special Conference Committee

† **August 13, 1991 - 8:30 a.m.** – Open Meeting
† **August 22, 1991 - 8:30 a.m.** – Open Meeting
† **August 23, 1991 - 8:30 a.m.** – Open Meeting
† **August 26, 1991 - 8:30 a.m.** – Open Meeting
Department of Health Professions, Conference Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒
(Interpreter for deaf provided upon request)

A Special Conference Committee, comprised of three members of the Virginia Board of Nursing, will conduct informal conferences with licensees to determine what, if any, action should be recommended to the Board of Nursing.

Public comment will not be received.

Contact: Corinne F. Dorsey, R.N. Executive Director, 1601 Rolling Hills Drive, Richmond, Virginia 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☒

TASK FORCE TO STUDY NURSE MIDWIVES AND OBSTETRIC CARE

August 19, 1991 - 10 a.m. – Open Meeting
General Assembly Building, 4th Floor West Conference Room, 910 Capitol Street, Richmond, Virginia. ☒

August 19, 1991 - 1:30 p.m. – Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

Task Force will meet to continue its study of providers of obstetric care, pursuant to House Joint Resolution 431.

Calendar of Events

At 1:30 p.m. the Task Force will conduct an informational public hearing in House Room C. Comment is requested related to methods of promoting and encouraging family physicians and obstetricians to continue or resume delivering babies, to examine the potential for expanding nurse midwife practice and recommendations for collaboration by these providers to respond to identified needs in the Commonwealth.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560, or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

† **September 5, 1991 - 8:30 a.m.** – Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia.

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-7390.

BOARD FOR OPTICIANS

August 6, 1991 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An open meeting to (i) review applications; (ii) sign certificates, and (iii) discuss other matters which require board action.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

BOARD OF OPTOMETRY

† **August 21, 1991 - 8:30 a.m.** – Open Meeting
Department of Health Professions, Conference Room 2, 1601 Rolling Hills Drive, Richmond, Virginia.

Informal Conferences are scheduled.

The board will meet at 10 a.m. to adopt the Optometry Regulations.

Contact: Lisa J. Russell, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23220-5005, telephone (804) 662-9942.

VIRGINIA OUTDOORS FOUNDATION

† **August 26, 1991 - 10:30 a.m.** – Open Meeting
House Room 4, State Capitol, Richmond, Virginia. ☒

A general Business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-5539.

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

August 7, 1991 - 10 a.m. – Open Meeting
August 8, 1991 - 10 a.m. – Open Meeting
Fredericksburg-Sheraton, Fredericksburg, Virginia.

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

PRIVATE SECURITY SERVICES ADVISORY BOARD

July 31, 1991 - 10 a.m. – Open Meeting
Holiday Inn, Lynchburg, Virginia. ☒

The committee will hold a general business meeting.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-4000.

REAL ESTATE APPRAISER BOARD

† **September 17, 1991 - 11 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A board meeting to adopt proposed regulations.

Contact: Demetra Y. Kontos, Assistant Director, Department of Commerce, Services, 3600 West Broad Street, Richmond, Virginia 23230, telephone (804) 367-2175.

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September 16, 1991 – 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 Real Estate Appraiser Board intends to adopt regulations entitled: **VR 583-01-01. Real Estate Appraiser Board Public Participation Guidelines.** The proposed regulation outlines the procedures for solicitation of input from interested parties in the formation and development of

Calendar of Events

Appraiser Board Regulations.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Written comments may be submitted until September 16, 1991.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-2175.

REAL ESTATE BOARD

August 7, 1991 - 9:30 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

The board will meet to conduct a formal hearing: File Number 90-01504, Real Estate Board v. Rosenbaum, Henry S.

August 8, 1991 - 10 a.m. – Open Meeting
Norfolk Port and Industrial Authority, Conference Room B, Norfolk International Airport, Norfolk, Virginia.

The board will meet to conduct a formal hearing: File Numbers 88-00795 and 86-01498, Real Estate Board v. Leneski, Donald t/a Military Services Realty, Inc.

August 8, 1991 - 10 a.m. – Open Meeting
Tysons Corner Marriot, McLean Room, 8028 Leesburg Pike, Vienna, Virginia.

The board will meet to conduct a formal hearing: File Number 90-00620, Real Estate Board v. Roy W. Rudolph.

† **August 15, 1991 - 11 a.m. – Open Meeting**
Court Room 1, Roanoke City Circuit Court, 315 West Church Avenue, Roanoke, Virginia.

The board will meet to conduct a formal hearing: File Number 88-00865, Real Estate Board v. Donald Hall and Julia Mawyer.

† **August 28, 1991 - 10 a.m. – Open Meeting**
Tysons Corner Marriot, 8028 Leesburg Pike, Vienna, Virginia.

The board will meet to conduct a formal hearing: File Number 90-01807, Real Estate Board v. Becker, Harriet J.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

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August 16, 1991 – 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 Real Estate Board intends to adopt regulations entitled: **VR 585-01-05. Real Estate Board Fair Housing Regulations.** The board proposes to promulgate fair housing regulations in support of the Virginia Fair Housing Law, Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of Virginia effective July 1, 1991.

Statutory Authority: §§ 36-94(d) and 36-96.20(C) of the Code of Virginia.

Contact: Susan Scovill, Fair Housing Administrator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8530

BOARD OF SOCIAL SERVICES

† **August 14, 1991 - 2 p.m. – Open Meeting**
† **August 15, 1991 - (if needed) - 9 a.m. – Open Meeting**
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ☒

A work session and formal business meeting.

Contact: Phyllis Sisk, Staff Specialist, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-9236, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☎

DEPARTMENT OF TRANSPORTATION

July 31, 1991 - 7 p.m. – Public Hearing
Virginia Department of Transportation, Auditorium, 1221 East Broad Street, Richmond, Virginia. ☒

A public meeting is being held to obtain comments from Virginia residents, business leaders, and state and local officials on the Virginia Department of Transportation's continued study of issues relating to the cost responsibility of vehicles using Virginia's roads. The study, mandated by Senate Joint Resolution (SJR) 238, requires the department to consider pavement deterioration models for the allocation of rehabilitation (3R) money and to develop a data collection plan for the periodic performance of cost responsibility studies. In addition, analysis of tax and fee increases and their potential effect on the industry will be included in the study.

Contact: Mary Lynn Tischer, Ph.D., 1401 E. Broad St., Room 403, Richmond, VA 23219, telephone (804) 225-4698.

Calendar of Events

COMMONWEALTH TRANSPORTATION BOARD

August 14, 1991 - 2 p.m. – Open Meeting
Ramada Towers, 57th & Oceanfront, Virginia Beach, Virginia. ☒

A joint work session of the Commonwealth Transportation Board and the Department of Transportation staff.

August 15, 1991 - 10 a.m. – Open Meeting
Ramada Towers, 57th & Oceanfront, Virginia Beach, Virginia. ☒

Monthly meeting of the Commonwealth Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Public comment will be received at the outset of the meeting, on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

Contact: John G. Milliken, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6670.

TRANSPORTATION SAFETY BOARD

August 16, 1991 - 10 a.m. – CANCELLED
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☒

The meeting to discuss several topics which pertain to transportation safety has been cancelled.

Contact: W. H. Leighty, Deputy Commissioner for Transportation Safety, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23219-0001, telephone (804) 367-6614 or (804) 367-1752/TDD ☎

TREASURY BOARD

† **August 21, 1991 - 9 a.m. – Open Meeting**
101 North 14th Street, James Monroe Building, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting.

Contact: Belinda Blanchard, Assistant Investment Officer, Department of the Treasury, P. O. Box 6-H, Richmond, VA 23215, telephone (804) 371-6007.

VIRGINIA RESOURCES AUTHORITY

August 13, 1991 - 10 a.m. – Open Meeting
The 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 July 9, 1991; (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. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Mutual Building, 909 East Main Street, Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or FAX Number (804) 644-3109.

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

August 7, 1991 - 1 p.m. – Open Meeting
August 8, 1991 - 8 a.m. – Work Session
Holiday Inn Waynesboro-Afton, Jct., Skyline Drive and Blue Ridge Parkway, U.S. 250 and I-64, Waynesboro, Virginia.

The council will conduct its general business session, followed by a work session to plan council activities related to responsibilities in the Carl Perkins Vocational and Applied Technology Education Act.

Contact: George S. Orr, Jr., Executive Director, 7420-A Whitepine Rd., Richmond, VA, telephone (804) 275-6218.

VIRGINIA VOLUNTARY FORMULARY BOARD

† **August 29, 1991 - 10 a.m. – Public Hearing**
109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

The Virginia Voluntary Formulary Board will hold a public hearing on this date. The purpose of this hearing is to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on February 15, 1991 and the most recent supplement to that Formulary. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on August 29, 1991 will be made a part of the hearing record.

† **September 19, 1991 - 10:30 a.m. – Open Meeting**
109 Governor Street, Main Floor Conference Room,

Calendar of Events

Richmond, Virginia.

A meeting to consider public hearing comments and review new products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor Street, Room B1-9, Richmond, VA 23219, telephone (804) 786-4326 or SCATS (804) 786-3596.

VIRGINIA WASTE MANAGEMENT BOARD

† August 15, 1991 - 10 a.m. - Open Meeting
General Assembly Building, House Room C, Richmond, Virginia. ☐

A general business meeting.

Contact: Loraine Williams, Secretary, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 225-2667, toll-free 1-800-552-2075 or (804) 225-3753/TDD ☎

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

August 28, 1991 - 7 p.m. - Open Meeting
The Board Room of the School Administration Building, Washington Street, Amherst, Virginia.

Pursuant to the requirements of Part VII of the Virginia Solid Waste Management Regulations (Permitting of Solid Waste Management Facilities), the draft Solid Waste Disposal Facility Permit for the development of an industrial landfill, proposed by Virginia Fibre Corporation, is available for public review and comment. The permit allows the proposed facility to accept only authorized, nonhazardous waste which result from the operations of Virginia Fibre Corporation. The proposal incorporates design elements for a synthetic cap, and synthetic drainage layers for the cap and side slopes of the base liner, which are not provided for in the regulations. Virginia Fibre petitioned for these features pursuant to the requirements of Part IX of the regulations (Rulemaking Petitions and Procedures), and the Department of Waste Management has granted tentative approval.

Contact: E. D. Gillispie, Environmental Engineering Consultant, Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 371-0514.

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September 16, 1991 - 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 Waste Management Board intends to adopt regulations entitled: **VR 672-20-32. Yard Waste Composting Facility Regulation.** This regulation provides for certain exemptions from the permitting requirements for solid waste management facilities contained in Part VII of the "Virginia Solid Waste Management Regulations" (VR 672-20-10) and certain substantive facility standards contained in § 6.1 of the same regulations.

Statutory Authority: §§ 10.1-1402 and 10.1-1408.1 of the Code of Virginia.

Contact: Michael P. Murphy, Environmental Program Manager, Department of Waste Management, 11th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0044/TDD ☎ toll-free 1-800-533-7488

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August 7, 1991 - 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 Waste Management Board intends to adopt regulations entitled: **VR 672-50-11. Regulations for the Certification of Recycling Machinery and Equipment for Tax Exemption Purposes.** This regulation establishes criteria for recycling machinery and equipment. The regulation would allow owners of machinery and equipment used primarily to process recyclable material for markets or to incorporate recycled material into a production process to seek a recycling certification for such equipment from the Virginia Department of Waste Management. Once certified, the owner could apply for a local personal property tax exemption offered for such recycling machinery or equipment.

Statutory Authority: §§ 10.1-1411 and 58.1-3661 of the Code of Virginia.

Written comments may be submitted until August 7, 1991.

Contact: G. Stephen Coe, Equipment Certification Officer, Department of Waste Management, 11th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 374-8737/TDD ☎

STATE WATER CONTROL BOARD

† September 4, 1991 - 7 p.m. - Public Hearing
James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg, Virginia.

† September 9, 1991 - 7 p.m. - Public Hearing
Prince William County Board Room, 1 County Complex,

Calendar of Events

McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

† **September 11, 1991 - 7 p.m.** – Public Hearing
Roanoke County Administration Center Community Room,
3738 Brambleton Avenue, S.W., Roanoke, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-07. Oil Discharge Contingency Plans and Administrative Fees for Approval.** The purpose of this proposal is to establish requirements for facility and tank vessel contingency plans and fees for approval of contingency plans.

STATEMENT

Basis: Section 62.1-44.34:15 of the Code of Virginia requires all facilities in the Commonwealth of Virginia having an aggregate above ground maximum storage or handling capacity of equal to or greater than 25,000 gallons of oil and all tank vessels transporting or transferring oil upon state waters having a maximum storage, handling or transporting capacity of equal to or greater than 15,000 gallons of oil to file with and have approved by the State Water Control Board a contingency plan applicable to the facility or the tank vessel. Further, the Code provides that the State Water Control Board shall promulgate regulations implementing § 62.1-44.34:15 on or before January 1, 1992.

Section 62.1-44.34:21 of the Code of Virginia authorizes the State Water Control Board (board) to establish fees by regulation for approval of an oil discharge contingency plan sufficient to meet, but not exceed, the costs of the board related to implementation of § 62.1-44.34:15.

Additionally, § 62.1-44.15(10) of the Code of Virginia authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth.

Substance and purpose: It is the intent of the board with the promulgation of this proposed regulation to ensure that the facilities and tank vessels subject to this proposed regulation be able to take such steps as are necessary to protect environmentally sensitive areas, to respond to the threat of an oil discharge, and to contain, cleanup and mitigate an oil discharge within the shortest feasible time.

The purpose of the proposed regulation is to establish the contents and requirements for facility and tank vessel contingency plans and establish a fee schedule for approval of an oil discharge contingency plan sufficient to meet, but not exceed, the costs of the board related to implementation of § 62.1-44.34:15 of the Code of Virginia. Under the proposal, plans must be submitted to the board no later than April 1, 1992.

Impact: This proposed regulation could potentially affect

3000 facilities in the Commonwealth and 350 tank vessels upon entering state waters. In addition to the fee for board approval of a contingency plan, affected facilities and tank vessel operators will be required to develop a contingency plan. The exact cost of developing a plan will vary based on several factors; estimates for developing contingency plans range from \$2,000 to \$10,000.

Further, those facilities and tank vessels subject to this proposed regulation not having an approved contingency plan by the required date will be in violation of the law and subject to penalty in accordance with § 62.1-44.34:20 of the Code of Virginia.

Issues: Issues under consideration include whether the board should adopt the proposed regulation; whether the proposal is adequate to ensure that the facilities and tank vessels subject to this proposed regulation are able to take such steps as are necessary to protect environmentally sensitive areas; to respond to the threat of an oil discharge, and to contain, cleanup and mitigate an oil discharge within the shortest feasible time; and the appropriateness of the proposed fee schedule.

Statutory Authority: §§ 62.1-44.34:15 and 62.1-44.34:21 of the Code of Virginia.

Written comments may be submitted until 4 p.m., September 30, 1991, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mr. David Ormes, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5197.

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† **September 4, 1991 - 7 p.m.** – Public Hearing
James City County Board of Supervisors Room, Building C,
101C Mounts Bay Road, Williamsburg, Virginia.

† **September 9, 1991 - 7 p.m.** – Public Hearing
Prince William County Board Room, 1 County Complex,
McCourt Building, 4850 Davis Ford Road, Prince William,
Virginia.

† **September 11, 1991 - 7 p.m.** – Public Hearing
Roanoke County Administration Center Community Room,
3738 Brambleton Avenue, S.W., Roanoke, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations titled: **VR 680-14-08. Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval.** The purpose of this proposal is to establish requirements for financial responsibility on the part of operators of tank vessel's transporting or transferring oil upon state waters and fees for approval.

STATEMENT

Basis: Under the authority of § 62.1-44.34:16 of the Code of Virginia the State Water Control Board (board) is authorized to require operators of all tank vessels transporting or transferring oil upon state waters having a maximum storage, handling or transporting capacity of equal to or greater than 15,000 gallons of oil to deposit with the board cash or its equivalent in the amount of \$500 per gross ton of such vessel.

Section 62.1-44.34:21 of the Code of Virginia authorizes the board to collect fees for the acceptance of evidence of financial responsibility sufficient to meet, but not exceed, the costs of the board related to implementation of § 62.1-44.34:16.

Substance and purpose: It is the intent of the board with the promulgation of this proposed regulation to establish requirements for financial responsibility on the part of operators of tank vessels transporting or transferring oil as cargo upon state waters. This proposed regulation provides acceptable means of demonstrating the required level of financial responsibility therefore providing the Commonwealth with the necessary assurance that an operator of a tank vessel has the necessary financial stability to conduct a proper response to a discharge of oil. In addition, the proposed regulation establishes a schedule of fees for acceptance of financial responsibility in accordance with § 62.1-44.34:21 of the Code of Virginia.

The proposed regulation also provides an exemption from the cash deposit requirement if evidence of financial responsibility is provided in an amount equal to the required cash deposit by self-insurance, insurance, surety, guaranty, or any combination thereof. The requirements, content and format for these financial responsibility mechanisms are specified by the proposed regulation.

Impact: This proposed regulation could potentially affect operators of approximately 350 tank vessels upon entering state waters. Other than the fee imposed by the proposed regulation, the impact on the affected tank vessels is expected to be minimal since the majority are currently required to possess evidence of financial responsibility under federal statute and regulation.

In addition, those operators of tank vessels subject to this regulation not having evidence of financial responsibility accepted by the board by the required date will be in violation of the State Water Control law and subject to penalties in accordance with § 62.1-44.34:20 of the Code of Virginia.

Issues: Issues under consideration include whether the board should adopt the proposed regulation; whether the proposal is adequate to ensure that the operator of a tank vessel has the necessary financial stability to conduct a proper response to a discharge of oil, and the appropriateness of the financial responsibility mechanisms and the proposed fee schedule.

Statutory Authority: §§ 62.1-44.34:16 and 62.1-44.34:21 of the Code of Virginia.

Written comments may be submitted until 4 p.m., September 30, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mr. David Ormes, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5197.

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STATE BOARD OF YOUTH AND FAMILY SERVICES

August 26, 1991 - 10 a.m. - Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800 Shore Drive, Virginia Beach, Virginia.

A general business meeting.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, 700 Centre, 4th Floor, 7th & Franklin Sts., Richmond, VA 23219, telephone (804) 371-0692.

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING COMPARATIVE PRICE ADVERTISING

† **July 29, 1991 - 10 a.m. - Open Meeting**
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia.

This will be the initial meeting of the second year of this study to review legislative proposals. (HJR 337)

Contact: Mary Geisen, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

LOCAL AND STATE GOVERNMENT INFRASTRUCTURE AND REVENUE RESOURCES COMMISSION

Special Subcommittee

August 23, 1991 - 1 p.m. - Open Meeting
General Assembly Building, 5th Floor West Conference Room, 910 Capitol Street, Richmond, Virginia. ☐

Calendar of Events

A special subcommittee of the commission will hold a working session in a continuation of its study of local and state government infrastructure and revenue resources. (HJR 205)

Contact: Bethany Parker, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

COMMISSION ON EARLY CHILDHOOD AND CHILD DAY CARE PROGRAMS

† July 29, 1991 - 2 p.m. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

This is an organizational meeting of the Commission on Early Childhood and Child Day Care Programs.

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING EARLY INTERVENTION SERVICES FOR HANDICAPPED INFANTS AND TODDLERS

† August 19, 1991 - 10 a.m. - Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☒

This is the first meeting of this subcommittee following the 1991 General Assembly Session. The subcommittee will continue the work it started in 1990 when it was conducted pursuant to HJR 164. (HJR 380)

Contact: Jessica Bolecek, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING THE ENVIRONMENTAL IMPACT OF OIL AND GAS DRILLING UNDER THE CHESAPEAKE BAY

September 18, 1991 - 2 p.m. - Open Meeting
General Assembly Building, Sixth Floor Conference Room, 910 Capitol Street, Richmond, Virginia. ☒

The joint subcommittee will meet for additional study of the environmental impact of oil and gas drilling under the Chesapeake Bay. (HJR 251)

Contact: Deanna Sampson, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT HOUSE APPROPRIATIONS AND SENATE FINANCE COMMITTEES

† August 23, 1991 - 9:30 a.m. - Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☒

The purpose of this meeting is to hear the Governor's report on surplus for the 1990-91 fiscal year.

Contact: John Garka, Division Manager, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

SUBCOMMITTEE STUDYING THE REGULATION OF UNDERGROUND INJECTION WELLS IN THE COMMONWEALTH

† September 5, 1991 - 7:30 p.m. - Public Hearing
Circuit Courtroom, Dickenson County Courthouse, Main Street, Clintwood, Virginia.

The subcommittee will hold a public hearing concerning the regulation of underground injection wells in the Commonwealth. (HJR 310)

Contact: John Heard, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING THE USE OF VEHICLES POWERED BY CLEAN TRANSPORTATION FUELS

July 29, 1991 - 1:30 p.m. - Open Meeting
State Capitol, House Room 4, Capitol Square, Richmond, Virginia. ☒

The joint subcommittee will meet to continue its study of the use of vehicles powered by clean transportation fuels. (HJR 334)

Contact: Dr. Alan Wambold, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

LABOR & COMMERCE SUBCOMMITTEE STUDYING HOUSE BILL 1813 RELATING TO WORKER'S COMPENSATION AND PNEUMOCONIOSIS

† August 22, 1991 - 1 p.m. - Open Meeting
State Capitol, House Room 2, Capitol Square, Richmond, Virginia. ☒

The subcommittee will meet to review House Bill 1813, as originally introduced, relating to worker's compensation and pneumoconiosis.

Contact: Arlen K. Bolstad, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING THE WORKER'S COMPENSATION SECOND INJURY FUND

August 22, 1991 - 10 a.m. - Open Meeting
State Capitol, House Room 2, Capitol Square, Richmond, Virginia. ☐

The joint subcommittee will meet for additional study of the worker's compensation second injury fund. (HJR 312).

Contact: Arlen K. Bolstad, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

July 29

- † Comparative Price Advertising, Joint Subcommittee Studying Criminal Justice Services, Department of
 - Court Appointed Special Advocate Program Advisory Committee
- † Early Childhood and Child Day Care Programs, Commission on
- Funeral Directors and Embalmers, Board of Longwood College
 - Board of Visitors
- Nursing, Board of
- Vehicles Powered by Clean Transportation Fuels, Joint Subcommittee Studying the Use of

July 30

- ASAP Policy Board - Rockbridge
- Funeral Directors and Embalmers, Board of
- Labor and Industry, Department of
 - Safety and Health Codes Board
- Mental Health, Mental Retardation and Substance Abuse Services Board, State
- Nursing, Board of

July 31

- Dentistry, Board of
- Mental Health, Mental Retardation and Substance Abuse Services Board, State
- Private Security Services Advisory Board

August 1

- † Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Dentistry, Board of
- Middle Virginia Board of Directors and the Middle

Virginia Community Corrections Resources Board

August 2

- Dentistry, Board of
- Medicine, Board of
 - Executive Committee
 - Legislative Committee

August 3

- Dentistry, Board of

August 5

- † Accountancy, Board for
- † Cosmetology, Board for

August 6

- Hopewell Industrial Safety Council
- Medicine, Board of
 - Informal Conference Committee
- Opticians, Board for

August 7

- † ASAP Policy Board - Mount Rogers
- Child Mental Health, Interagency Consortium on
- Population Growth and Development, Commission on
- Real Estate Board
- Vocational Education, Virginia Council on

August 8

- † Child Day-Care Council
- Housing and Community Development, Department of
 - Regulatory Effectiveness Advisory Committee
- Population Growth and Development, Commission on
- Real Estate Board
- Vocational Education, Virginia Council on

August 12

- † Arts, Commission for the
- † Barbers, Board for

August 13

- † Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
 - Board for Professional Engineers
- † Arts, Commission for the
- Auctioneers Board
- † Commerce, Department of
- † Nursing, Board of
 - Special Conference Committee
- Virginia Resources Authority

August 14

- Education, State Board of
- † Social Services, State Board of
- Transportation Board, Commonwealth

August 15

- Geology, Board for
- † Real Estate Board
- † Social Services, State Board of
- Transportation Board, Commonwealth

Calendar of Events

† Waste Management Board, Virginia

August 16

Geology, Board for
Medicine, Board of
- Informal Conference Committee

August 19

† Early Intervention Services for Handicapped Infants and Toddlers, Joint Subcommittee Studying Emergency Planning Committee, Local - County of Prince William, City of Manassas, and City of Manassas Park
Local Government, Commission on
Nurse Midwives and Obstetric Care, Task Force to Study

August 20

† Historic Resources, Department of
- State Review Board
Local Government, Commission on

August 21

Chesapeake Bay Local Assistance Board
Corrections, Board of
† Historic Resources, Board of
† Optometry, Board of
† Treasury Board

August 22

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Nursing, Board of
- Special Conference Committee
† Labor and Commerce Subcommittee Study House Bill 1813, as Originally Introduced, Relating to Worker's Compensation and Pneumoconiosis
Worker's Compensation Second Injury Fund, Joint Subcommittee Studying

August 23

† House Appropriations and Senate Finance Committees, Joint
Land Evaluation Advisory Council, State
Local and State Government Infrastructure and Revenue Resources Commission, Special Subcommittee of
Medicine, Board of
- Advisory Board on Physical Therapy
- Advisory Committee on Physician's Assistants
† Nursing, Board of
- Special Conference Committee

August 26

† Lottery Board, State
† Nursing, Board of
- Special Conference Committee
† Outdoors Foundation, Virginia
Youth and Family Services, State Board of

August 27

Health Services Cost Review Council, Virginia
Marine Resources Commission

August 28

Compensation Board
† Real Estate Board
† Waste Management, Department of

August 29

† Game and Inland Fisheries, Board of

August 30

† Game and Inland Fisheries, Board of

September 3

Hopewell Industrial Safety Council

September 4

Child Mental Health, Interagency Consortium on

September 5

Emergency Planning Committee, Local - Chesterfield County
† Nursing Home Administrators, Board of

September 6

Medicine, Board of
- Advisory Board on Physical Therapy

September 7

† Military Institute, Virginia
- Board of Visitors

September 9

Land Evaluation Advisory Council, State

September 11

Emergency Response Council, Virginia

September 13

Medicine, Board of
- Advisory Committee on Optometry

September 16

Emergency Planning Committee, Local - County of Prince William, City of Manassas, and City of Manassas Park

September 17

† Real Estate Appraiser Board

September 18

Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board

September 19

Oil and Gas Drilling Under the Chesapeake Bay, Joint Subcommittee Studying the Environmental Impact of
† Voluntary Formulary Board, Virginia

September 26

Compensation Board

† Child Day-Care Council

October 3

Emergency Planning Committee, Local - Chesterfield County

September 17

† Child Day-Care Council

September 19

† Child Day-Care Council

October 2

Criminal Justice Services Board

PUBLIC HEARINGS

July 30

† Air Pollution Control, Department of

August 13

† Health, Department of
- Office of Planning and Regulatory Services

August 19

Nurse Midwives and Obstetric Care, Task Force to Study

August 20

Local Government, Commission on

August 29

† Voluntary Formulary Board, Virginia

September 4

† Environment, Council on the
† Water Control Board, State

September 5

† Environment, Council on the
† Underground Injection Wells in the Commonwealth, Subcommittee Studying the Regulation of

September 9

† Housing and Community Development, Department of
of
† Water Control Board, State

September 10

† Housing and Community Development, Department of
of

September 11

† Housing and Community Development, Department of
of
† Water Control Board, State

September 12

† Housing and Community Development, Department of
of

September 13

† Housing and Community Development, Department of
of
Mines, Minerals and Energy, Department of

September 16

Calendar of Events
