

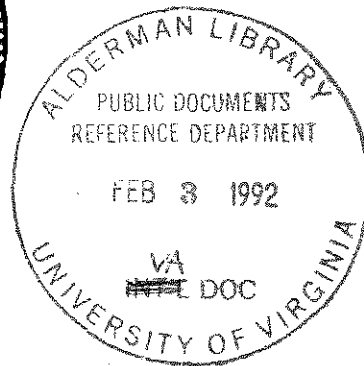
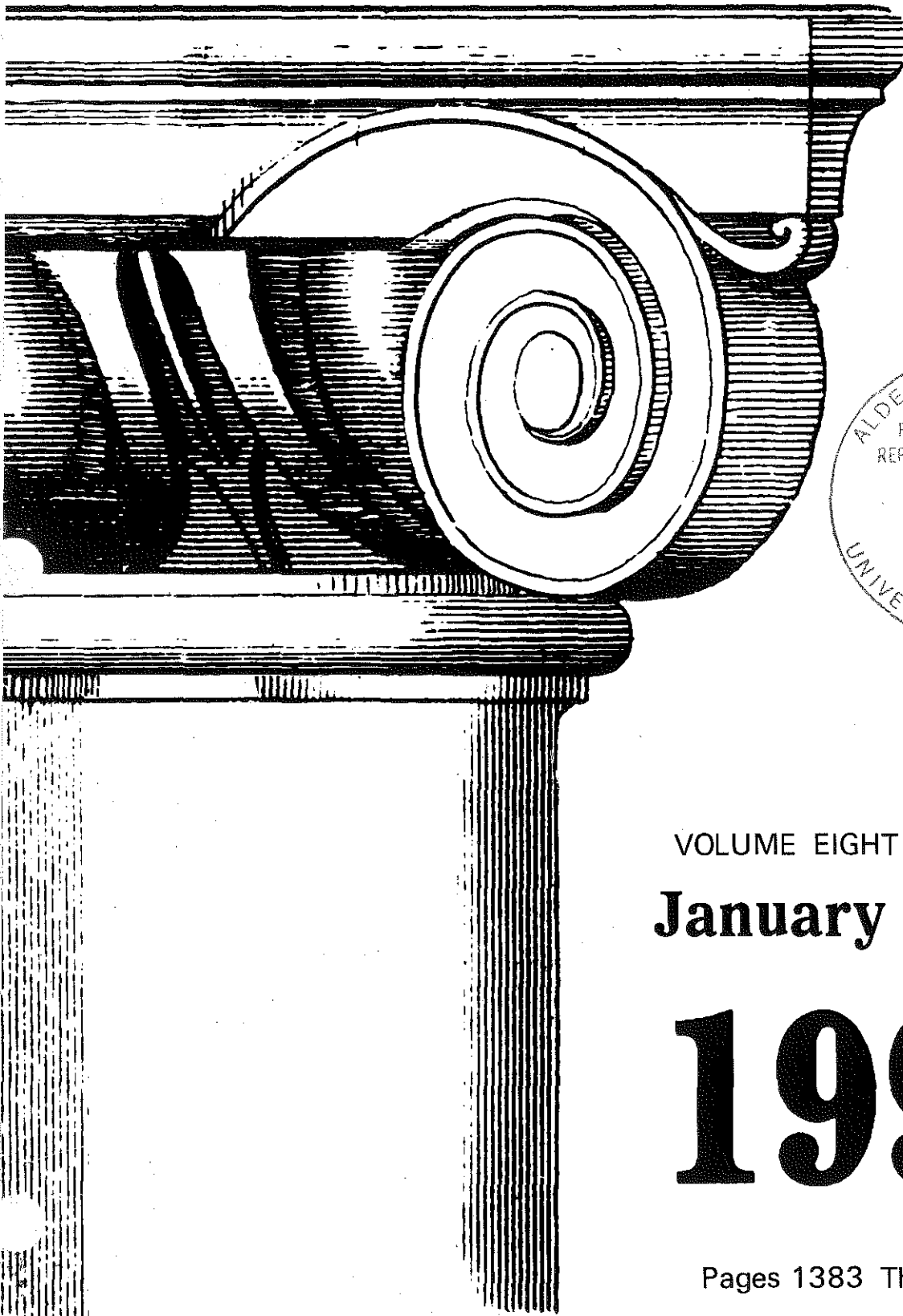
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THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME EIGHT • ISSUE NINE

January 27, 1992

1992

Pages 1383 Through 1492

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall

be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

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July 1991 through September 1992

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Noon Wednesday

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July 10	July 29
July 24	Aug. 12
Aug. 7	Aug. 26
Aug. 21	Sept. 9
Sept. 4	Sept. 23
Final Index - Volume 7	

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Mar. 4	Mar. 23
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Symbol Key †

† Indicates entries since last publication of the Virginia Register

1992.

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 115-02-02. Rules and Regulations Governing the Prevention, Control, and Eradication of Bovine Tuberculosis in Virginia.** The purpose of the proposed action is review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions to require testing and subjecting to other requirements within the regulation of (a) all classes of bovidae, (b) all cervidae, (c) all capridae, and (d) one variety of antelope, *Antilocapra americana*; (ii) shortening the time to report cases in which tuberculosis is suspected; and (iii) considering alternative ways of disposing of tuberculosis-infected animals.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Written comments may be submitted until January 31, 1992.

Contact: Dr. W.M. Sims, Jr., Acting State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481 or SCATS (804) 771-2030.

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 115-02-03. Prevention, Control, and Eradication of Brucellosis of Cattle.** The purpose of the proposed action is review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions to require testing and subjecting to other requirements within the regulation of (a) all classes of bovidae, (b) all cervidae, (c) all capridae, and (d) one variety of antelope, *Antilocapra americana*; (ii) adding specifics as to precisely which cattle must be tested for brucellosis; and (iii) expanding the number and kind of tests that may be used to test for brucellosis.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Written comments may be submitted until January 31,

Contact: Dr. W.M. Sims, Jr., Acting State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481 or SCATS (804) 771-2030.

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 115-02-12. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals or Birds into Virginia.** The purpose of the proposed action is review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions governing the importation of most varieties of deer and one variety of antelope; (ii) revising the standards governing the importation of psittacine birds; and (iii) repealing the provision requiring South American camelids of the genus *Lama* to be tested for bluetongue.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Written comments may be submitted until January 31, 1992.

Contact: Dr. W.M. Sims, Jr., Acting State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481 or SCATS (804) 771-2030.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider repealing regulations entitled: **Approved Program Regulations for Virginia Institutions of Higher Education.** The purpose of the proposed action is to repeal Approved Program Regulations in Virginia Institutions of Higher Education and promulgate new regulations.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Written comments may be submitted until February 7, 1992.

Contact: Thomas A. Elliott, Division Chief, Compliance Coordinator, P.O. Box 6Q, Richmond, Virginia 23216-2060,

Notices of Intended Regulatory Action

telephone (804) 371-2522.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled: **VR 320-01-03. Preneed Funeral Planning Regulations.** The purpose of the proposed action is to add additional regulations and clarification to existing regulations regarding preneed funeral planning in the Commonwealth in response to House Bill 1906.

Statutory Authority: §§ 54.1-2803 and 54.1-2820 of the Code of Virginia.

Written comments may be submitted until January 27, 1992.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9907.

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 § 6.3 of the council's existing regulations to set specific guidelines for when a proposed amendment or modification of a health care institution's current charge schedule is excessive or inadequate.

Statutory Authority: §§ 9-161 D and 9-164 2 of the Code of Virginia.

Written comments may be submitted until February 21, 1992.

Contact: John A. Rupp, Director, 805 E. Broad Street, 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

DEPARTMENT OF STATE POLICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider amending regulations entitled: **VR 545-01-00. Motor Vehicle Safety Inspection Rules and Regulations.** The purpose of the proposed action is to

permit the use of colored or tinted ventvisors on motor vehicles.

Statutory Authority: §§ 46.2-1002, 46.2-1163 and 46.2-1165 of the Code of Virginia.

Written comments may be submitted until January 31, 1992.

Contact: Captain J. P. Henries, Safety Officer, Department of State Police, Safety Division, P.O. Box C-32008, Richmond, VA 23261, telephone (804) 674-2017.

DEPARTMENTS OF EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services intends to consider amending regulations entitled: **VR 270-01-0003, 470-02-01, 615-29-02 and 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.** The purpose of the proposed action is to establish standards to provide children in residential facilities with at least a minimum level of care. The current effort is intended to amend and clarify those sections of standards which address intake and initial service planning (Part V, Articles 1-15). Only those sections of the regulation that address intake and initial service planning will be considered for amendment.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 66-10 and 66-24 of the Code of Virginia.

Written comments may be submitted until January 30, 1992.

Contact: Rhonda Merhout Harrell, Assistant Coordinator, Office of Coordinator, Interdepartmental Regulation, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-7124.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending regulations entitled: **VR 385-01-12. Hauling Permit Travel Regulations.** The purpose of the proposed action is to amend § 3.01 (a), (b) and (c) of the Hauling Permit

Notices of Intended Regulatory Action

Manual so that the department can participate in a SASHTO multi-state permitting agreement.

23230-4917, telephone (804) 367-8534.

Statutory Authority: §§ 33.1-12 (3) and 33.1-12 (10) of the Code of Virginia.

Written comments may be submitted until January 30, 1992, to Mr. W.W. Woodward, Jr., Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219.

Contact: Mr. R.M. Ketner, III, Permit and Truck Weight Manager, Virginia Department of Transportation, Maintenance Division, 1401 E. Broad Street, Richmond, VA 23219, telephone (804) 786-2810.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-10-1. Hazardous Waste Management Regulations.** The purpose of the proposed action is to maintain equivalency between Virginia's program and the federal hazardous waste management program and is in response to changes in the federal rules promulgated between July 1, 1990, and June 30, 1991.

Statutory Authority: § 10.1-1402(11) of the Code of Virginia.

Written comments may be submitted until January 29, 1992.

Contact: Karol A. Akers, Policy and Planning Manager, Department of Waste Management, 101 N. 14th Street, 11th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-2966.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waterworks and Wastewater Works Operators intends to consider amending regulations entitled: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators.** The purpose of the proposed action is to initiate a review process to consider adjusting fees charged by the board.

Statutory Authority: § 54.1-201(5) of the Code of Virginia.

Written comments may be submitted until March 2, 1992.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Specialized Care Services.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality Care.

VR 460-02-4.1940. Methods and Standards for Establishing Payment Rates - Long-Term Care.

VR 460-03-4.1944. Class Resource Cost Assignment, Computation of Service Intensity Index and Ceiling and Rate Adjustments to the Prospective Direct Patient Care Operating Cost Rate - Allowance for Inflation Methodology Base "Current" Operating Rate (Appendix IV to Nursing Home Payment System).

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

Public Hearing Date: N/A - Written comments may be submitted until March 27, 1992.

(See Calendar of Events Section)
for additional information)

Summary:

The purpose of this proposal is to promulgate regulations that modify specialized care services reimbursement language in response to a federal requirement.

The sections of the State Plan for Medical Assistance which are affected by this proposed regulation are as follows: VR 460-02-3.1300, VR 460-02-4.1940 §f and VR 460-03-4.1944 Appendix IV of the Nursing Home Payment System.

The existing Plan language was determined by the Health Care Financing Administration (HCFA) to be unacceptable because it appeared that for specialized care services, DMAS negotiated rates with specific facilities on a case-by-case basis. HCFA requires that the Plan "describe comprehensively the methods and standards used to establish rates for services." HCFA determined that the Plan required amendment for conformance to these requirements. In addition, HCFA has required DMAS' assurance that the rates for these services are reasonable and adequate to meet the costs of efficiently and economically operated facilities.

DMAS has determined that clarifying existing policy rather than a policy change is indicated. Therefore, Attachment 3.13 C, Attachment 4.19 D §f and Appendix IV to the Supplement to Attachment 4.19 D

have been modified to set forth more clearly the agency's current policies on reimbursing for specialized care services.

Modifying the language providing for specialized care services is effecting no policy or reimbursement methodology changes. Therefore, there is no fiscal impact attached to this change.

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

Proposed Regulations

supervision of a physician, must recertify, at least every 60 days, that patients continue to require 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,

Proposed Regulations

and any additional information that justifies the need for intensive services. Periods of care not 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. Long-term care of residents in nursing facilities will be provided in accordance with federal law using practices and procedures that are based on the resident's medical and social needs and requirements.

2. Nursing facilities must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. This assessment must be conducted no later than 14 days after the date of admission and promptly after a significant change in the resident's physical or mental condition. Each resident must be reviewed at least quarterly, and a complete assessment conducted at least annually.

3. The Department of Medical Assistance Services shall conduct at least annually a validation survey of the assessments completed by nursing facilities to determine that services provided to the residents are medically necessary and that needed services are provided. The survey will be composed of a sample of Medicaid residents and will include review of both current and closed medical records.

4. Nursing facilities must submit to the Department of

Medical Assistance Services resident assessment information at least every six months for utilization review. If an assessment completed by the nursing facility does not reflect accurately a resident's capability to perform activities of daily living and significant impairments in functional capacity, then reimbursement to nursing facilities may be adjusted during the next quarter's reimbursement review. Any individual who willfully and knowingly certifies (or causes another individual to certify) a material and false statement in a resident assessment is subject to civil money penalties.

5. In order for reimbursement to be made to the nursing facility for a recipient's care, the recipient must meet nursing facility criteria as described in Supplement 1 to Attachment 3.1-C, Part 1 (Nursing Facility Criteria).

In order for reimbursement to be made to the nursing facility for a recipient requiring specialized care, the recipient must meet specialized care criteria as described in Supplement 1 to Attachment 3.1-C, Part 2 (Adult Specialized Care Criteria) or Part 3 (Pediatric/Adolescent Specialized Care Criteria). Reimbursement for specialized care must be preauthorized by the Department of Medical Assistance Services. In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. *Further specialized care services requirements are set forth below.*

In each case for which payment for nursing facility services is made under the State Plan, a physician must recommend at the time of admission or, if later, the time at which the individual applies for medical assistance under the State Plan that the individual requires nursing facility care.

6. For nursing facilities, a physician must approve a recommendation that an individual be admitted to a facility. The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 90 days thereafter. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.

7. When the resident no longer meets nursing facility criteria or requires services that the nursing facility is unable to provide, then the resident must be discharged.

8. Specialized care services.

a. *Providers must be nursing facilities certified by the Division of Licensure and Certification, State Department of Health, and must have a current signed participation agreement with the Department*

of Medical Assistance Services to provide nursing facility care. Providers must agree to provide care to at least four residents who meet the specialized care criteria for children/adolescents or adults.

b. *Providers must be able to provide the following specialized services to Medicaid specialized care recipients:*

- (1) Physician visits at least once weekly;*
- (2) Skilled nursing services by a registered nurse available 24 hours a day;*
- (3) Coordinated multidisciplinary team approach to meet the needs of the resident;*
- (4) For residents under age 21, provision for the educational and habilitative needs of the child;*
- (5) For residents under age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of six sessions each day, 15 minutes per session, five days per week;*
- (6) For residents over age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of four sessions per day, 30 minutes per session, five days a week;*
- (7) Ancillary services related to a plan of care;*
- (8) Respiratory therapy services by a board-certified therapist (for ventilator patients, these services must be available 24 hours per day);*
- (9) Psychology services by a board-certified psychologist related to a plan of care;*
- (10) Necessary durable medical equipment and supplies as required by the plan of care;*
- (11) Nutritional elements as required;*
- (12) A plan to assure that specialized care residents have the same opportunity to participate in integrated nursing facility activities as other residents;*
- (13) Nonemergency transportation;*
- (14) Discharge planning;*
- (15) Family or caregiver training; and*
- (16) Infection control.*

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D. Facilities for the Mentally Retarded (FMR) and Institutions for Mental Disease (IMD).

1. With respect to each Medicaid-eligible resident in an FMR or IMD in Virginia, a written plan of care must be developed prior to admission to or authorization of benefits in such facility, and a regular program of independent professional review (including a medical evaluation) shall be completed periodically for such services. The purpose of the review is to determine: the adequacy of the services available to meet his current health needs and promote his maximum physical well being; the necessity and desirability of his continued placement in the facility; and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Long-term care of residents in such facilities will be provided in accordance with federal law that is based on the resident's medical and social needs and requirements.

2. With respect to each intermediate care FMR or IMD, periodic on-site inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), shall be conducted. The review shall include, with respect to each recipient, a determination of the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, the necessity and desirability of continued placement in the facility, and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Full reports shall be made to the state agency by the review team of the findings of each inspection, together with any recommendations.

3. In order for reimbursement to be made to a facility for the mentally retarded, the resident must meet criteria for placement in such facility as described in Supplement 1, Part 4, to Attachment 3.1-C and the facility must provide active treatment for mental retardation.

4. In each case for which payment for nursing facility services for the mentally retarded or institution for mental disease services is made under the State Plan:

a. A physician must certify for each applicant or recipient that inpatient care is needed in a facility for the mentally retarded or an institution for mental disease. The certification must be made at the time of admission or, if an individual applies for assistance while in the facility, before the Medicaid agency authorizes payment; and

b. A physician, or physician assistant or nurse practitioner acting within the scope of the practice as defined by state law and under the supervision of

a physician, must recertify for each applicant at least every 365 days that services are needed in a facility for the mentally retarded or institution for mental disease.

5. When a resident no longer meets criteria for facilities for the mentally retarded or an institution for mental disease or no longer requires active treatment in a facility for the mentally retarded, then the resident must be discharged.

E. 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 licensed 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 62 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 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.
- Nursing services,
 - Home health aide services,
 - Physical therapy services,
 - Occupational therapy services,
 - Speech-language pathology services, or
 - Medical supplies, equipment, and appliances suitable for use in the home.
6. General conditions. The following general conditions apply to reimbursable home health services.
- 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.
 - 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.
 - A physician recertification shall be required at intervals of at least once every 62 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.
 - 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.
 - 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.
 - A written physician's statement located in the medical record must certify that:
 - The home health services are required because the individual is confined to his or her home (except when receiving outpatient services);
 - 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;
 - A plan for furnishing such services to the individual has been established and is periodically reviewed by a physician; and
 - These services were furnished while the individual was under the care of a physician.
 - The plan of care shall contain at least the following information:
 - Diagnosis and prognosis,
 - Functional limitations,
 - Orders for nursing or other therapeutic services,
 - Orders for medical supplies and equipment, when applicable
 - Orders for home health aide services, when applicable,
 - Orders for medications and treatments, when applicable,
 - Orders for special dietary or nutritional needs, when applicable, and
 - Orders for medical tests, when applicable,

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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.

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. A visit shall be defined as the duration of time that a nurse, home health aide, or rehabilitation therapist is with a client to provide services prescribed by a physician and that are covered home health services. Visits shall not be defined in measurements or increments of time.

F. 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).

G. In the broad category of Special Services which includes nonemergency transportation, all such services for recipients will require preauthorization by a local health department.

H. Standards in other specialized high quality programs such as the program of Crippled Children's Services will be incorporated as appropriate.

I. Provisions will be made for obtaining recommended medical care and services regardless of geographic boundaries.

* * *

PART I. 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 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 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 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 reimbursement will be provided.

PART IV. INPATIENT REHABILITATION EVALUATION.

§ 4.1. For a patient with a potential for physical rehabilitation for which an outpatient assessment cannot be adequately performed, an 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

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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, 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.

Physical therapy services 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 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 under the direct supervision of a qualified physical therapist licensed by the Board of Medicine;

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

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.

Occupational therapy services 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 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 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;

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

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.

Speech-Language therapy services 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 designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

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;

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

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.

E. Cognitive rehabilitation.

Cognitive rehabilitation services 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 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;

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;

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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;

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;

5. The services include activities to improve a variety of cognitive functions such as orientation, attention/concentration, reasoning, memory, discrimination and behavior; and

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:

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

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;

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

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:

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

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;

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

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:

1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

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 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;

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

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. 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.

§ 9.1. Admission criteria.

To be eligible for hospice coverage under Medicare or

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Medicaid, the and 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 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.

PART XI. 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

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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. A visit shall be defined as the duration of time that a rehabilitative therapist is with a client to provide services prescribed by the physician. Visits shall not be defined in measurements or increments of time.

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 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 460-02-4.1940. Methods and Standards for Establishing Payment Rates - Long-Term Care.

The policy and the method to be used in establishing payment rates for nursing facilities listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs.

- a. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the Program so that eligible persons can receive the medical care and services included in the Plan to the extent these are available to the general population.

b. Participation in the Program will be limited to providers of services who accept, as payment in full, the amounts so paid.

c. Payment for care of service will not exceed the amounts indicated to be reimbursed in accord with the policy and the methods described in the Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.253(b)(2). The state agency has continuing access to data identifying the maximum charges allowed. Such data will be made available to the Secretary, HHS, upon request.

d. Payments for services to nursing facilities shall be on the basis of reasonable cost in accordance with the standards and principles set forth in 42 CFR 447.252 as follows:

(1) A uniform annual cost report which itemizes allowable cost will be required to be filed within 90 days of each provider's fiscal year end.

(2) The determination of allowable costs will be in accordance with Medicare principles as established in the Provider Reimbursement Manual (PRM-15) except where otherwise noted in this Plan.

(3) Field audits will be conducted on the cost data submitted by the provider to verify the accuracy and reasonableness of such data. Audits will be conducted for each facility on a periodic basis as determined from internal desk audits and more often as required. Audit procedures are in conformance with SSA standards set forth in PRM-13-2. Internal desk audits are conducted annually within six months of receipt of a completed cost report from the provider.

(4) Reports of field audits are retained by the state agency for at least three years following submission of the report.

(5) (Reserved.)

(6) Facilities are paid on a cost-related basis in accordance with the methodology described in the Plan.

(7) Modifications to the Plan for reimbursement will be submitted as Plan amendments.

(8) Covered cost will include such items as:

(a) Cost of meeting certification standards.

(b) Routine services which include items expense providers normally incur in the provision of services.

(c) The cost of such services provided by related organizations except as modified in the payment system supplement 4.19-D.

(9) Bad debts, charity and courtesy allowances shall be excluded from allowable cost.

(10) Effective for facility cost reporting periods beginning on or after October 1, 1978, the reimbursable amount will be determined prospectively on a facility by facility basis, except that mental institutions and mental retardation facilities shall continue to be reimbursed retrospectively. The prospective rate will be based on the prior period's actual cost (as determined by an annual cost report and verified by audit as set forth in section d(3) above) plus an inflation factor. Payments will be made to facilities no less than monthly.

(11) The payment level calculated by the prospective rate will be adequate to reimburse in full such actual allowable costs that an economically and efficiently operated facility must incur. In addition, an incentive plan will be established as described in the payment system supplement 4.19-D.

(12) Upper limits for payment within the prospective payment system shall be as follows:

(a) Allowable cost shall be determined in accordance with Medicare principles as defined in PRM-15, except as may be modified in this Plan.

(b) Reimbursement for operating costs will be limited to regional ceilings.

(c) Reimbursement, in no instance, will exceed the charges for private patients receiving the same services. In accordance with § 1903(a)(2)(B) of the Social Security Act, nursing facility costs incurred in relation to training and competency evaluation of nurse aides will be considered as state administrative expenses and, as such, shall be exempted from this provision.

(13) In accordance with 42 CFR 447.205, an opportunity for public comment was permitted before final implementation of rate setting processes.

(14) A detailed description of the prospective reimbursement formula is attached for supporting detail.

(15) Item 398D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

e. Reimbursement of nonenrolled long-term care facilities.

(1) Nonenrolled providers of institutional long-term care services shall be reimbursed based upon the average per diem cost, updated annually, reimbursed to enrolled nursing facility providers.

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(2) Prior approval must be received from the DMAS for recipients to receive institutional services from nonenrolled long-term care facilities. Prior approval can only be granted:

(a) When the nonenrolled long-term care facility with an available bed is closer to the recipient's Virginia residence than the closest facility located in Virginia with an available bed, or

(b) When long-term care special services, such as intensive rehabilitation services, are not available in Virginia, or

(c) If there are no available beds in Virginia facilities.

~~(3) Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for these services on an individually, negotiated rate basis.~~

f. Specialized care services.

Nothing in this regulation is intended to preclude DMAS from reimbursing for specialized care services, such as rehabilitation, transplantation, ventilator dependent, and AIDS services. Specialized care services shall be provided to patients requiring, but not necessarily limited to, rehabilitation, complex healthcare, transplantation, ventilator dependent and AIDS services.

(1) *Reimbursement for rehabilitation, complex healthcare, and ventilator dependent services shall be determined by using as the base period allowable per diem rate the FY 1991 average per diem rate of hospitals which are providing rehabilitation services, averaged with the per diem bids of nursing facilities proposing to provide such services and obtained during the same time period.*

(2) *Reimbursement for services to individuals with AIDS shall be determined by using as the base period allowable per diem rate the FY 1991 average Class C PIRS rate plus the estimated cost of additional services uniquely necessary to the care of AIDS patients. These additional services are nursing services, nonnutritional supplies required for the care of AIDS patients, psychological services, and nutritional elements.*

(3) *The allowance for inflation for specialized care services rates shall be that in § 2.7 B of the Nursing Home Payment System.*

VR 460-03-4.1944. Class Resource Cost Assignment, Computation of Service Intensity Index and Ceiling and Rate Adjustments to the Prospective Direct Patient Care Operating Cost Rate—Allowance for Inflation Methodology Base “Current” Operating Rate.

§ 1. Effective October 1, 1990, the Virginia Medicaid Program reimbursement system for nursing facilities is the Patient Intensity Rating System.

§ 2. Patient Intensity Rating System (PIRS).

A. PIRS is a patient-based reimbursement system which links a facility's per diem rate to the level of services required by its patient mix. This methodology uses classes that group patients together based on similar functional characteristics and service needs.

B. PIRS recognizes four classes of patients:

1. Class A—Routine I: Patients are classified by their functioning status. Routine I classification includes care for patients with a 0 to 6 Activity of Daily Living (ADL) impairment score.

2. Class B—Routine II: Patients are classified by their functioning status. Routine II classification includes care for patients with moderate or greater ADL impairment. A moderate or greater ADL score ranges from 7 to 12.

3. Class C—Heavy Care: Patients are classified by their high impairment score on functioning status and the need for specialized nursing care. These patients have an ADL impairment score of 9 or more and one or more of the following:

a. Wound/lesions requiring daily care;

b. Nutritional deficiencies leading to specialized feeding;

c. Paralysis or paresis and benefiting from rehabilitation; or

d. Quadriplegia/paresis, bilateral hemiplegia/paresis, multiple sclerosis.

4. ~~Special Specialized care:~~ This class includes patients who have needs that are so intensive or nontraditional that they cannot be adequately captured by a patient intensity rating system, e.g., ventilator dependent or AIDS patients. ~~Special Specialized care reimbursement is based on selective contracting with facilities capable of providing intensive care shall be determined according to the methodology set forth in Attachment 4.19 D(f).~~

C. Patients in each class require similar intensities of nursing and other skilled services. Across classes, however, service intensities are quite different. Since treatment cost depends on overall service need, the patient class system has a direct correlation to nursing and therapy costs.

§ 3. Service Intensity Index (SII).

A. The function of a service intensity index is to identify

the resource needs of a given facility's patient mix relative to the needs in other nursing homes. If the SII value equals 1.20, it indicates that the patient mix in that facility is 20% more resource-intensive than the patient mix in the average Virginia nursing facility.

B. The SII is used to adjust direct patient care cost ceilings and rates for application to individual nursing facilities. Indirect patient care cost ceilings and rates are not adjusted since these costs are not influenced by patient service needs.

C. To calculate the service intensity index:

1. Develop a relative resource costs for patient classes.

a. Average daily nursing resource costs per day for patients in each patient class were determined by using data obtained from (i) the Commonwealth's Long-Term Care Information System (LTCIS) identifying estimates of service needs, (ii) data from a 1987 Maryland time and motion study to derive nursing time requirements for each service, and (iii) KPGM Peat Marwick Survey of Virginia Long-term Care NF's Nursing Wages to determine the resource indexes for each patient class.

b. The average daily nursing costs per day for patients (see subdivision a above) were divided by a state average daily nursing resource cost to obtain a relative cost index.

c. Patients were grouped in three classes and the average relative cost by class is as follows:

- Class A—Routine I: .67
- Class B—Routine II: 1.09
- Class C—Heavy Care: 1.64

The cost for caring for a Class A patient is on the average equal to 67% of the daily nursing costs for the average Virginia nursing facility patient. Class B and C patients are respectively 9.0% and 64% more costly to treat in terms of nursing resources than the average nursing facility patient.

These resource cost values will remain the same until a new time and motion study conducted.

2. Develop an average relative resource cost of all patients in a facility. The result is called a facility score.

a. The number of patients in each class within a facility is multiplied by the relative resource cost value of that class.

b. These amounts are totaled and divided by the number of patients in a facility. For example:

Facility 1:

40 Class A patients x67 = 26.8
40 Class B patients x	1.09 = 43.6
20 Class C patients x	1.64 = 32.8
100 Patients	103.2
Divided by number of Patients	100.0
Facility Score	1.03

The Facility Score for Facility 1 is 1.03.

3. Finally, the service intensity index for a facility is calculated by standardizing the average resource cost measure, across nursing facilities. The resource values up to this point are standardized or normalized across Virginia nursing facility patients but not across Virginia nursing facilities. To accomplish this step, the mean for the relative resource measure across all Virginia facilities is determined and the facility-specific value is divided by this mean.

For example: If the state's mean relative resource measure was .92 across all Virginia facilities, the Service Intensity Index for Facility 1 identified above would be 1.12, which equals 1.03 divided by .92. The 1.12 value indicates that patients in Facility 1 are 12% (1.12-1.00) more costly to treat than patients in the average Virginia nursing facility.

4. The Service Intensity Index will be calculated quarterly, and is used to derive the direct patient care cost ceiling and rate components of the facility's payment rate which will be adjusted semiannually. A semiannual SII is calculated by averaging appropriate quarterly SII values for the respective reporting period.

§ 4. Following is an illustration of how a NF's Service Intensity Index is used to adjust direct patient care prospective operating ceilings and the semiannual rate adjustments to the prospective direct patient care operating cost base rate.

A. Assumptions.

1. The NF's fiscal years are December 31, 1991, and December 31, 1992.
2. The average allowable direct patient care operating base rate for December 31, 1991, is \$25.
3. The allowance for inflation is 6.0% for the fiscal year end beginning January 1, 1992.
4. The NF's peer group ceiling for the fiscal year end beginning January 1, 1992, is \$30.
5. The NF's semiannual normalized SIIs are as follows:

1991 First Semiannual SII -98
1991 Second Semiannual SII -99
1992 First Semiannual SII -	1.00

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B. Calculation of NF's Direct Patient Care Prospective Ceiling.

1. PIRS adjusted ceiling for the period January 1, 1992, through June 30, 1992:

FYE 1992 Peer Group Ceiling	\$30.00
FYE 1991 Second Semiannual SII	x .99
Facility Ceiling	\$29.70

2. PIRS adjusted ceiling for the period July 1, 1992, through December 31, 1992:

FYE 1992 Peer Group Ceiling	\$30.00
1992 First Semiannual SII	x 1.00
Facility Ceiling	\$30.00

C. Calculation of NF's Prospective Direct Patient Care Operating Cost Rate.

1. Prospective Direct Patient Care Operating Cost Base Rate:

FYE 1991 Average Allowable Direct Patient Care Operating Base Rate	\$25.00
Allowance For Inflation - FYE 1992	x1.06
.....	\$26.50

2. Calculation of FYE 1991 Average SII:

First Semiannual Period SII98
Second Semiannual Period SII99
Average FYE 1991 SII985

3. Calculation of FYE 1992 SII Rate Adjustments:

a. Rate adjustment for the period January 1, 1992, through June 30, 1992:

1991 Second Semiannual SII99
1991 Average SII (From C.2.)985
Calculation:99/.985
Rate Adjustment Factor	=1.0051
Prospective Direct Patient Care Operating Cost Base Rate (From C.1.)	\$26.50
Calculation:	\$26.50 x 1.0051
Prospective Direct Patient Care Operating Cost Rate	\$26.64

b. Rate adjustment for the period July 1, 1992, through December 31, 1992:

1992 First Semiannual SII	1.000
1991 Average SII (From C.2.)985
Calculation:	1.00/.985
Rate Adjustment Factor	=1.0152
Prospective Direct Patient Care Operating Cost Base Rate (From C.1.)	\$26.50
Calculation	\$26.50 x 1.0152
Prospective Direct Patient Care	

Operating Cost Rate = \$26.90

D. In this illustration the NF's PIRS Direct Patient Care Operating Reimbursement Rate for FYE 1992 would be as follows:

1. For the period January 1, 1992, through June 30, 1992, the reimbursement rate would be \$26.64 since the rate is lower than the NF's PIRS adjusted ceiling of \$29.70 (From B.1.).

2. For the period July 1, 1992, through December 31, 1992, the reimbursement rate would be \$26.90 since the rate is lower than the NF's PIRS adjusted ceiling of \$30.00 (From B.2.).

§ 5. The methodology for applying the allowance for inflation to the NF's base "current" operating rate during the phase-in period as outlined in § 2.8 of the Nursing Home Payment System (VR 460-03-4.1940:1) is as follows:

A. In the following methodology, 1st Q is defined as the first calendar quarter, 2nd Q is defined as the second calendar quarter, 3rd Q is defined as the third calendar quarter, and 4th Q is defined as the fourth calendar quarter.

B. NF's with fiscal years ending in the 4th quarter of 1990 shall have, in effect from October 1, 1990, through the end of the provider's 1990 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 2nd Q of 1990 through the 4th Q of 1990 and 50% of the forecasted inflation from the 4th Q of 1990 through the 4th Q of 1991, to determine the prospective "current" operating rate for the provider's 1991 FY.

The base "current" operating rate, shall be adjusted for 100% of the historical inflation from the 2nd Q of 1990 through the 4th Q of 1991 and 50% of the forecasted inflation from the 4th Q of 1991 through the 4th Q of 1992, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

C. NF's with fiscal years ending in the 1st Q of 1991 shall have, in effect from October 1, 1990, through the end of the provider's 1991 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 3rd Q of 1990 through the 1st Q of 1991 and 50% of the forecasted inflation from the 1st Q of 1991 through the 1st Q of 1992, to determine the prospective "current" operating rate for the provider's 1992 FY.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 3rd Q of 1990 through the 1st Q of 1992 and 50% of the forecasted inflation from the 1st Q of 1992 through the 1st Q of 1993, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

D. NF's with fiscal years ending in the 2nd Q of 1991 shall have, in effect from October 1, 1990 through the end of the Provider's 1991 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990,

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 4th Q of 1990 through the 2nd Q of 1991 and 50% of the forecasted inflation from the 2nd Q of 1991 through the 2nd Q of 1992, to determine the prospective "current" operating rate for the provider's 1992 FY or until June 30, 1992 which ever is later.

E. NF's with fiscal year's ending in the 3rd Q of 1990 shall have as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 1st Q of 1990 through the 3rd Q of 1990 and 50% of the forecasted inflation from the 3rd Q of 1990 through the 3rd Q of 1991, to determine the prospective "current" operating rate from October 1, 1990, to the end of the provider's 1991 FY.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 1st Q of 1990 through the 3rd Q of 1991 and 50% of the forecasted inflation from the 3rd Q of 1991 through the 3rd Q of 1992, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

§ 6. Definition of terms.

ADL. Activities of Daily Living.

ADL Score. A score constructed by the Virginia Center on Aging of the Medical College of Virginia as a composite measure of patient function in six different ADL areas: bathing, dressing, transferring, ambulation, eating, and continency. A zero score indicates that a patient needs no staff assistance in an ADL area. A score of three indicates the patient requires total assistance in an ADL area. The ADL scores range in value from 0 to 12. Low scores indicate fewer ADL deficiencies and high scores indicate more extensive deficits.

DMAS 95. The multidimensional assessment document that is completed by each nursing facility at admission, and Semiannually thereafter, on all of its Medicaid residents. The DMAS 95 assessment data is used to document patient characteristics and is entered into the

LTCIS for PIRS.

Facility score. An average resource cost measure of all patients in a facility.

LTCIS. DMAS' Long-Term Care Information System. This system captures data used to identify functional and medical characteristics that have major impacts on the level of nursing resource utilization.

Nursing Facility (NF). A facility, other than an intermediate care facility for the mentally retarded, licensed by the Division of Licensure and Certification, State Department of Health, and certified as meeting the participation regulations.

Patient Intensity Rating System. A patient-based (PIRS) reimbursement system which links a facility's per diem rate to the level of services required by its patient mix.

Service Intensity Index (SII). A mathematical index used to identify the resource needs of a given facility's patient mix relative to the needs in other nursing homes.

BOARD OF MEDICINE

Title of Regulation: 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.

Statutory Authority: §§ 54.1-2400, 54.1-2957.1, 54.1-2957.2 and 54.1-2957.3 of the Code of Virginia.

Public Hearing Date: N/A - Written comments may be submitted until March 31, 1992.

(See Calendar of Events Section for additional information)

Summary:

These regulations prescribe the standards for the certification of optometrists to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents to assure delivery of appropriate eye care to the citizens in the Commonwealth of Virginia.

The proposed amendments to the current regulations are in response to the Governor's request to review the regulations within one year of their publication. These amendments provide relief to the doctors of optometry by deleting the requirements for proof of cardiopulmonary resuscitation (CPR) for certification and renewal of certification; redefine the diseases and conditions of the eye and its adnexa that may be treated; redefine the strength of the agent in § 4.3; add an additional therapeutic agent; and provide a

Proposed Regulations

method for in-office management of patients who develop anaphylactic shock.

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.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Approved school" means those optometric and medical schools, colleges, departments of universities or colleges or schools of optometry or medicine currently accredited by the Council on Postsecondary Accreditation or by the United States Department of Education.

"Board" means the Virginia Board of Medicine.

"Certification" means the Virginia Board of Medicine certifying an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa and administer certain therapeutic pharmaceutical agents.

"Certified optometrist" means an optometrist who holds a current license to practice optometry in the Commonwealth of Virginia, is certified to use diagnostic pharmaceutical agents by the Virginia Board of Optometry, and has met all of the requirements established by the Virginia Board of Medicine to treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

"Examination" means an examination approved by the Board of Medicine for certification of an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

"Invasive modality" means any procedure in which human tissue is Invasive modalities include surgery, lasers, ionizing radiation, therapeutic ultrasound, medication administered by injection, and the removal of foreign bodies from within the tissues of the eye. For purposes of these regulations, the administration of a topical agent specified in § 4.3 of these regulations is not considered an invasive modality.

"Postgraduate clinical training" means a postgraduate program approved by the board to be eligible for certification.

"Protocol" means a prescribed course of action developed by the certified optometrist which defines the

procedures for responding to any patient's adverse reaction or emergency.

§ 1.2. Public Participation Guidelines.

Separate Board of Medicine regulations, VR 465-01-01, entitled Public Participation Guidelines, which provide for involvement of the public in the development of all regulations of the Virginia Board of Medicine, are incorporated by reference in these regulations.

PART II. APPLICATION FOR CERTIFICATION EXAMINATION.

§ 2.1. Application for certification by examination.

An applicant for certification by examination shall be made on forms provided by the board. Such application shall include the following information and documents:

1. A complete application form;
2. The fee specified in § 7.1 of these regulations to be paid at the time of filing the application;
3. Additional documents required to be filed with the application are:

a. A letter from the Virginia Board of Optometry certifying that:

- (1) The applicant holds a current license to practice optometry in Virginia, and
- (2) The applicant is certified to use diagnostic pharmaceutical agents;

b. Documented evidence that the applicant has been certified to administer cardiopulmonary resuscitation (CPR);

c. Documented evidence of satisfactory completion of the postgraduate optometric training approved and prescribed by the board or documentation of graduate optometric training equivalent to the postgraduate optometric training required by the board;

d. Verification of licensure status in other states from the Board of Examiners in Optometry or appropriate regulatory board or agency.

PART III. EXAMINATION.

§ 3.1. Examination for certification.

The following general provisions shall apply to optometrists who apply to take the board's examination for certification to prescribe for and treat certain eye diseases, including abnormal conditions, of the human eye and its

adnexa with certain therapeutic pharmaceutical agents.

A. The certification examination for an optometrist to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be in two parts, pharmaceutical and clinical, and shall be taken as a unit one part.

B. A candidate for certification by the board who fails the examination following three attempts shall take additional postgraduate training approved by the board to be eligible to take further examinations, as required in § 6.1.

PART IV. SCOPE OF PRACTICE FOR AN OPTOMETRIST CERTIFIED TO USE THERAPEUTIC DRUGS.

§ 4.1. Certification.

An optometrist, currently licensed by the Board of Optometry, who has completed didactic and clinical training to ensure an appropriate standard of medical care for the patient and has met all other requirements and has passed an examination administered by the board, shall be certified to administer and prescribe certain therapeutic pharmaceutical agents in the treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa.

§ 4.2. Diseases and conditions which may be treated by an optometrist.

Diseases and conditions which may be treated by an optometrist certified by the board are :

1. Hordeolum, conjunctivitis, blepharitis, chalazion, and dry eye ; superficial conjunctival foreign bodies and noninfectious superficial epithelial damage secondary to contact lens wear provided that no corneal opacity is present .
2. Superficial conjunctival foreign bodies of the eye and its adnexa which can be treated by noninvasive modalities.
3. Superficial epithelial damage secondary to contact lens wear provided that no corneal opacity is present.

§ 4.3. Therapeutic pharmaceutical agents.

Therapeutic pharmaceutical agents which a certified optometrist may administer and prescribe are all topical and are as follows:

1. Tetracycline
2. Erythromycin
3. Bacitracin

4. Polymyxin B/Bacitracin

5. Chlortetracycline

6. Sodium Sulfacetamide - 10%

7. Sodium Sulfacetamide - 15% 30%

8. Sulfisoxazole - 4.0%

9. Sulfacetamide - 15% / Phenylephrine - 0.125%

10. Cromolyn Sodium - 4.0%

11. Naphazoline HCl - 0.1%

12. Phenylephrine HCl - 0.125% / Pheniramine Maleate - 0.5%

13. Phenylephrine HCl - 0.12% / Pyrilamine Maleate - 0.1% / Antipyrine - 0.1%

14. Naphazoline HCl - 0.025% / Pheniramine Maleate - 0.3%

15. Naphazoline HCl - 0.05% / Antazoline Phosphate - 0.5%

16. Hydroxypropyl Cellulose Ophthalmic Insert

17. Polytrim Ophthalmic Solution

§ 4.4. Standards of practice.

A. A certified optometrist after diagnosing and treating a patient who has a disease or condition as defined in § 4.2, which disease or condition failed to improve appropriately, usually within 72 hours, shall refer the patient to an ophthalmologist. A patient with a superficial corneal abrasion which does not improve significantly within 24 hours shall be referred to an ophthalmologist.

B. The certified optometrist shall establish a written protocol for the management of patient emergencies and referrals to physicians.

C. The list in § 4.3 does not preclude optometrists treating emergency cases of anaphylactic shock with intro-muscular epinephrine, such as obtained from a beesting kit.

D. The treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa with the administration of certain therapeutic pharmaceutical agents by certified optometrists is prohibited in children five years of age or younger.

PART V. RENEWAL OF CERTIFICATION.

§ 5.1. Renewal of certification.

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Every optometrist certified by the board shall renew his certification biennially on or before July 1 and pay the prescribed fee in § 7.1 in each odd number year.

§ 5.2. Renewal requirement.

Every optometrist certified by the board ~~must submit proof of current certification to administer cardiopulmonary resuscitation (CPR) for renewal of certification.~~

§ 5.2. § 5.2. Expiration of certification.

An optometrist who allows his certification to expire shall be considered not certified by the board. An optometrist who proposes to resume the treatment of certain diseases, including abnormal conditions, of the human eye and its adnexa and administer certain therapeutic pharmaceutical agents shall make a new application for certification and pay a fee prescribed in § 7.1.

PART VI. POSTGRADUATE TRAINING.

§ 6.1. Postgraduate training required.

Every applicant applying for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be required to complete a full-time approved postgraduate optometric training program prescribed by the board or to document that his graduate optometric program contained equivalent elements to the postgraduate optometric program approved by the board.

A. The approved postgraduate program shall be the Ocular Therapy for the Optometric Practitioner #750B conducted by the Pennsylvania College of Optometry or any other postgraduate optometric program approved by the board.

B. Upon completing the required postgraduate optometric training program, the applicant may apply to sit for the certification examination administered by the board.

C. The certification examination shall be a ~~two-part~~ *one-part* comprehensive examination in accordance with § 3.1 of these regulations.

~~D. An applicant shall be certified to administer cardiopulmonary resuscitation (CPR).~~

PART VII. FEES.

§ 7.1. Fees required by the board.

A. Application fee for the examination to be certified to prescribe for and treat certain diseases, including

abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall be \$300. The examination fee is nonrefundable. An applicant may, upon written request 21 days prior to the scheduled examination and payment of a \$100 fee, be rescheduled for the next administration of the examination.

B. The fee for biennial renewal of certification shall be \$125.

C. The fee for reinstating an expired certification shall be \$150.

D. The fee for a letter of good standing/verification to another state for a license shall be \$10.

E. The fee for reinstatement of a revoked certificate shall be \$750.

GRADUATE OPTOMETRIC
PROGRAMS APPROVED

<u>School</u>	<u>Approved by Committee</u>	<u>Beginning Graduation Date Adopted for Approval in Lieu of of Postgraduate Training</u>
University of Alabama at Birmingham	5-10-91	1983
University of California, Berkeley	11-06-91	1992
Ferris State College College of Optometry	4-12-91	1987
University of Houston	6-03-91	1981
Illinois College of Optometry	5-10-91	1987
Indiana University	5-10-91	1984
University of Missouri - St. Louis	5-10-91	1988
The New England College of Optometry	5-10-91	1987
State University of New York	11-18-91	1987
The Ohio State University College of Optometry	4-12-91	1981
Pacific University College of Optometry	4-12-91	1981
Pennsylvania College of Optometry	4-12-91	1987
Southern College of Optometry	4-12-91	1981

SCHOOLS.med

HRB-601 INSTRUCTIONS FOR COMPLETING THE APPLICATION
1/31/91 FOR CERTIFICATION BY EXAMINATION

These instructions provide for a Doctor of Optometry to prescribe for and treat certain diseases or abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents.

The Virginia Certification examination will be held on May 14, 1992 in Richmond, Virginia. The deadline date for receipt of the completed application is thirty (30) days prior to the date of the certification examination. EACH APPLICANT SHALL FURNISH THE BOARD HIS CURRENT BUSINESS ADDRESS. ANY CHANGE OF ADDRESS SHALL BE FURNISHED TO THE BOARD WITHIN 30 DAYS OF SUCH CHANGE.

THE FEE for taking the certification examination is \$300.00. The examination fee is non-refundable. The applicant may, upon written request twenty-one (21) days prior to the scheduled examination and payment of a \$100.00 fee, be rescheduled for the next administration of the examination. The payment of the fee must be made payable to: TREASURER OF VIRGINIA.

NOTE: FEES SENT BEFORE THE RECEIPT OF AN APPLICATION WILL BE RETURNED. APPLICATIONS SENT WITHOUT THE FEE WILL BE RETURNED ALSO.

VERIFICATION OF VIRGINIA LICENSURE - Contact the Virginia Board of Optometry to request verification of licensure to practice and certification to use diagnostic pharmaceutical agents be provided to the Virginia Board of Medicine. The Board of Optometry number is (804) 662-9910.

CERTIFICATION OF CARDIOPULMONARY RESUSCITATION - Provide evidence of certification completed within the past two years to administer CPR. FORWARD BOTH SIDES OF YOUR CARD AND BE CERTAIN THAT YOUR SIGNATURE IS INCLUDED ON THE CARD.

PROOF OF OPTOMETRIC TRAINING - Graduate Optometric Training or Postgraduate Optometric Training - Forward Form A to the graduate optometric or postgraduate training program for completion as directed. NOTE: SEE ATTACHED LIST OF APPROVED OPTOMETRIC TRAINING OR POSTGRADUATE OPTOMETRIC PROGRAMS. IF YOUR TRAINING PROGRAM IS NOT INCLUDED ON THIS LIST, PLEASE REQUEST THAT A COURSE STUDY OF THE TRAINING YOU RECEIVED BE ATTACHED TO FORM A.

LICENSURE IN OTHER STATES: Forward Form B to those states in which you have held or currently hold a license to practice Optometry. PLEASE NOTE THAT YOUR SIGNATURE MUST BE ON THE FRONT SIDE OF THE QUESTIONNAIRE. ONE QUESTIONNAIRE HAS BEEN ENCLOSED, AND YOU MAY DUPLICATE THIS FORM FOR YOUR CONVENIENCE.

Your application will be acknowledged upon receipt and you will be provided with a list of those documents which are outstanding.

The application will not be considered complete until all of the required information is received, and the application must be completed and approved to be eligible to sit for the certification examination.

FAX INFORMATION IS NOT ACCEPTABLE. ALL DOCUMENTS MUST BE HARD COPIES.

Contact Person: Brenda H. Irvin, Certification Administrator
Virginia Board of Medicine
(804) 662 7664

16. AFFIDAVIT OF APPLICANT:

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents.

I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present) and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Medicine any information, files, or records requested by the board in connection with the processing of individuals and groups listed above, which is material to me and my application. I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my certificate to practice as a certified optometrist in the Commonwealth of Virginia.

RIGHT THUMB PRINT

THIS MUST BE SIGNED IN THE PRESENCE OF
A NOTARY PUBLIC

IF RIGHT THUMB IS MISSING, USE LEFT AND
SO INDICATE.

SIGNATURE OF APPLICANT

NOTARY: City/County of _____ State of _____

Subscribed and Sworn to before me this _____ day of _____ 19__

My Commission Expires _____ NOTARY PUBLIC

(NOTARY SEAL)

CERTIFICATION OF TRAINING

Every applicant applying for certification to prescribe for and treat certain diseases, including abnormal conditions, of the human eye and its adnexa with certain therapeutic pharmaceutical agents shall provide evidence of having completed a full-time approved postgraduate optometric training program, or a full-time approved graduate optometric training program to the Board.

I hereby authorize the director of the postgraduate or graduate training program to release to the Virginia Board of Medicine the information listed below in connection with the processing of my application.

Signature of Applicant

It is hereby certified that _____ completed the program for _____

Title of Postgraduate or Graduate Optometric Program

from _____ to _____
(mo/day/yr) (mo/day/yr)

School of Optometry

Address

City/State

Program Director

Date

SCHOOL SEAL

Please return to: Virginia Board of Medicine
1601 Rolling Hills Drive
Richmond, VA 23229-5005

HRB-601
1-31-91
Optometry

EXAM

Form B

Please complete top portion and forward one form to each state Board where you hold or have held an optometry license. Extra copies may be xeroxed if needed.

NOTE: Some states require a fee, paid in advance, for providing clearance information. To expedite, you may wish to contact the applicable state/s.

CLEARANCE FROM OTHER STATE BOARD

I was granted license/certificate # _____ on _____
by the state of _____. The Virginia Board of medicine requests that I submit evidence
that my license/certification in the state of _____ is in good standing. You are
hereby authorized to release any information in your files, favorable, or otherwise, directly to the Virginia Board of Medicine,
1601 Rolling Hills Drive, Richmond, Virginia 23229-5005. Your earliest attention is appreciated.

Signature

(Please print or type name)

Executive Office of State Board:

Please complete and return this form to the Virginia Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005.

State of _____ Name of Licensee _____

License/Certificate No. _____ Date issued _____

Licensed/Certified through (Check one)

National Examination State Board Examination

Reciprocity/Endorsement from _____

License/Certificate is: Current Lapsed

_____ Diagnostic Pharmaceutical Agents _____ Therapeutic Pharmaceutical Drugs

Has applicant's License/Certificate ever been suspended or revoked? YES NO. If so, for what reason?

Derogatory information, if any _____

(BOARD SEAL)

Signature

Title

State Board

GENERAL INFORMATION AND EXAMINATION DESCRIPTION
FOR
CERTIFICATION OF OPTOMETRISTS

The examination in Advanced Certification for Optometrists for the State of Virginia was developed by an expert panel of practitioners in the fields of Pharmacology, Ophthalmology, and Optometry. All experts had more than 10 years experience in their respective fields. All examination items underwent a rigorous review by content experts, psychometricians and editors. The examination is designed to reflect tasks necessary to ensure the safe and effective practice of treating the human eye and its adnexa with therapeutic pharmaceutical agents.

This examination is in a multiple choice format, with four possible choices per question. Candidates are given three (3) hours to complete the 150-item examination. All examinations were developed with the guidance of the Virginia Board of Medicine and Professional Examination Service.

Professional Examination Service (PES) is a not-for-profit testing corporation founded in 1941. Since that time, PES has specialized in the development and administration of national certification and licensure examinations. PES' most important principle is to develop examinations of the highest quality. Examinations are developed in conformity with the standards established by the National Commission for Certifying Agencies (NCAA), American Psychological Corporation and the United States Equal Employment Opportunity Commission.

Examination content is based on expert judgment regarding what should be included in an Advanced Certification Examination and is based upon the regulations promulgated by the Board of Medicine.

The examination covers the following material:

1. Evaluation of the patient - which includes obtaining maximum pinhole acuity, clinical observation, pupillary examination, visual field assessment, exophthalmometry, biomicroscopy, retinoscopy, direct ophthalmoscopy, obtaining a culture, corneal sensation testing, removing superficial conjunctival foreign body, tonometry, Schirmer's test, and evaluation of lens material.
2. Formulate a differential diagnosis - which includes compiling and documenting information for an evaluation, ruling out inconsistent diseases and forming a list of possible diseases.
3. Formulate a treatment plan - which includes determining whether the particular disease can be legally treated, choosing the most appropriate drug, determining whether a particular drug can be legally administered according to the regulations, determining contraindications of legally administered usable drugs, formulating a treatment plan including drug side effects, determining patient follow-up, prescribing the drug and assessing patient response to the drug.
4. Responding to a patient's adverse reaction or emergency.

Each candidate will receive from the Board a letter advising the results of his/her examination as pass/fail. All scores are compiled by Professional Examination Service and sent to the Board of Medicine.

GENERAL RECOMMENDATIONS FOR TAKING TESTS

Please take your time and read each item carefully. Many incorrect answers are a result of the candidate not having read the question carefully. There is no extra penalty for guessing, therefore, try to answer all the items. Do not spend too much time on any one item. If you are not sure of an answer, try your best and continue on to the remainder of the items.

Regulation 3.1(B) reads, "A candidate for certification by the Board who fails the examination following three attempts shall take additional postgraduate training approved by the Board to be eligible to take further examinations, as required in Section 6.1". All examination versions are psychometrically equated to insure comparability in difficulty.

EXAMINATION STUDY REFERENCES

AMA Drug Evaluations Subscription, 1990, 1, 3.
 American Hospital Formulary System Drug Information, 1990.
 Atlas of Primary Eyecare Procedures, Ringerer and Woodcomb.
 Beder, *Diagnosis and Therapy of Glaucoma*.
 Boyd, J.R., ed., *Drug Facts and Comparison*, 1990.
 Catania, Louis J., *Primary Care of the Anterior Segment*, 1988.
 Cecil, *Textbook of Medicine*, 18th Edition, 1988.
Clinical Ophthalmology, Thomas D. Duane
 Code Virginia 32.1-87.
 Complications of Contact Lenses, *Int. Ophthalm. Clin* 21, 2, 1981.
Contact Lens Practice, Mandell.
 DeGowan and DeGowan, *Physical Diagnosis*.
Drug-Induced Ocular Side Effects and Drug Interactions. F.T.Fraun Felder, 1976.
 Fraunfelder and Roy, *Current Ocular Therapy*.
 Gold, *Eye System Disease-71*.
 Goodman, L. S. and Gilman A., *The Pharmacology Basis of Therapeutics*.
 Havener, *Ocular Pharmacology*.
 Hurst, *Medicine for the Practicing Physician*.
 Hurst, *Practice of Medicine*.
 Manual of Medical Therapeutics, 1983 24th Edition.
 Nozik and Smith, *A Practical Approach to Uveitis*, Williams and Wilkins, 1989.
Ocular Therapeutics and Pharmacology, Ellis and Smith.
 Pepose, Disinfection of Goldman Tonometers against Human Immunodeficiency Virus Type 1, *Archives of Ophthalmology* 107, 1989, pp.983-985.
 Vasocon-A, Manufacturer's package insert.
 Vaughn and Asbury, *General Ophthalmology*.
 "Ophthalmic Drug Facts," p. 110, AMA, *Drug Evaluations Subscription*, 1990.
A Manual for the Beginning Ophthalmology Resident, American Academy of Ophthalmology, San Francisco, CA.
 Atlas of Primary Eyecare Procedures, Fingeret, Casses, Woodcome.
Handbook of Nonprescription Drugs, 8th Edition.

Manual of Ocular Diagnosis and Therapy, Paran-Langston.
Ocular Pharmacology, by Havener, C. V. Mosby Co., Anesthesia.
Ocular Therapeutics and Pharmacology, Ellis and Smith.
Ophthalmology, August 1988, Clinic Alert.
Physicians' Desk Reference for Ophthalmology, 1991.
Textbook for Family Physicians, 4th edition, Ophthalmology Chapter, E. Crouch & A. Berger; edited by Rakel, 1990.
The Red Eye, a slide-script program prepared by the Professional Information Committee of the American Academy of Ophthalmology, 1984.
Textbook of Ophthalmology, Scheie and Albert, W. B. Saunders Co., Philadelphia
The Cornea, Smolin and Thoft, Little, Brown & Co.

EXAMINF.med

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The State Board of Corrections will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 230-40-009. Standards for Pre and Post Dispositional Group Homes. REPEALED.

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

Effective Date: February 26, 1992.

Summary:

These regulations established the evaluation criteria for the administration and supervision of group homes operated through the Department of Corrections throughout the state, and established the minimum standards to be met in ensuring the health, welfare and safety of juveniles under the supervision of the department.

These activities are now under the Department of Youth and Family Services. These standards are being repealed by the Board of Corrections since there is no longer statutory authority for the Board of Corrections over youth activities.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. Additionally, § 10 of this regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a), which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: State Plan for Medical Assistance Relating to Confidentiality and Disclosure of Information Concerning Medicaid Applicants and Recipients.

VR 460-01-34. Safeguarding Information on Applicants and Recipients.

VR 460-02-4.3000. Confidentiality and Disclosure of Information Concerning Medicaid Applicants and Recipients.

Statutory Authority: § 32.1-324 of the Code of Virginia.

Effective Date: February 26, 1992.

Summary:

The purpose of this action is to bring the State Plan for Medical Assistance into conformity with § 1902(a)(7) of the Social Security Act, the Code of Federal Regulations (CFR), Title 42, § 431.300 et seq., and § 32.1-325.3 of the Code of Virginia regarding the disclosure of information about Medicaid applicants and recipients.

The sections of the State Plan affected by this action are preprinted page 34 and newly established Attachment 4.3 A.

Section 1902(a)(7) of the Act requires that a State Plan provide safeguards that restrict the use or disclosure of information concerning Medicaid applicants and recipients to purposes directly connected with the administration of the Plan. This requirement is expanded upon in 42 CFR, § 431.300 et seq., Subpart F. The regulations reflect the language of these federal statutory and regulatory provisions.

In addition, they reflect the language of § 1137 of the Act, which requires agencies to exchange information in order to verify the income and eligibility of applicants and recipients, and requires state agencies to have adequate safeguards to ensure that:

- 1. Information exchanged by the state agencies is made available only to the extent necessary to assist in the valid administrative needs of the program receiving the information, and information received under § 6103(l) of the Internal Revenue Code of 1954 is exchanged only with agencies authorized to receive that information under that section of the Code; and*
- 2. The information is adequately stored and processed so that it is protected against unauthorized disclosure for other purposes.*

Final Regulations

Finally, they comply with § 32.1-325.3 of the Code of Virginia, which requires that the Board of Medical Assistance Services shall promulgate regulations consistent with federal law to provide safeguards against the use or disclosure of information concerning applicants for and recipients of medical assistance services for any purpose which is not directly connected with the administration of the State Plan for Medical Assistance Services.

VR 460-01-34. Safeguarding Information on Applicants and Recipients.

Citation	4.3 Safeguarding Information on Applicants and Recipients
42 CFR 431.301 AT-79-29	Under State statute which imposes legal sanctions, safeguards are provided that restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan.
52 FR 5967	All other requirements of 42 CFR Part 431, Subpart F are met.

VR 460-02-4.3000. Confidentiality and Disclosure of Information Concerning Medicaid Applicants and Recipients.

§ 1. Definitions.

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

"Agency" or "the Medicaid agency" means the Department of Medical Assistance Services or its designee.

"Client" means an applicant for, or recipient of, Medicaid benefits.

"Client information" or "client record" means any information, including information stored in computer data banks or computer files relating to a recipient or applicant, which was received in connection with the performance of any function of the agency and which either identifies a client or describes a client such that the client could be specifically identified.

"Provider" means any individual or organization that delivers a medical service to a recipient of, or applicant for, Medicaid benefits.

"The Plan" means the State Plan for Medical Assistance.

§ 2. Purpose.

Section 1902(a)(7) of the Social Security Act and 42 CFR

§ 431.300 et seq. require a State Plan for Medical Assistance to provide safeguards to restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the Plan. The rules herein are established to protect the rights of clients to confidentiality of their Medicaid information. Section 32.1-325.3 of the Code of Virginia requires the Board of Medical Assistance Services to promulgate regulations consistent with the foregoing.

§ 3. Release of client information.

Except as otherwise provided in these rules, no person shall obtain, disclose or use, or authorize, permit or acquiesce the use of any client information that is directly or indirectly derived from the records, files, or communications of the agency, except for purposes directly connected with the administration of the Plan or as otherwise provided by federal and state law. The agency can conduct all of the above administrative activities itself or it can contract some or all of them to other state agencies or private companies. These other entities must maintain client information confidential in accordance with the terms of these regulations. Purposes directly related to the administration of the Plan include, but are not limited to:

1. Establishing eligibility;
2. Determining the amount of medical assistance;
3. Providing services for recipients; and
4. Conducting or assisting in an investigation, prosecution or a civil or criminal proceeding related to the administration of the Plan.

§ 4. Safeguarding client information.

All information associated with an applicant or recipient which could disclose the individual's identity is confidential and shall be safeguarded. Such information shall include, but is not limited to:

1. Name, address and all types of identification numbers assigned to the client;
2. Medical services provided to the client;
3. Social and economic conditions or circumstances of the client;
4. Agency evaluation of the client's personal information;
5. Medical data about the client, including diagnoses and past histories of disease or disabilities;
6. Information received for verifying income, eligibility, and amount of medical assistance

payments; and

7. Information received in connection with identification of legally liable third party resources, and information received in connection with processing and rendering decisions of recipient appeals.

§ 5. Ownership of records.

A. All client information contained in the agency records is the property of the agency, and employees of the agency shall protect and preserve such information from dissemination except as provided herein.

B. Original client records are not to be removed from the premises by individuals other than authorized staff of the agency, except by a court order. The agency may destroy records pursuant to records retention schedules consistent with state and federal regulations.

§ 6. Disclosure of client information.

Conditions for releasing information.

Access to information concerning applicants or recipients must be restricted to persons or agency representatives who are subject to the standards of confidentiality which are consistent with that of the agency.

1. Consent. As part of the application process for Medicaid, the client shall be informed of the need to consent to the release of information necessary for verifying eligibility. Whenever a person, agency or organization that is not performing one or more of the functions delineated in § 3 requests client information, the Medicaid agency must obtain written permission to disseminate the information from the client or the person legally responsible for the client whenever possible. A release for information obtained from the client by the requesting agency also satisfies this requirement.

2. Client information may be released without the client's written permission under the following conditions:

a. An emergency exists and prior attempts to contact the client or legally responsible persons for permission have been unsuccessful;

b. A court of competent jurisdiction has ordered the production of information and the agency does not have sufficient time to notify the client or legally responsible person before responding to the order;

c. The release of such client information is necessary to prevent loss of, or risk to, life or health of the client;

d. In the case of third party liability, as explained in § 7 C; or

e. Release is not otherwise prohibited by law or regulation.

3. Notification. If one of the conditions above is met and consent is not obtained before the release of the information, the agency must provide written notification to the client or legally responsible person within five work days after disclosure.

4. Consent process. The consent for release of information shall contain the following:

a. The name of the agency or entity supplying the information and the name of the requesting party;

b. A description of the information to be released;

c. A statement that the consent is limited to the purpose designated;

d. The length of time the consent is valid; and

e. The consent must be signed and dated by the client. The client may add other information which may include, but is not limited to, a statement specifying the date, event or condition upon which the consent expires.

§ 7. Information exchanges.

A. Governmental agencies.

1. Confidential information can be released to other governmental agencies without the consent of the client for purposes of complying with state or federal statutes or regulations pursuant to written data exchange agreements. Such agreements will specify (i) the information to be exchanged; (ii) the titles of all agency officials with the authority to request income and eligibility information; (iii) the methods, including the formats to be used, and the timing for requesting and providing the information; (iv) the safeguards limiting the use and disclosure of the information as required by federal or state law or regulations; (v) the method, if any, the agency will use to reimburse reasonable costs of furnishing the information; and (vi) in the case of an agreement between a State Wage Information Collection Agency or an Unemployment Compensation agency and the Medicaid agency, that the Medicaid agency will obtain information on applicants at least twice monthly. Such information exchanged by governmental agencies is made available only to the extent necessary to assist in the valid administrative needs of the governmental agency receiving the information and adequate safeguards shall be maintained to protect the information from further disclosure. Information received under § 6103(1) of the Internal Revenue Code of 1954 is

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exchanged only with agencies or delegated entities authorized to receive such information.

2. Medical assistance information contained in the records of the local departments of social services may be disclosed for purposes directly connected with the Medicaid program to providers of services enrolled in the Medical Assistance Program for the purpose of verifying a client's status as a Medicaid recipient.

B. Information exchanged in third party liability cases.

Client information may be disclosed without consent in the recovery of moneys for which third parties are liable for payment of claims. All such third parties shall be notified of the rules for safeguarding client information. The notification shall incorporate a written statement which advises third parties of the Medicaid program's client confidentiality regulations, specifies that clients' names, addresses and medical services data are confidential, must only be used in the administration of the Medicaid program and must not be released to any other person or entity in a manner inconsistent with the governing regulations. The notice shall further include the following statement. "Any willful violation of the governing regulations constitutes a Class 1 misdemeanor and may be punishable accordingly."

§ 8. Client's right of access to information.

A. Client's right to access.

Any client has the right to obtain personal information held by the agency or its representative. Upon written or verbal request, the client shall be permitted to review or obtain a copy of the information in his record with the following exceptions:

1. Information that the agency is required to keep confidential from the client pursuant to § 2.1-342 B 3 of the Code of Virginia, or any other applicable law; or
2. Information that would breach another individual's right to confidentiality.

B. Process for disclosure.

Consistent with the Virginia Freedom of Information Act, § 2.1-342.4 of the Code of Virginia, the agency shall provide access within five work days after the receipt of the request. The agency shall make disclosures to applicants and recipients during normal business hours. Copies of the requested documents shall be provided to the client or a representative at reasonable standard charges for document search and duplication.

C. Types of information available for client access.

The client shall be permitted to be accompanied by a

person or persons of the client's choice and may grant permission verbally or in writing to the agency to discuss the client's file in such person's presence. Upon request and proper identification of any client or agent of the client, the agency shall grant to the client or agent the right to review the following:

1. All personal information about the client except as provided in § 2.1-342 B 3 of the Code of Virginia; and
2. The identity of all individuals and organizations not having regular access authority that request access to the client's personal information.

D. Contested information.

Pursuant to the Virginia Privacy Act, § 2.1-382.5 of the Code of Virginia, a client may contest the accuracy, completeness or relevancy of the information in his record. Correction of the contested information, but not the deletion of the original information if it is required to support receipt of state or federal financial participation, shall be inserted in the record when the agency concurs that such correction is justified. When the agency does not concur, the client shall be allowed to enter a statement in the record refuting such information. Corrections and statements shall be made a permanent part of the record and shall be disclosed to any person or entity that receives the disputed information.

§ 9. Distribution of information to applicants and recipients.

All materials distributed to applicants, recipients, or medical providers must directly relate to the administration of the Medicaid program and have no political implications. The agency must not distribute materials such as holiday greetings, general public announcements, voting information, or alien registration notices. The agency may distribute materials directly related to the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food and consumer protection information.

§ 10. Publicizing safeguarding requirements.

The agency shall inform clients in writing that personal information regarding applicants for or recipients of Medicaid must be maintained confidential pursuant to state and federal law. Consistent with §§ 32.1-325.4 and 18.2-11 of the Code of Virginia, any violation of state regulations governing applicant or recipient confidentiality is punishable by up to 12 months in jail and a \$2,500 fine.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

January 3, 1992

Mr. Bruce Kozlowski, Commissioner
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, Virginia 23219

RE: VR 460-02-4.3000 Confidentiality and Disclosure of Information
Concerning Medicaid Applicants & Recipients

Dear Mr. Kozlowski:

This will acknowledge receipt of the above-referenced regulations from the Department of Medical Assistance Services.

As required by § 9-6.14:4.1 C.4.(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-02-3.1400. State Plan for Medical Assistance: Methods of Providing Transportation.

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

Effective Dates: January 1, 1992, through December 31, 1992.

Summary:

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation for the Transportation Program. This policy will discontinue the prior authorization requirement for non-emergency transportation for recipients to and from their medical appointments.

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action regarding the Transportation Program. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

Bruce U. Kozlowski, Director
Date: December 9, 1991

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: December 17, 1991

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: December 20, 1991

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: December 23, 1991

DISCUSSION

6. BACKGROUND: The section of the State Plan for Medical Assistance affected by this emergency action is Attachment 3.1 D, Methods of Providing Transportation.

The Code of Federal Regulations § 440.53 provides that a State Plan must specify that the Medicaid agency will assure [sic] necessary transportation for recipients to and from providers and that it will describe the methods that will be used to meet this requirement. Also, § 440.170(a) defines transportation

as including expenses for travel determined to be necessary by the agency to secure medical examinations and treatment for a recipient. Transportation may only be furnished by a provider to whom direct vendor payment can appropriately be made by the agency. Travel expenses may include the cost of transportation for the recipient by ambulance, taxicab, common carrier, or other appropriate means; the costs of meals and lodging en route to and from medical care and while receiving medical care; and the cost of an attendant to accompany if necessary.

Presently, all non-emergency transportation must be preauthorized by the local health department (in the locality in which the recipient resides) or one of five pilot projects, working out of the local department of social services, throughout the state. To obtain Medicaid payment for transportation, the recipient must initiate the prior authorization process by contacting the appropriate local agency. Once the local agency has verified the recipient's current Medicaid eligibility, the recipient is then asked to select the transportation provider they wish to use. The local agency then schedules the trip for the recipient with the selected provider. Prior to providing the service, the provider obtains his Medicaid billing invoice from the local agency. Once the transportation service has been rendered, the provider completes the mileage covered on the invoice and returns it to the local authorizing agency. The local agency verifies that prior authorization was granted, signs the invoice and submits it to the Medicaid fiscal agent for payment. In an evaluation of the costly preauthorization process conducted by local health departments and the six pilot sites, it was determined that this process resulted in minimal denial of recipient requests for transportation. As a matter of fact, the DMAS Division of Client Appeals received only six appeals during 1991 because transportation was denied due to the preauthorization process.

Since the preauthorization process has not proven effective, DMAS sees no need to continue preauthorization of transportation. The agreements with the six pilot sites expire December 31, 1991, so action must be taken to discontinue preauthorization of transportation.

With the Governor's approval effective January 1, 1992, the requirements associated with prior authorization of non-emergency transportation will be eliminated including the manual post-service verification of each claim. This monitoring of claims payment will be accomplished by system edits and ongoing monitoring by agency staff. Recipients requiring transportation to covered medical appointments will make their own arrangements with the provider of their choice.

Local health departments throughout the state under an interagency agreement between DMAS and the

Department of Health will assist those recipients who require help with locating transportation providers and distribute bus and toll tickets. It will be the providers' responsibility to verify recipients' current Medicaid eligibility by reviewing eligibility cards or by the use of the automated Recipient Eligibility Verification System (REVS) using the toll free number. Appropriate utilization of transportation services by both recipients and providers will be monitored by the DMAS' Division of Program Compliance as well as operational staff of the Division of Client Services.

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 an 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, this agency intends to initiate the public notice and comment process contained in Article 2 of the APA.

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 to meet the January 1, 1992, effective date needed for this policy change.

8. FISCAL/BUDGETARY IMPACT: This proposal will eliminate most of the present administrative cost at the local level. DMAS estimates that, although there may be a slight increase in the use of transportation, the net savings to the Commonwealth resulting from implementing this action will be \$800,000 (\$400,000 NGF; \$400,000 GF).

9. RECOMMENDATION: Recommend approval of this request to take an emergency adoption action to become effective January 1, 1992. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to discontinue the prior authorization process currently in place in local health departments.

10. Approval Sought for VR 460-02-3.1400.

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 460-02-3.1400. Methods of Providing Transportation.

§ 1.0. Transportation of recipients to and from providers of services covered by this plan is available in either of two categories: ambulance and non-ambulance. In either category, preauthorization for the service is required from the local health departments, except under emergency conditions. Ambulet is not an authorization form of transportation.

§ 2.0. Requirements for transportation must be expressed by an eligible recipient to a local office of the State Agency. The local office assures that transportation is not otherwise available to the recipient and is necessary to receive a covered service; arranges for transportation service as required; and subsequently verifies the accuracy of transportation carrier billing after service is rendered. In an emergency, after-the-fact preauthorizations are provided as justified.

§ 3.0. All ambulance operators must meet State licensing standards and enroll as accepted providers with the State Agency. All non-ambulance carriers must provide transportation in accordance with prior agreements on services and rates, or negotiated with local office of the State Agency.

§ 4.0. In addition to ambulances, the following modes of transportation will be allowable for recipients: common use bus (intra-city and inter-city); commercial taxicabs; and special projects (such as OEO and other grant projects) vehicles. Air travel will be authorized only when known to be essential to a critical need of the recipient. In responding to recipient requests, the transportation mode will be provided which will assure that economical services, adequate to need, will be furnished. A recipient's right to a free choice of providers will be preserved in compliance with 42 CFR 431.51. The obligation of the Program to assure that payment is made only where transportation is not otherwise available to a recipient will also be preserved.

§ 5.0. Payment may be made to an individual, recruited by an eligible recipient, for non-emergency transportation, on the basis of a fee per loaded passenger mile with no waiting time.

§ 1.0. Transportation of recipients to and from providers of services covered by this plan is available in either of two categories: emergency and non-emergency. In either category, arrangements for transportation shall be made between recipients and the transportation providers for covered medical services.

§ 2.0. Eligible recipients will seek the most economical means of transportation to their medical appointments. These arrangements will be made with an enrolled transportation provider of the recipients' choice.

§ 3.0. Ambulances, wheelchair vans, and taxis must be licensed to provide services in the Commonwealth by the appropriate state and/or local licensing agency. Registered drivers must be licensed to operate a motor vehicle in the

Emergency Regulations

Commonwealth and must maintain automobile insurance.

§ 4.0. Payment for transportation may only be made when transportation is not otherwise available to recipients. The following modes of transportation shall be allowable for recipients: ambulance, wheelchair van, common user bus (intra-city and inter-city), registered driver, and commercial taxicabs. Air travel may be preauthorized only when known to be essential to a critical need of the recipient. In responding to recipients requests, the transportation mode will be provided which will assure that economical services which are adequate to meet recipients' medical need shall be furnished. Recipients' right to a free choice of providers shall be preserved in compliance with 42 CFR 431.51.

§ 5.0. Payment may be made to an individual, through the Registered Driver Program, who has been recruited by an eligible recipient, for non-emergency transportation, on the basis of a fee per loaded passenger mile with no coverage of waiting time.

* * * * *

Title of Regulation: State Plan for Medical Assistance Relating to Case Management for the Elderly.
VR 460-03-3.1102. Case Management Services.

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

Effective Dates: January 1, 1992, through December 31, 1992.

Summary:

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled Case Management for the Elderly. This policy will conform the State Plan to the 1991 Appropriations Act, Item 431 B which directed the Long Term Care Council to implement a statewide case management system for elderly Virginians.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding Case Management for the Elderly. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski, Director
Date: December 20, 1991

3. **CONCURRENCES:**

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: December 22, 1991

4. **GOVERNOR'S ACTION:**

/s/ Lawrence Douglas Wilder
Governor
Date: December 23, 1991

5. **FILED WITH:**

/s/ Joan W. Smith
Registrar of Regulations
Date: December 31, 1991

DISCUSSION

6. **BACKGROUND:** The 1990 General Assembly directed the Long-Term Care Council, chaired by the Secretary of Health and Human Resources, to develop policy and implementation guidelines for a statewide Case Management System for Elderly Virginians. Appropriations were given to fund pilot projects in FY 92. In developing these pilot projects, the council was directed to consider the following principles adopted by the Subcommittee on Long-Term Care of the Joint Subcommittee on Health Care for All Virginians:

- all elderly citizens should be eligible for services on a sliding fee basis;
- the use of Medicaid funds should be optimized;
- case managers should serve as brokers for all private and public services in long-term care;
- the program should promote public/private partnerships;
- a uniform assessment tool which can be incorporated into a statewide data base should be used;
- the program should be responsive to varying local demands; and
- the most cost-effective forms of care should be used.

During early 1991, the Long-Term Care Council issued a Request for Proposals and three proposals were selected for funding during FY 92. These three pilots represent an urban area, a rural area and a pilot including both urban and rural areas.

Because the Subcommittee on Health Care for All Virginians directed that the pilot projects use Medicaid funding where feasible, this amendment to the State Plan for Medical Assistance is being submitted. The qualifications of the case manager are those appearing in the Request for Proposal (RFP) published by the Long-Term Care Council. The target group follows that of the RFP except that the individuals must be dependent in 3 or more of specific activities of daily living. Medicaid was directed toward a more dependent group of individuals than the overall group

specified in the RFP because of the large number of Medicaid eligible individuals age 60 and over in the geographic areas within the approved pilot programs. Because the state matching funds are limited, it was thought necessary to define the target population for Medicaid coverage more narrowly. Without this limit, it was anticipated that Medicaid payments might exceed the amount allotted to Medicaid from the funds appropriated for the pilot.

DMAS adopted an emergency regulation effective July 1, 1991, to implement this new program. HCFA approval was obtained for the concurrent State Plan Amendment.

Experience with this service during the first full quarter of the existing emergency regulations has shown a lower rate of participation than initially expected. The pilot agencies have enrolled only 226 cases, 694 fewer than projected by that date. After review of the progress of the pilots, the Long Term Care Council recommended that the Medicaid criteria be changed to match the state program. It is no longer estimated that Medicaid enrollment will exceed available funds. In fact, it appears that some federal matching funds may be forfeited if the criteria are not liberalized. Some Medicaid-eligible individuals are being served by the pilot programs with state funding only because the clients cannot meet the more restrictive criteria. If the criteria are liberalized, federal funds will be available to serve these individuals.

Proposed regulations reflecting more liberalized criteria are currently undergoing the mandatory 60-day public comment period (November 5, 1991, through January 3, 1992). The earliest possible effective date for the final adopted regulations would be March 1992, allowing less than 90 days in the pilot year for the new criteria to be effective. Since the Long Term Care Council was directed by the General Assembly to optimize federal funding participation in the case management pilots, this emergency regulation reflecting the more liberalized criteria is required as soon as possible.

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 an agency's adoption of emergency regulations subject to the Governor's prior approval. This emergency regulation is intended to supersede the prior emergency regulation for the same issue. Subsequent to this emergency adoption action and filing with the Registrar of Regulations, this agency intends to complete the public notice and comment process currently underway for this issue.

Item 431 B of the 1991 Appropriations Act directed the Long-Term Care Council to implement a statewide Case Management System for Elderly Virginians. The Act directed that the Council be guided by the principles regarding the case management system that are contained in the recommendations of the SJR 214 Report (1990) which included the principle that the use of Medicaid funds should be optimized.

8. **FISCAL/BUDGETARY IMPACT:** The three pilot projects selected by the Long-Term Care Council include: Fairfax County and the cities of Fairfax and Falls Church; Planning Districts 1, 2, 3 (except for Washington County and the City of Bristol), 4, 17, 18, 20, 21, 22. These areas include 33,635 Medicaid eligible individuals age 60 and over.

Analyzing nursing home preadmission screening information and information on the number of individuals currently served in nursing homes and home and community-based waiver services, DMAS originally estimated that approximately 2,762 individuals would be referred for case management in the three pilot areas. The average duration of case management services of four months was based upon the advice of experts in the field now serving this population. The fee for case management was set at \$100 per month.

Case management pilot programs began admitting clients to case management in July 1991 and reached the full caseload by the beginning of the second quarter of the fiscal year. Thereafter it was anticipated that the pilots would serve a total average monthly caseload of 920 cases.

This caseload was anticipated to result in 9,660 client months of service during FY 92. $9,660 \times \$100 = \$966,000$ estimated total expenditures for case management services to Medicaid eligible individuals. \$500,000 GF have been set aside from the \$2 million appropriated for the case management pilots to provide the state matching funds for Medicaid. The federal matching rate is 50%. Therefore, there is \$1 million available for Medicaid case management payments.

However, the actual enrollment of cases has fallen far short of original estimates due to slow start up and to the difficulties pilot agencies have encountered in identifying individuals who meet the case management entitlement criteria. As of November 1, 1991, only 226 cases have been identified which are Medicaid eligible and meet the more restrictive Medicaid criteria.

9. **RECOMMENDATION:** Recommend approval of this request to take an emergency adoption action to become effective either on January 1, 1992, or as soon as practicable thereafter. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated

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through the APA. Without an effective emergency regulation, the Department would lack the authority to make payments for case management services for all eligible elderly Virginians served by the case management pilot programs.

10. Approval Sought for VR 460-03-3.1102.

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 460-03-3.1102. Case Management Services.

§ 6. Case management for the elderly.

A. Target group.

Persons age 60 and over who have been screened through a Case Management Pilot Project approved by the Long-Term Care Council and found to be dependent in two or more of the following activities of daily living: (i) bathing, (ii) dressing, (iii) toileting, (iv) transferring, (v) continence, or (vi) eating.

B. Areas of state in which services will be provided:

Entire state.

Only in the following geographic areas (authority of § 1915(g)(1) of the Act is invoked to provide services less than statewide:

a. Fairfax County and the cities of Falls Church and Fairfax;

b. Planning Districts 1, 2, 3 (except for Washington County and the City of Bristol), 4, 17, 18, 20, 21, 22.

C. Comparability of services.

Services are provided in accordance with § 1902(a)(10)(B) of the Act.

Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to provide services without regard to the requirements of § 1902(a)(10)(B) of the Act.

D. Definition of services.

1. *Assessment.* Determining client's service needs, which include psychosocial, nutritional and medical.

2. *Service planning.* Developing an individualized description of what services and resources are needed to meet the service needs of the client and help access those resources.

3. *Coordination and referral.* Assisting the client in

arranging for appropriate services and ensuring continuity of care.

4. *Follow-up and monitoring.* Assessing ongoing progress, ensuring services are delivered, and periodically reassessing need to determine appropriate revisions to the case management plan of care.

E. Qualifications of providers.

To qualify as a provider of case management for the elderly, the provider of services must ensure that claims are submitted for payment only when the services were performed by case managers meeting these qualifications. The case manager must possess a combination of work experience or relevant education which indicates that the individual possesses the following knowledge, skills, and abilities. The case manager must have these knowledge, skills, and abilities at the entry level which must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).

1. Knowledge of:

a. Aging and the impact of disabilities and illnesses on aging;

b. Conducting client assessments (including psychosocial, health and functional factors) and their uses in care planning;

c. Interviewing techniques;

d. Consumers' rights;

e. Local human and health service delivery systems, including support services and public benefits eligibility requirements;

f. The principles of human behavior and interpersonal relationships;

g. Effective oral, written, and interpersonal communication principles and techniques;

h. General principles of record documentation;

i. Service planning process and the major components of a service plan.

2. Skills in:

a. Negotiating with consumers and service providers;

b. Observing, recording and reporting behaviors;

c. Identifying and documenting a consumer's needs for resources, services and other assistance;

d. Identifying services within the established services

system to meet the consumer's needs;

e. Coordinating the provision of services by diverse public and private providers;

f. Analyzing and planning for the service needs of elderly persons.

3. Abilities to:

a. Demonstrate a positive regard for consumers and their families;

b. Be persistent and remain objective;

c. Work as a team member, maintaining effective inter- and intra-agency working relationships;

d. Work independently, performing position duties under general supervision;

e. Communicate effectively, verbally and in writing.

f. Develop a rapport and to communicate with different types of persons from diverse cultural backgrounds;

g. Interview.

4. Individuals meeting all the above qualifications shall be considered a qualified case manager; however, it is preferred that the case manager possess a minimum of an undergraduate degree in a human services field or be a licensed nurse. In addition, it is preferable that the case manager have two years of satisfactory experience in the human services field working with the elderly.

F. The state assures that the provision of case management services will not restrict an individual's free choice of providers in violation of § 1902(a)(23) of the Act.

1. Eligible recipients will have free choice of the providers of case management services.

2. Eligible recipients will have free choice of the providers of other medical care under the plan.

G. Payment for case management services under the plan does not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

H. Case management services to the elderly shall be limited to no more than four months without authorization from the Department of Medical Assistance Services.

STATE CORPORATION COMMISSION

FINAL REGULATION

STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 24, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. INS910261

Ex Parte: In the matter
of adopting Rules Governing
Multiple Employer Welfare
Arrangements

ORDER ADOPTING REGULATION

WHEREAS, by order entered herein August 19, 1991, the Commission ordered that a hearing be held in the Commission's Courtroom on October 24, 1991, for the purpose of considering the adoption of a regulation proposed by the Bureau of Insurance ("Bureau") entitled "Rules Governing Multiple Employer Welfare Arrangements";

WHEREAS, the Commission conducted the aforesaid hearing where it received the comments of interested persons; and

THE COMMISSION, having considered the record herein, the comments of interested persons and the recommendations of the Bureau of Insurance, is of the opinion that the regulation, as amended, should be adopted;

THEREFORE, IT IS ORDERED that the regulation entitled "Rules Governing Multiple Employer Welfare Arrangements" which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED to be effective January 15, 1992.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Gary R. Alexander, Esquire, Alexander & Cleaver, 11414 Livingston Road, Fort Washington, Maryland, Washington, D.C. 20744-5146; Donald G. Owens, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-1122; and the Bureau of Insurance in care of Deputy Commissioner Alfred W. Gross, who shall forthwith give further notice of the adoption of the regulation by mailing a copy of this order together with a copy of the regulation to all multiple employer welfare arrangements operating in the Commonwealth of Virginia and all insurers licensed to sell life and health, and accident and sickness insurance in the Commonwealth of Virginia.

RULES GOVERNING MULTIPLE EMPLOYER WELFARE ARRANGEMENTS (INSURANCE REGULATION NO. 31)

Section 1. Authority.

This regulation is issued pursuant to the authority vested in the Commission under § 38.2-223 and Article 3 of Chapter 34 of Title 38.2 of the Code of Virginia.

Section 2. Purpose.

The purpose of this regulation is to set forth rules to carry out the provisions of Article 3 (§ 38.2-3420 et seq.) of Chapter 34 of Title 38.2 of the Code of Virginia so as to establish reasonable standards for the licensing and operation of multiple employer welfare arrangements in the Commonwealth of Virginia.

Section 3. Applicability & Scope.

A. This regulation shall apply to all multiple employer welfare arrangements offering or providing coverage in this Commonwealth if any of the following conditions is met:

1. The multiple employer welfare arrangement is domiciled in Virginia;
2. At least one employer whose principal office or headquarters is located in Virginia provides health care benefits to his employees through the multiple employer welfare arrangement, regardless of the plan's place of domicile; or
3. At least one employee who is employed in Virginia and who has been initially enrolled in the plan in Virginia is being provided health care benefits through the multiple employer welfare arrangement, regardless of the plan's place of domicile or the location of the employer's principal office or headquarters.

B. Multiple employer welfare arrangements shall be subject to all of the provisions of Title 38.2 of the Code of Virginia to the extent that such provisions are applicable to multiple employer welfare arrangements in accordance with § 38.2-3421 of the Code of Virginia.

Section 4. Definitions.

As used in this regulation:

A. "Multiple employer welfare arrangement" means any plan or arrangement which is established or maintained for the purpose of offering or providing coverage for health care services, whether such coverage is by direct payment, reimbursement, or otherwise, to employees of two or more employers, or to their beneficiaries except that such term does not include any such plan or other arrangement which is established or maintained -

1. under or pursuant to one or more agreements which the Secretary of the United States Department of Labor finds to be collective bargaining agreements, or
2. by a rural electric cooperative.

For purposes of the definition of multiple employer welfare arrangement -

(a) two or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group,

(b) the term "control group" means a group of trades or businesses under common control,

(c) the determination of whether a trade or business is under "common control" with another trade or business shall be determined under regulations of the Secretary of the United States Department of Labor applying principles similar to the principles applied in determining whether employees of two or more trades or businesses are treated as employed by a single employer under section 4001(b) (29 USCS § 1301(b)), except that, for purposes of this paragraph, common control shall not be based on an interest of less than 25 percent, and

(d) the term "rural electric cooperative" means -

(1.) any organization which is exempt from tax under section 501(a) of the Internal Revenue Code of 1986 (26 USCS § 501(a)) and which is engaged primarily in providing electric service on a mutual or cooperative basis, and

(2.) any organization described in paragraph (4) or (6) of section 501(c) of the Internal Revenue Code of 1986 (26 USCS § 501 (c) (4) or (6)) which is exempt from tax under section 501(a) of such Code (26 USCS § 501(a)) and at least 80 percent of the members of which are organizations described in subclause (1).

B. "Fully insured" means all of the covered benefits are (i) insured on a direct basis by an insurance company licensed and in good standing to transact the business of insurance in Virginia pursuant to Title 38.2 of the Code of Virginia or (ii) arranged for or provided on a direct basis by (1) a health services plan licensed and in good standing in Virginia pursuant to Chapter 42 of Title 38.2 of the Code of Virginia, (2) a health maintenance organization licensed and in good standing in Virginia pursuant to Chapter 43 of Title 38.2 of the Code of Virginia, (3) a dental or optometric services plan licensed and in good standing in Virginia pursuant to Chapter 45 of Title 38.2 of the Code of Virginia, or (4) any combination thereof. The existence of contracts of reinsurance will not be considered in determining whether a plan is "fully insured".

C. "Direct basis" means that the liability of the insurer, health maintenance organization, health services plan, or dental or optometric services plan runs directly to the insured employee or certificate holder.

D. "Member" means an employer which participates in a multiple employer welfare arrangement.

E. "Contribution" means the amount paid or payable by the employer or employee for services provided through the multiple employer welfare arrangement.

F. "Good standing" means the license of any (i) company to transact the business of insurance in the Commonwealth of Virginia pursuant to Title 38.2 of the Code of Virginia, (ii) health services plan licensed pursuant to Chapter 42 of Title 38.2 of the Code of Virginia, (iii) health maintenance organization licensed pursuant to Chapter 43 of Title 38.2 of the Code of Virginia, or (iv) dental or optometric services plan licensed pursuant to Chapter 45 of Title 38.2 of the Code of Virginia where the license is not suspended or revoked, or the company, health services plan, health maintenance organization, or dental or optometric services plan is not precluded by Order of the Commission from soliciting, negotiating, procuring or effecting contracts of insurance.

G. "Commission" means the State Corporation Commission.

H. "Health care services" means services which are furnished to an individual for the purpose of preventing, alleviating, or healing human illness, injury, or physical disability. Such terminology may include services for optometric or dental care.

I. "Domicile" means the situs of the trust through which the multiple employer welfare arrangement is established, the plan's place of incorporation or, if not set up through a trust or incorporated, the location of the plan's headquarters.

Section 5. Licensing and Filing Requirements.

A. A multiple employer welfare arrangement that is not fully insured as defined in this regulation shall not operate in this Commonwealth without first meeting the criteria and becoming appropriately licensed as an insurance company, health maintenance organization, health services plan, or a dental or optometric services plan pursuant to Title 38.2 of the Code of Virginia.

B. A fully insured multiple employer welfare arrangement shall not operate in this Commonwealth without first filing with the Commission:

1. The names, addresses, and biographical summaries of the plan's trustees, officers, directors or other members of the plan's governing body.

2. The names, addresses, and qualifications of individuals responsible for the conduct of the plan's affairs, including any third-party administrators.

3. The names, addresses, and qualifications of persons who will solicit, negotiate, procure, or effect

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applications for coverage with the plan.

4. The names and addresses of employers participating in the plan.

5. Proof of coverage showing that the plan is fully insured by an insurer, health maintenance organization, health services plan, or dental or optometric services plan as required by Section 4.B of this regulation. Proof of coverage shall be submitted on a form prescribed by the Commission and shall include but not be limited to (i) a copy of the policy insuring the plan; (ii) confirmation from the insurer, health maintenance organization, health services plan, or a dental or optometric services plan that coverage is in force; and (iii) a statement indicating the length of time coverage has been in force.

6. Any other information the Commission may require including but not limited to information pertaining to the adequacy of the plan's level of reserves and contributions.

C. 1. If a multiple employer welfare arrangement changes coverage or does not remain fully insured as defined in Section 4.B of this regulation, the plan shall notify the Commission at least 30 days prior to the effective date of any change or reduction in coverage.

2. Any multiple employer welfare arrangement which ceases to remain fully insured shall, at least 30 days prior to the effective date of coverage termination, (i) notify the Commission of a replacement policy in accordance with subsection B.5 of this section, or (ii) apply for a license as an insurer, health maintenance organization, health services plan, or a dental or optometric services plan and be subject to all applicable provisions of Title 38.2 of the Code of Virginia. Such plan shall not be required to cease operations or discontinue benefits to existing members during this 30-day period. However, such plan shall not solicit, negotiate, procure, or effect coverage for new enrollments other than for dependents of employees already enrolled during this 30-day period. The plan shall cease operations and discontinue benefits at the end of this 30-day period unless (i) the plan has been licensed as required by this regulation, (ii) the plan becomes fully insured as defined in Section 4.B of this regulation and has provided the Commission with proof of coverage as required by subsection B.5 of this section, or (iii) the plan is granted an extension by the Commission for good cause shown. Nothing contained in this section shall prevent the Commission from proceeding with an action in accordance with the provisions of Section 7 of this regulation.

3. Any insurer, health maintenance organization, health services plan, or dental or optometric services plan providing coverage to a multiple employer welfare arrangement shall notify the Commission and the

multiple employer welfare arrangement of any change or reduction in coverage at least 45 days prior to the effective date of such change or reduction in coverage.

4. Any insurer, health maintenance organization, health services plan, or dental or optometric services plan failing to provide notice to the Commission as required by paragraph 3 of this subsection shall be required to continue coverage to the multiple employer welfare arrangement for an additional forty-five (45) days after notice of cancellation is provided to the Commission.

D. In addition to the filing requirements stated in subsection B of this section, each fully insured multiple employer welfare arrangement shall file on or before March 1 of each year (i) proof of coverage as set forth in subsection B.5 of this section and (ii) notice of any changes in information as filed with the Commission.

E. Any multiple employer welfare arrangement offering or providing coverage in this Commonwealth shall be subject to examination by the Commission in accordance with § 38.2-3422 of the Code of Virginia.

F. Notwithstanding any other provision of this Regulation, any multiple employer health care plans licensed and operating, or whose license application is pending with the Commission on the effective date of this Regulation and subsequently approved by the Commission may continue to operate as a multiple employer health care plan in the Commonwealth of Virginia, pursuant to the Commission's Rules Governing Multiple Employer Health Care Plans, for a period not to exceed three (3) years after the effective date of this Regulation.

Section 6. Licensing of Persons Soliciting, Negotiating, Procuring, or Effecting Applications for Coverage.

A. No person shall solicit, negotiate, procure, or effect applications for coverage or member enrollments, and no multiple employer welfare arrangement, insurer, health maintenance organization, nonstock health services plan, or nonstock dental or optometric services plan shall knowingly permit a person to solicit, negotiate, procure, or effect applications for coverage or member enrollments, in this Commonwealth for a multiple employer welfare arrangement whether or not the plan is licensed in this Commonwealth without first obtaining a license as a life and health agent, and an appointment, if such appointment is required, in a manner and in a form prescribed by the Commission pursuant to Chapter 18 of Title 38.2 of the Code of Virginia.

B. Any person who solicits, negotiates, procures, or effects applications or member enrollments in this Commonwealth for coverage under a multiple employer welfare arrangement shall be subject to all appropriate provisions of Title 38.2 as set forth in Chapters 2, 3, 5, 6, and 18 of the Code of Virginia regarding the conduct of

his business.

C. Salaried officers or employees of any employer which provides coverage through a multiple employer welfare arrangement shall not be required to be licensed under this section provided that the principal duties and responsibilities of such officers and employees do not include soliciting, negotiating, procuring, or effecting applications for coverage or member enrollments for the plan.

Section 7. Violations.

Any violation of this regulation shall be punished as provided for in § 38.2-218 of the Code of Virginia and any applicable law of this Commonwealth. The provisions of §§ 38.2-219 through 38.2-222 shall also apply to any multiple employer welfare arrangement that fails to comply with the provisions set forth in this regulation.

Section 8. Service of Process.

Suits, actions, and proceedings may be begun against any multiple employer welfare arrangement providing coverage in this Commonwealth by serving process on any trustee, director, officer, or agent of the plan, or, if none can be found, on the clerk of the Commission. If any multiple employer welfare arrangement that is not fully insured provides coverage in this Commonwealth without obtaining a license as required by Section 5 of this regulation, it shall be deemed to have thereby appointed the Clerk of the Commission its attorney for service of process. Service of process shall be made as provided for in Article 1 of Chapter 8 of Title 38.2.

Section 9. Severability.

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

STATE LOTTERY DEPARTMENT

EMERGENCY REGULATIONS

Title of Regulation: VR 447-02-1. Instant Game Regulations.

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

Effective Dates: January 2, 1992, through January 1, 1993.

Preamble:

The State Lottery Department recommends approval of the Department's request to adopt an emergency regulation to clarify the prize amount that can be paid by lottery retailers. The Governor's approval of this emergency regulation will allow the State Lottery Department to serve the general public better. As provided in the Code of Virginia, § 9-6.14:4.1, subsection C, paragraph 5, the agency shall receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

VR 447-01-1. Instant Game Regulations.

PART I.

LICENSING OF RETAILERS FOR INSTANT GAMES.

§ 1.1. Licensing.

Generally.

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

For purposes of this part on licensing, "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including its counties, cities, and towns.

§ 1.2. Eligibility.

A. Eighteen years of age and bondable.

Any person who is 18 years of age or older and who is bondable may submit an application for licensure, except no person may submit an application for licensure:

1. Who will be engaged primarily in the business of selling lottery tickets; or
2. Who is a board member, officer or employee of the State Lottery Department or who resides in the same household as a board member, officer or employee of

the department; or

3. Who is a vendor of lottery tickets or material or data processing services, or whose business is owned by, controlled by, or affiliated with a vendor of lottery tickets or materials or data processing services.

B. Application not an entitlement to license.

The submission of an application for licensure does not in any way entitle any person to receive a license to act as a lottery retailer.

§ 1.3. Application procedure.

Filing of forms with the department.

Any eligible person shall first file an application with the department on forms supplied for that purpose, along with the required fees as specified elsewhere in these regulations. The applicant shall complete all information on the application forms in order to be considered for licensing. The forms to be submitted include:

1. Retailer License Application;
2. Personal Data Form(s); and
3. Retailer Location Form.

State Lottery Law makes falsification, concealment or misrepresentation of a material fact, or making a false, fictitious or fraudulent statement or representation in an application for a license a misdemeanor.

§ 1.4. General standards for licensing.

A. Selection factors for licensing.

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

1. The financial responsibility and security of the applicant, to include:
 - a. A credit and criminal background investigation;
 - b. Outstanding delinquent state tax liability;
 - c. Required business licenses, tax and business permits;
 - d. Physical security at the place of business, including insurance coverage.
2. The accessibility of his place of business to the public, to include:

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- a. The hours of operation;
- b. The availability of parking and transit routes, where applicable;
- c. The location in relation to major employers, schools, or retail centers;
- d. The population level and rate of growth in the market area;
- e. The traffic density, including levels of congestion in the market area.

3. The sufficiency of existing lottery retailers to serve the public convenience, to include:

- a. The number of and proximity to other lottery retailers in the market area;
- b. The expected sales volume and profitability of potentially competing lottery retailers;
- c. The adequacy of coverage of all regions of the Commonwealth with lottery retailers.

4. The volume of expected lottery ticket sales, to include:

- a. Type and volume of the products and services sold by the retailer;
- b. Dollar sales volume of business;
- c. Sales history of business and market area;
- d. Volume of customer traffic in place of business.

5. The ability to offer high levels of customer service to instant lottery players, to include:

- a. Ability to display point of sale material;
- b. A favorable image consistent with lottery standards;
- c. Ability to pay prizes during maximum selling hours; and
- d. Commitment to authorize employee participation in all required instant lottery training.

B. Additional factors for selection.

The director may develop and, by administrative order, publish additional criteria which, in his judgment, are necessary to serve the public interest and public trust in the lottery.

§ 1.5. Bonding of lottery retailers.

A. Approved retailer to secure bond.

A lottery retailer approved for licensing shall obtain a surety bond from a surety company entitled to do business in Virginia. The purpose of the surety bond is to protect the Commonwealth from a potential loss in the event the retailer fails to perform his responsibilities.

1. Unless otherwise provided under subsection C of this section, the surety bond shall be in the amount and penalty of \$5,000 and shall be payable to the State Lottery Department and conditioned upon the faithful performance of the lottery retailer's duties.

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

B. Continuation of surety bond on annual license review.

A lottery retailer whose license is being reviewed shall:

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

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

C. Sliding scale for surety bond amounts.

The department may establish a sliding scale for surety bonding requirements based on the average volume of lottery ticket sales by a retailer to ensure that the Commonwealth's interest in tickets to be sold by a licensed lottery retailer is adequately safeguarded.

D. Effective date for sliding scale.

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

§ 1.6. Lottery bank accounts and EFT authorization.

A. Approved retailer to establish lottery bank account.

A lottery retailer approved for licensing shall establish a separate bank account to be used exclusively for lottery business in a bank participating in the Automatic Clearing House (ACH) system.

B. Retailer's use of lottery account.

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

C. Retailer responsible for bank charges.

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

D. Retailer to authorize electronic funds transfer.

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

E. Change in retailer's bank account.

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

F. Director to establish EFT account settlement schedule.

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

§ 1.7. License term and annual review.

A. License term.

A general license for an approved lottery retailer shall be issued on a perpetual basis subject to an annual determination of continued retailer eligibility and the payment of an annual fee fixed by the board.

B. Annual license review. The annual fee shall be collected within the 30 days preceding a retailer's anniversary date. Upon receipt of the annual fee, the general license shall be continued so long as all eligibility requirements are met. The director may implement a staggered, monthly basis for annual license reviews and allow for the proration of annual license fees. This section shall not be deemed to allow for a refund of license fees when a license is terminated, revoked or suspended for

any other reason.

C. Reserved.

D. Amended license term.

The annual fee for an amended license issued under the requirements of § 1.9 C will be due on the same date as the fee for the license it replaced.

E. Special license.

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

F. Surrender of license certificate.

If the license of a lottery retailer is suspended, revoked or not continued from year to year, the lottery retailer shall surrender the license certificate upon demand.

§ 1.8. License fees.

A. License application fee.

The fee for a license application for a lottery retailer general license to sell instant game tickets shall be \$25. The general license fee to sell instant game tickets shall be paid for each location to be licensed. This fee is nonrefundable.

B. License fee.

The annual fee for a lottery retailer general license to sell instant game tickets shall be an amount fixed by the board at its November meeting for all annual license reviews occurring in the next calendar year. The fee shall be designed to recover all or a portion of the annual costs of the department in providing services to the retailer. The fee shall be paid for each location for which a license is reviewed. This fee is nonrefundable. The fee shall be submitted within the 30 days preceding a retailer's anniversary date.

C. Amended license application fee.

The fee for processing an amended license application for a lottery retailer general license shall be an amount as approved by the board at its November meeting for all amendments occurring in the next calendar year. The amended license fee shall be paid for each location affected. This fee is nonrefundable. An amended license application shall be submitted in cases where a business change occurs as specified in § 1.9 B.

§ 1.9. Transfer of license prohibited; invalidation of license.

A. License not transferrable.

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

B. License invalidated.

A license shall become invalid for any of the following reasons:

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

C. Amended application required.

A licensed lottery retailer who anticipates a change as listed in subsection B shall notify the department of the anticipated change at least 15 calendar days before it takes place and submit an amended application. The director shall review the changed factors in the same manner that would be required for a review of an original application.

§ 1.10. Display of license,

License displayed in general view.

Every licensed lottery retailer shall conspicuously display his lottery license in an area visible to the general public where lottery tickets are sold.

§ 1.11. Denial, suspension, revocation or noncontinuation of license.

A. Grounds for refusal to license.

The director may refuse to issue a license to a person if the person does not meet the eligibility criteria and standards for licensing as set out in these regulations or if:

1. The person has been convicted of a felony;
2. The person has been convicted of a crime involving moral turpitude;
3. The person has been convicted of any fraud or misrepresentation in any connection;
4. The person has been convicted of bookmaking or other forms of illegal gambling;
5. The person's place of business caters to or is frequented predominantly by persons under 18 years of age;

6. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons;

7. The nature of the person's business is not consonant with the probity of the Commonwealth; or

8. The person has committed any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery.

B. Grounds for refusal to license partnership or corporation.

The director may refuse to issue a license to any partnership or corporation if he finds that any general or limited partner or officer or director of the partnership or corporation does not meet the eligibility criteria and standards for licensing as set out in these regulations or if any general or limited partner or officer or director of the partnership or corporation has been convicted of any of the offenses cited in subsection A.

C. Grounds for suspension, revocation or refusal to continue license.

The director may suspend, revoke, or refuse to continue a license for any of the following reasons:

1. Failure to properly account for lottery tickets received, for prizes claimed and paid or for the proceeds of the sale of lottery tickets;
2. Failure to file or maintain the required bond or the required lottery bank account;
3. Failure to comply with applicable laws, instructions, terms and conditions of the license, or rules and regulations of the department concerning the licensed activity, especially with regard to the prompt payment of claims;
4. Conviction, following the approval of the license, of any of the offenses cited in subsection A;
5. Failure to file any return or report or to keep records or to pay any fees or other charges as required by the state lottery law or the rules and regulations of the department;
6. Commission of any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery;
7. Failure to maintain lottery ticket sales at a level sufficient to meet the department's administrative costs for servicing the retailer, provided that the public convenience is adequately served by other retailers;
8. Failure to notify the department of a material change, after the license is issued, of any matter

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required to be considered by the director in the licensing application process;

9. Failure to comply with lottery game rules;

10. Failure to meet minimum point of sale standards;

11. The person's place of business caters to or is frequented predominantly by persons under 18 years of age;

12. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons; or

13. The nature of the person's business is not consonant with the probity of the Commonwealth.

D. Notice of intent to suspend, revoke or deny continuation of license.

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

E. Temporary suspension without notice.

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

F. Surrender of license and lottery property upon revocation or suspension.

A retailer shall surrender his license to the director by the date specified in the notice of revocation or suspension. The retailer shall also surrender the lottery property in his possession and give a final lottery accounting of his lottery activities by the date specified by the director.

§ 1.12. Responsibility of lottery retailers.

Each retailer shall comply with all applicable state and federal laws, rules and regulations of the department, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the director.

§ 1.13. Display of material.

A. Material in general view.

Lottery retailers shall display lottery point-of-sale material provided by the director in a manner which is readily seen by and available to the public.

B. Prior approval for retailer-sponsored material.

A lottery retailer may use or display his own promotional and point-of-sale material, provided it has been submitted to and approved for use by the department in accordance with instructions issued by the director.

C. Removal of unapproved material.

The director may require removal of any retailer's lottery material that has not been approved for use by the department.

§ 1.14. Inspection of premises.

Access to premises by department.

Each lottery retailer shall provide access during normal business hours or at such other times as may be required by the director or state lottery representatives to enter the premises of the licensed retailer. The premises include the licensed location where lottery tickets are sold or any other location under the control of the licensed retailer where the director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect the lottery materials or tickets and the licensed premises.

§ 1.15. Examination of records; seizure of records.

A. Inspection, auditing or copying of records.

Each lottery retailer shall make all books and records pertaining to his lottery activities available for inspection, auditing or copying as required by the director between the hours of 8 a.m. and 5 p.m., Mondays through Fridays and during the normal business hours of the licensed retailer.

B. Records subject to seizure.

All books and records pertaining to the licensed retailer's lottery activities may be seized with good cause by the director without prior notice.

§ 1.16. Audit of records.

The director may require a lottery retailer to submit to the department an audit report conducted by an independent certified public accountant on the licensed retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one license term.

§ 1.17. Reporting requirements and settlement procedures.

Instructions for purchasing tickets, reporting transactions and settling accounts.

Before a retailer may begin lottery sales, the director will issue to him instructions and report forms that specify the procedures for (i) ordering tickets; (ii) paying for tickets purchased; (iii) reporting receipts, transactions and disbursements pertaining to lottery ticket sales; and (iv) settling the retailer's account with the department.

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

A. Forms of payment for tickets; deposit of lottery receipts.

Each lottery retailer shall purchase the tickets distributed to him. The moneys for payment of these tickets shall be deposited to the credit of the State Lottery Fund by the department. The retailer shall make payments to the department by Electronic Funds Transfers (EFT); however, the director reserves the right to specify one or more of the following alternative forms of payment under such conditions as he deems appropriate:

1. Cash;
2. Cashier's check;
3. Certified check;
4. Money order; or
5. Business check.

B. Payment due date.

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

C. Penalty and interest charge for late payment.

Any retailer who fails to make payment when payment is due will be assessed an interest charge on the moneys due plus a \$25 penalty. The interest charge will be equal to the "Underpayment Rate" established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended. The interest charge will be calculated beginning the date following the retailer's due date for payment through the day preceding receipt of the late payment by the department for deposit.

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

The director will assess a service charge of \$25 against any retailer whose payment through electronic funds transfer (EFT) or by check is dishonored.

E. Service charge for debts referred for collection.

If the department refers a debt of any retailer to the Attorney General, the Department of Taxation or any

other central collection unit of the Commonwealth, the retailer owing the debt shall be liable for an additional service charge which shall be in the amount of the administrative costs associated with the collection of the debt that are incurred by the department and the agencies to which the debt is referred.

F. Service charge, interest and penalty waived.

The service charge, interest and penalty charges may be waived when the event which would otherwise cause a service charge, interest or penalty to be assessed is not in any way the fault of the lottery retailer. For example, a waiver may be granted in the event of a bank error or lottery error.

§ 1.19. Training of retailers and their employees.

Retailer training.

Each retailer or his designated representative or representatives is required to participate in training given by the department in the operation of each game. The director may consider nonparticipation as grounds for suspending or revoking the retailer's license.

§ 1.20. License termination by retailer.

Voluntary termination of license.

The licensed retailer may voluntarily terminate his license with the department by first notifying the department in writing at least 15 calendar days before the proposed termination date. The department will then notify the retailer of the date by which settlement of the retailer's account will take place. The retailer shall maintain his bond and the required accounts and records until settlement is completed and all lottery property belonging to the department has been surrendered.

PART II. INSTANT GAMES.

§ 2.1. Development of instant games.

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

1. Prize amounts and prize structure,
2. Types of noncash prizes, if any, and
3. The amount and type of any jackpot or grand prize which may be awarded.

§ 2.2. Prize structure.

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

A. The specific prize structure for each instant game shall be approved in advance by the board.

B. Prizes may be cash or noncash awards, including instant game tickets.

§ 2.3. Ticket price.

A. The sale price of a lottery ticket for each game will be determined by the board. Lottery retailers may not discount the sale price of instant game tickets or offer free tickets as a promotion with the sale of instant tickets. This section shall not prevent a retailer from providing free instant tickets with the purchase of other goods or services customarily offered for sale at the retailer's place of business; provided, however, that such promotion shall not be for the primary purpose of inducing persons to participate in the lottery.

B. This section shall not apply to the redemption of a winning instant ticket the prize for which is another free ticket.

§ 2.4. Sales, gift of tickets to minors prohibited.

An instant game ticket shall not be sold to, purchased by, redeemed from or given as a gift to any individual under 18 years old.

§ 2.5. Odds of winning.

The director shall publicize the overall odds of winning a prize in each instant game. The odds may be printed on the ticket or contained in informational materials, or both.

§ 2.6. End of game.

Each instant game will end on a date announced in advance by the director. The director may suspend or terminate an instant game without advance notice if he finds that this action will serve and protect the public interest.

§ 2.7. Sale of tickets from expired games prohibited.

No instant game tickets shall be sold after that game ends.

§ 2.8. Licensed retailers' compensation.

A. Licensed retailers shall receive 5.0% compensation on all instant game tickets purchased from the department for resale by the retailer.

B. The director may award cash bonuses or other incentives to retailers. The board shall approve any bonus or incentive system. The director will publicize any such

system by administrative order.

§ 2.9. Price for ticket packs.

For each pack, retailers shall pay the retail value, less the 5.0% retailer compensation and less the value of the low-tier winning tickets in the pack. For example, for a pack of tickets with a retail value of \$500, and guaranteed low end prize structure of \$165, the retailer would pay \$310: \$500 (the pack value) minus \$165 for low-tier winners, less the retailer's \$25 discount compensation.

§ 2.10. Purchase of instant tickets.

A. Retailers shall purchase books of tickets directly from the department or through designated depositories.

B. Retailers shall pay for tickets via an electronic funds transfer (EFT) initiated by the department.

1. The department will initiate the EFT after tickets are delivered to the retailer. The schedule will be determined by the director.

2. If an electronic funds transfer is refused, the retailer shall be assessed service charge, interest and penalty charges as provided for in these regulations. The service charge, interest and penalty charges may be waived under § 1.18 F of these regulations.

3. The director may approve another form of payment for designated retailers under conditions to be determined by the director.

4. If the director permits payment by check and if payment on any check is denied, the retailer shall be assessed service charge, interest and penalty charges as provided for in these regulations.

C. Once tickets are accepted by a retailer, the department will not replace mutilated or damaged tickets, unless specifically authorized by the director.

D. Ticket sales to retailers are final.

1. The department will not accept returned tickets except as provided for elsewhere in these regulations or with the director's advance approval.

2. The retailer is responsible for lost, stolen or destroyed tickets unless otherwise approved by the director.

§ 2.11. Retailers' conduct.

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

B. All ticket sales shall be for cash, check, cashier's check, traveler's check or money order at the discretion

If and in accordance with the licensed retailer's policy for accepting payment by such means. A ticket shall not be purchased with credit cards, food stamps or food coupons.

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

D. Tickets shall be sold during all normal business hours unless the director approves otherwise.

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

F. Retailers shall not sell instant tickets after the announced end of an instant game.

G. Retailers shall not break apart ticket packs to sell instant tickets except to sell tickets from the same pack at separate selling stations within the same business establishment.

H. Retailers shall not exchange ticket books or tickets with one another or sell ticket books or tickets to one another.

I. On the back of each instant ticket sold by a retailer, the retailer shall print or stamp the retailer's name, address and retailer number. This shall be done in a manner that does not conceal any of the preprinted material.

J. No retailer or his employee or agent shall try to determine the numbers or symbols appearing under the removable latex coverings or otherwise attempt to identify unsold winning tickets. However, this shall not prevent the removal of the covering over the validation code or validation number after the ticket is sold and a prize is claimed.

K. Unsupervised retailer employees who sell or otherwise vend lottery tickets must be at least 18 years of age. Employees not yet 18 but at least 16 years of age may sell or vend lottery tickets so long as they are supervised by a person 18 years of age or older.

§ 2.12. Returns of unsold tickets.

A. Each retailer may return for credit full, unbroken ticket packs to the department at any time before the announced end of the game and before the return of any partial packs.

B. After the twelfth week of any instant game, each retailer may return broken partial packs of tickets to the department for credit. Partial pack returns are limited to one pack return per register where tickets have been sold for that game. At the same time partial packs are returned, the retailer must return all eligible partial packs and all full packs for that game remaining in his

inventory. No additional partial packs or full packs will be accepted from the retailer by the department for credit after partial packs have been returned.

C. All tickets in the possession of a retailer remaining unsold at the announced end of the game, the return of which are not prohibited by § 2.12 B, whether partial pack or full pack, must be returned to the department not later than 21 calendar days after the announced end of each instant game or any final prize drawing or no credit will be allowed to the retailer for tickets remaining unsold by that retailer.

§ 2.13. Reserved.

§ 2.14. Reserved.

§ 2.15. Reserved.

PART III. PAYMENT OF PRIZES FOR INSTANT GAMES.

§ 3.1. Prize winning tickets.

Prize-winning instant tickets are those that have been validated and determined in accordance with the rules of the department to be official prize winners. Consistent with these regulations, criteria and specific rules for winning prizes shall be published and posted by the director for each instant game and made available for all players. Final validation and determination of prize winning tickets remains with the department.

§ 3.2. Unclaimed prizes.

All instant game winning tickets shall be received for payment as prescribed in these regulations within 180 days after the announced end of the game or of the event which caused the ticket to be a winning entry, whichever is later. In the event that the 180th day falls on a Saturday, Sunday or legal holiday, a claimant may redeem his prize-winning ticket on the next business day. Tickets which have been mailed in an envelope bearing a postmark on or before the 180th day will be deemed to have been received on time.

A. Any non-low-tier instant game cash prize which has been won as a result of a drawing but which is not claimed within 180 days after the instant game drawing shall revert to the State Literary Fund.

B. Any non-low-tier instant game cash prize which has been won other than by drawing, but which is not claimed within 180 days after the announced end of the instant game shall revert to the State Literary Fund.

C. Any instant game low-tier prize-winning ticket which has been purchased but which is not claimed within 180 days after the announced end of the instant game shall revert as a bonus compensation to the account of the retailer which sold the instant game low-tier prize-winning

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ticket.

§ 3.3. Using winners' names.

The department shall have the right to use the names of prize winners. Photographs of prize winners may be used with the written permission of the winners. No additional consideration shall be paid by the department for this purpose.

§ 3.4. No prize paid to people under 18.

No prize shall be claimed by, redeemed from or paid to any individual under 18 years of age.

§ 3.5. Where prizes claimed.

Winners may claim instant game prizes from the retailer from whom the ticket was purchased or the department in the manner specified in these regulations.

§ 3.6. Validating winning tickets.

Winning tickets shall be validated by the retailer or the department as set out in these regulations or in any other manner which the director may determine.

§ 3.7. How prize claim entered.

A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is \$600 or greater, the person or entity also shall furnish a tax identification number.

A. An individual shall provide his social security number if a claim form is required by these regulations.

B. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) issued by the Internal Revenue Service.

1. If the department, a retailer or these regulations require that a claim form be filed, the FEIN shall be shown on the claim form.

2. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the department. This form designates to whom winnings are to be paid and the person(s) to whom winnings are taxable.

3. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN and which does not file IRS Form 5754 with the department shall designate one individual in whose name the claim shall be entered and that person's social security number shall be furnished.

§ 3.8. Right to prize not assignable.

No right of any person to a prize shall be assignable, except that:

1. The director may pay any prize to the estate of a deceased prize winner, and

2. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate judicial order.

§ 3.9. No accelerated payments.

The director shall not accelerate payment of a prize for any reason.

§ 3.10. Liability ends with prize payment.

All liability of the Commonwealth, its officials, officers and employees, and of the department, the director and employees of the department, terminates upon payment of a lottery prize.

§ 3.11. Delay of payment allowed.

The director may refrain from making payment of the prize pending a final determination by the director under any of the following circumstances:

1. If a dispute occurs or it appears that a dispute may occur relative to any prize;

2. If there is any question regarding the identity of the claimant;

3. If there is any question regarding the validity of any ticket presented for payment; or

4. If the claim is subject to any set off for delinquent debts owed to any agency eligible to participate in the Set-Off Debt Collection Act.

No liability for interest for such delay shall accrue to the benefit of the claimant pending payment of the claim.

§ 3.12. When periodic prize payment may be delayed.

The director may, at any time, delay any payment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter that has been brought to the department's attention. All delayed payments shall be brought up to date immediately upon the director's confirmation. Delayed payments shall continue to be paid according to the original payment schedule after the director's decision is given.

§ 3.13. Ticket is bearer instrument.

A ticket that has been legally issued by a lottery retailer is a bearer instrument until the ticket has been signed.

The person who signs the ticket is considered the bearer of the ticket.

§ 3.14. Payment made to bearer.

Payment of any prize will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification and the submission of a prize claim form if one is required, unless otherwise delayed in accordance with these regulations.

§ 3.15. Marking tickets prohibited; exceptions.

Marking of tickets in any way is prohibited except by a player to claim a prize or by the department or a retailer to identify or to void the ticket.

§ 3.16. Penalty for counterfeit or altered ticket.

Forging, altering or fraudulently making any lottery ticket or knowingly presenting a forged, counterfeit or altered ticket for prize payment or transferring such a ticket to another person to be presented for prize payment is a Class 6 felony in accordance with the state lottery law.

§ 3.17. Lost, stolen, destroyed tickets.

The department is not liable for lost, stolen or destroyed tickets.

The director may honor a prize claim of an apparent winner who does not possess the original ticket if the claimant is in possession of information which demonstrates that the original ticket meets the following criteria and can be validated through other means. The exception does not apply to an instant game ticket the prize for which is a free ticket or is \$25 or less.

1. The claim form and a photocopy of the ticket, or photocopy of the original claim form and ticket, are timely filed with the department;
2. The prize for which the claim is filed is an unclaimed winning prize as verified in the department's records;
3. The prize has not been claimed within the required redemption period; and
4. The claim is filed within 180 days of the drawing or within the redemption period, as established by game rules.

§ 3.18. Erroneous or mutilated ticket.

The department is not liable for erroneous or mutilated tickets. The director, at his option, may replace an erroneous or mutilated ticket with an unplayed ticket for the same or a later instant game.

§ 3.19. Retailer to pay low-tier prizes.

Low-tier prizes (those of \$25 or less in cash or free instant game tickets) shall be paid by the retailer who sold the winning ticket, or by the department at the option of the ticket holder, or by the department when the ticket cannot be validated by the retailer.

§ 3.20. Retailers' prize payment procedures.

Procedures for prize payments by retailers are as follows:

1. Retailers may pay cash prizes in cash, by certified check, cashier's check, business check, or money order, or by any combination of these methods.
2. If payment of a prize by a check presented to a claimant by a retailer is denied for any reason, the retailer is subject to the same service charge interest and penalty payments that would apply if the check were made payable to the department. A claimant whose prize check is denied shall notify the department to obtain the prize.
3. Retailers shall pay claims for low-tier prizes during all normal business hours.
4. Prize claims shall be paid only at the location specified on the license.
5. The department will reimburse a retailer for prizes ~~of between from~~ *from* \$26 to and *including* ~~\$500~~ \$600 paid up to 180 days after an instant game ends.

§ 3.21. Retailer to validate winning ticket.

Before paying a prize claim, the retailer should validate the winning ticket. The retailer should follow validation procedures listed in these regulations or obtained from the department. Retailers who pay claims without validating the ticket do so at their own financial risk.

§ 3.22. When retailer cannot validate ticket.

If, for any reason, a retailer is unable to validate a prize-winning ticket, the retailer shall provide the ticket holder with a department claim form and instruct the ticket holder on how to file a claim with the department.

§ 3.23. No reimbursement for retailer errors.

The department shall not reimburse retailers for prize claims paid in error.

§ 3.24. Retailer to void winning ticket.

After a winning ticket is validated and signed by the ticket holder, the retailer shall physically void the ticket to prevent it from being redeemed more than once. The manner of voiding the ticket will be prescribed by the

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director.

§ 3.25. Prizes of less than \$600 or less .

A retailer may elect to pay instant prizes ~~between from~~ \$26 to and including ~~\$599~~ \$600 won on tickets validated and determined by the department to be official prize winners, regardless of where the tickets were sold. If the retailer elects to pay prizes of up to ~~\$599~~ \$600 or less , the following terms and conditions apply:

1. The retailer shall execute an agreement with the department to pay higher prize limits.
2. The retailer shall pay all prizes agreed to up to ~~\$599~~ \$600 on validated tickets presented to that retailer.
3. The retailer shall display special informational material provided by or approved by the department informing the public of the exceptional prize payments available from that retailer.
4. Nothing in this section shall be construed to prevent the department from accepting an agreement from a retailer to pay prize amounts \$26 or more but less than ~~\$599~~ \$601 .

§ 3.26. Additional validation requirements.

Before paying any prize ~~between from~~ \$26 to and including ~~\$599~~ \$600 , the retailer should:

1. Reserved
2. Inspect the ticket to assure that it conforms to each validation criterion listed in these regulations and to any additional criteria the director may specify;
3. Report to the department the ticket number, validation code and validation number of the ticket; and
4. Obtain an authorization number for prize payment from the department.

§ 3.27. When prize shall be claimed from the department.

The department will pay prizes in any of the following circumstances:

1. If a retailer cannot validate a claim which the retailer otherwise would pay, the ticket holder shall present a completed claim form and the signed ticket at any department regional office or mail both the completed claim form and the signed ticket to the department central office.
2. If a ticket holder is unable to return to the retailer from which the ticket was purchased to claim a prize which the retailer otherwise would pay, the ticket

holder may present the signed ticket at any department regional office or mail both a completed claim form and the signed ticket to the department central office.

3. If the prize amount is over the limit paid by the retailer from which the ticket was purchased, the ticket holder may present a completed claim form, if required, and the signed ticket to any department regional office or mail both a completed claim form and the signed ticket to the department central office.

§ 3.28. Prizes of \$25,000 or less.

Prizes of \$25,000 or less may be claimed from any of the department's regional offices. Regional offices will pay prizes by check after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.29. Prizes of more than \$25,000.

Prizes of more than \$25,000 and noncash prizes other than free lottery tickets may be claimed from the department's central office in Richmond. The central office will pay cash prizes by check, after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.30. When claims form required.

A claims form for a winning ticket may be obtained from any department office or any lottery sales retailer.

A. Claims forms shall be required to claim any prize from the department's central office.

B. Claims forms shall be required to claim any prize of ~~\$600~~ \$601 or more from the department's regional offices.

C. Reserved.

D. The director may, at his discretion, require claims forms to be filed to claim prizes.

§ 3.31. Department action on claims for prizes submitted to department.

The department shall validate the winning ticket claim according to procedures contained in these regulations.

A. If the claim is not valid, the department will notify the ticket holder promptly.

B. If the claim is mailed to the department and the department validates the claim, a check for the prize amount will be mailed to the winner.

C. If an individual presents a claim to the department in person and the department validates the claim, a check for the prize amount will be presented to the bearer.

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§ 3.32. Withholding, notification of prize payments.

A. When paying any prize of ~~\$600~~ \$601 or more, the department shall:

1. File the appropriate income reporting form(s) with the state Department of Taxation and the federal Internal Revenue Service; and
2. Withhold any moneys due for delinquent debts listed with the Department of Taxation's set-off debt collection program.

B. When paying any prize of more than \$5,000, the department shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for the winning ticket.

§ 3.33. Grand prize event.

If an instant game includes a grand prize or jackpot event, the following general criteria shall be used:

1. Entrants in the event shall be selected from tickets which meet the criteria stated in specific game rules set by the director.
2. Participation in the drawing(s) shall be limited to those tickets which are actually received and validated by the department on or before the date announced by the director.
3. If, after the event is held, the director determines that a ticket should have been entered into the event, the director may place that ticket into a grand prize drawing for the next equivalent instant game. That action is the extent of the department's liability.
4. The director shall determine the date(s), time(s) and procedures for selecting grand prize winner(s) for each instant game. The proceedings for selection of the winners shall be open to members of the news media and to either the general public or entrants or both.

§ 3.34. Director may postpone drawing.

The director may postpone any drawing to a certain time and publicize the postponement if he finds that the postponement will serve and protect the public interest.

§ 3.35. Valid ticket described.

To be valid, a Virginia lottery game ticket shall meet all of the validation requirements listed here:

1. The ticket shall have been issued by the department in an authorized manner.
2. The ticket shall not be altered, unreadable, reconstructed, or tampered with in any way.

3. The ticket shall not be counterfeit in whole or in part.

4. The ticket shall not have been stolen or appear on any list of void or omitted tickets on file with the department.

5. The ticket shall be complete and not blank or partly blank, miscut, misregistered, defective, or printed or produced in error.

6. The ticket shall have exactly one play symbol and exactly one caption under each of the rub-off spots, exactly one ticket number, exactly one validation code, and exactly one validation number. These items shall be present in their entirety, legible, right side up, and not reversed in any manner.

7. The validation number of an apparent winning ticket shall appear on the department's official list of validation numbers of winning tickets provided by the vendor of the instant tickets. A ticket with that validation number shall not have previously been paid.

8. The ticket shall pass all additional confidential validation requirements set by the department.

§ 3.36. Invalid ticket.

An instant ticket which does not pass all the validation requirements listed in these regulations and any validation requirements contained in the rules for its instant game is invalid. An invalid ticket is not eligible for any prize.

§ 3.37. Replacement of ticket.

The director may replace an invalid ticket with an unplayed ticket from the same or another instant game. If a defective ticket is purchased, the department's only liability or responsibility shall be to replace the defective ticket with an unplayed ticket from the same or another instant game or to refund the purchase price, at the department's option.

§ 3.38. When ticket is partially mutilated or not intact.

If an instant ticket is partially mutilated or if the ticket is not intact but can still be validated by other validation tests, the director may pay the prize for that ticket.

§ 3.39. Director's decision final.

All decisions of the director regarding ticket validation shall be final.

§ 3.40. When prize payable over time.

Unless the rules for any specific instant game provide otherwise, any cash prize of \$100,001 or more will be paid in multiple payments over time. The schedule of payments shall be designed to pay the winner equal dollar amounts

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in each year, with the exception of the first, until the total payments equal the prize amount.

§ 3.41. Rounding total prize payment.

When a prize or share is to be paid over time, except for the first payment, the director may round the actual amount of the prize or share to the nearest \$1,000 to facilitate purchase of an appropriate funding mechanism.

§ 3.42. When prize payable for "life."

If a prize is advertised as payable for the life of the winner, only an individual may claim the prize. If a claim is filed on behalf of a group, company, corporation or any other type of organization, the life of the claim shall be 20 years.

/s/ Kenneth W. Thorson, Director
Virginia State Lottery
Date: December 4, 1991

/s/ Lawrence Douglas Wilder
Governor
Date: December 31, 1991

/s/ Joan W. Smith
Registrar of Regulations
Date: January 2, 1992

* * * *

NOTICE: The forms used in administering the State Lottery Department Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the State Lottery Department, 2201 East Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Retailer License Application
Personal Data Form
Retailer Location Form
Retailer Data Collection
Authorization Agreement for Preauthorized Payments (A-1)
Virginia Lottery Licensed Retailer Certificate (4/90)
Bond Continuation Certificate (letter)
Commonwealth of Virginia Lottery Bond Application
Special Notice on Bonding for Lottery Retailers
Winner Claim Form (SLD-0007, 3/89)
Winner-Gram (SLD0016)
We're Sorry But . . . (SLD0015)
Returned Ticket Receipt - Full Pack Returns
Returned Ticket Receipt - Partial Pack Returns
Ticket Dispenser Agreement (SLD-0129, 3/89)
Agreement to Pay Mid-Tier Prizes
Invoice
Statement
Retailer Guidelines for Using Advertising Approval

Form
Retailer Advertising Approval Form
Stolen Ticket Report (766.000, 1/88)

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

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

Effective Dates: January 2, 1992, through January 1, 1993.

Preamble:

The State Lottery Department recommends approval of the Department's request to adopt emergency regulations to amend its on-line game regulations to introduce subscription services, a new on-line lottery program, to the general public and to clarify the prize amount that can be paid by lottery retailers as a result of implementation of its new on-line program, Pick 4. The Governor's approval of these emergency regulations will allow the State Lottery Department to enhance state revenues, to achieve player convenience, and to serve the general public better. As provided in the Code of Virginia, § 9-6.14:4.1, subsection C, paragraph 5, the agency shall receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

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

PART I. ON-LINE GAMES.

§ 1.1. Development of on-line games.

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

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

§ 1.2. General definitions for on-line games.

"Auto pick" means the same as "easy pick."

"Breakage" means the fraction of a dollar not paid out

due to rounding down and shall be used exclusively to fund prizes.

"Cancelled ticket" means a ticket that (i) has been placed into the terminal, whereupon the terminal must read the information from the ticket and cancel the transaction or (ii) whose validation number has been manually entered into the terminal via the keyboard and cancelled.

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

"Confirmation (or registration) notice" means the subscription notification letter or card mailed to the subscriber which confirms the game numbers for the game panel played, and the plan start date and number of draws.

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

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

"Easy pick" means computer generated numbers or items.

"Game panel" means the play(s) entered by the subscriber on the subscription application.

"Game numbers" means the numbers designated by the player on the subscription application or the computer-generated numbers if easy pick is selected.

"Group-designated agent" means the individual listed on the subscription application who is elected by the group of players to act as the subscriber on the group's behalf in handling all correspondence and payment disbursements resulting from the group's subscription.

"Number of draws" means the actual number of draws for which a subscription is valid.

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

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

"On-line system" means the department's on-line computer system consisting of on-line terminals, central

processing equipment, and a communication network.

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

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

"Plan" means the duration of the subscription as determined by the number of draws designated by the subscriber on the subscription application or renewal notice.

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

"Player-selected item" means a number or item or group of numbers or items selected by a player in connection with an on-line game. Player-selected items include selections of items randomly generated by the computer on-line system. Such computer-generated numbers or items are also known as "auto picks," "easy picks" or "quick picks."

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

"Registration" means the process of entering subscription information concerning the subscriber, plan and selected numbers into the central computer system.

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

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

"Share" means a percentage of ownership in a winning ticket or subscription plan.

"Start date" means the first draw date for which a subscription is effective.

"Subscriber" means the individual designated on the subscription application whose entry has been entered into the department's central computer system and who has received confirmation from the department of his or her designated numbers and includes the group-designated agent for a group, organization, family unit, or club.

"Subscription" means a method to play a lottery on-line game by purchasing subscription plays, using a designated set of numbers, for a specific period of time, and for which the player is automatically entered in each drawing or game during the period for which the subscription is

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effective.

"Subscription application" means the form(s) used by an individual or group-designated agent to play lottery games by subscription.

"Subscription game" means a lottery game in which the player can purchase on-line game tickets through the mail, for a specific period of time, and for which the player is automatically entered in each on-line drawing during the period for which the subscription is purchased.

"Subscription renewal" means the process by which a subscription plan is renewed by the subscriber in accordance with procedures established by the department.

"Subscription ticket" means an on-line ticket which provides the ability to play a specific number of games utilizing the same numbers, selected by the player, for a period of consecutive weeks as specified on the ticket.

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

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

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

§ 1.3. Prize structure.

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

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

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

§ 1.4. Drawing and selling times.

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

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

§ 1.5. Ticket price.

A. The sale price of a lottery ticket for each game will be determined by the board. These limits shall not operate to prevent the sale of more than one lottery play on a

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

B. This section shall not apply to the redemption of a winning on-line game ticket the prize for which is another free ticket.

§ 1.6. Ticket cancellation.

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

1. To be accepted for cancellation, the ticket must be presented to the lottery retailer location at which the ticket was sold, prior to the time of the drawing and within the same business day it was purchased.

2. Cancellation may only be effected by the following two procedures:

a. Inserting the ticket into the lottery terminal, whereupon the terminal must read the information from the ticket and cancel the transaction.

b. After first determining that the preceding procedure cannot be utilized successfully to cancel the ticket, the terminal operator may cancel the ticket by manually entering the ticket validation number into the terminal via the keyboard.

Any ticket which cannot be cancelled by either of these procedures remains valid for the drawing for which purchased. Any ticket which is mutilated, damaged or has been rendered unreadable, and cannot be inserted into or read by the lottery terminal or whose validation number cannot be read and keyed into the terminal, cannot be cancelled by any other means.

3. The cancelled ticket must be surrendered by the bearer to the retailer.

4. On a case-by-case basis, credit may be provided to retailers for tickets which could not be cancelled by either of the two methods described in § 1.6 2. Such credit may be given provided unusual, verifiable circumstances are present which show that the department's computer system could not accept the cancellation within the same day the ticket was purchased or that the ticket was produced by an unusual retailer error. The retailer must notify the department's Hotline prior to the time of the drawing

and within the same business day the ticket was purchased.

5. The director may approve credit for other cancellation requests not described in this section.

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

§ 1.7. Chances of winning.

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

§ 1.8. Licensed retailers' compensation.

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

B. The board shall approve any bonus or incentive system for payment to retailers. The director will publicize any such system by administrative order. The director may then award such cash bonuses or other incentives to retailers.

§ 1.9. Retailers' conduct.

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

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

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

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

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

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

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

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

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

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

K. Unsupervised retailer employees who sell or otherwise vend lottery tickets must be at least 18 years of age. Employees not yet 18 but at least 16 years of age may sell or vend lottery tickets so long as they are supervised by the manager or supervisor in charge at the location where the tickets are being sold.

§ 1.10. End of game; suspension.

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

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

§ 2.1. Licensing.

A. Generally.

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

B. For purposes of this part on licensing, "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including its counties, cities, and towns.

§ 2.2. Eligibility.

A. Eighteen years of age and bondable.

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

1. Who will be engaged primarily in the business of selling lottery tickets; or
2. Who is a board member, officer or employee of the State Lottery Department or who resides in the same household as board member, officer or employee of the department; or
3. Who is a vendor to the department of instant or on-line lottery tickets or goods or data processing

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services, whose tickets, goods or services are provided directly to the lottery department, or whose business is owned by, controlled by, or affiliated with a vendor of instant or on-line lottery tickets or goods or data processing services whose tickets, goods or services are provided directly to the lottery department.

B. Form submission.

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

§ 2.3. General standards for licensing.

A. Selection factors for licensing.

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

1. The financial responsibility and integrity of the retailer, to include:

- a. A credit and criminal record history search or when deemed necessary a full investigation of the retailer;
- b. A check for outstanding delinquent state tax liability;
- c. A check for required business licenses, tax and business permits; and
- d. An evaluation of physical security at the place of business, including insurance coverage.

2. The accessibility of his place of business to public, to include:

- a. The hours of operation compared to the on-line system selling hours;
- b. The availability of parking including ease of ingress and egress to parking;
- c. Public transportation stops and passenger traffic volume;
- d. The vehicle traffic density, including levels of congestion in the market area;
- e. Customer transaction count within the place of business;
- f. Other factors indicating high public accessibility and public convenience when compared with other retailers; and

g. Adequate space and physical layout to sell a high volume of lottery tickets efficiently.

3. The sufficiency of existing lottery retailers to serve the public convenience, to include:

- a. The number of and proximity to other lottery retailers in the market area;
- b. The expected impact on sales volume of potentially competing lottery retailers;
- c. The adequacy of coverage of all regions of the Commonwealth with lottery retailers; and
- d. The population to terminal ratio, compared to other geographical market areas.

4. The volume of expected lottery ticket sales, to include:

- a. Type and volume of the products and services sold by the retailer;
- b. Dollar sales volume of the business;
- c. Sales history of the market area;
- d. Sales history for instant tickets, if already licensed as an instant retailer;
- e. Volume of customer traffic in place of business; and
- f. Market area potential, compared to other market areas.

5. The ability to offer high levels of customer service to on-line lottery players, including:

- a. A history demonstrating successful use of lottery product related promotions;
- b. Volume and quality of point of sale display;
- c. A history of compliance with lottery directives;
- d. Ability to display jackpot prize amounts to pedestrians and vehicles passing by;
- e. A favorable image consistent with lottery standards;
- f. Ability to pay prizes less than \$600 of \$600 or less during maximum selling hours, compared to other area retailers;
- g. Commitment to authorize employee participation in all required on-line lottery training; and
- h. Commitment and opportunity to post jackpot

levels near the point of sale.

B. Additional factors for selection.

The director may develop and, by director's order, publish additional criteria which, in the director's judgment, are necessary to serve the public interest and public trust in the lottery.

C. Filing of forms with the department.

After notification of selection as an on-line lottery retailer, the retailer shall file required forms with the department. The retailer must submit all information required to be considered for licensing. Failure to submit required forms and information within the times specified in these regulations may result in the loss of the opportunity to become or remain a licensed on-line retailer. The forms to be submitted shall include:

1. Signed retailer agreement;
2. Signed EFT Authorization form with a voided check or deposit slip from the specified account; and
3. Executed bond requirement.

§ 2.4. Bonding of lottery retailers.

A. Approved retailer to secure bond.

A lottery retailer approved for licensing shall obtain a surety bond in the amount of \$10,000 from a surety company entitled to do business in Virginia. If the retailer is already bonded for instant games, a second bond will not be required. However, the amount of the original bond must be increased to \$10,000. The purpose of the surety bond is to protect the Commonwealth from a potential loss in the event the retailer fails to perform his responsibilities.

1. Unless otherwise provided under subsection C of this section, the surety bond shall be in the amount and penalty of \$10,000 and shall be payable to the State Lottery Department and conditioned upon the faithful performance of the lottery retailer's duties.
2. Within 15 calendar days of receipt of the "On-Line License Approval Notice," the lottery retailer shall return the properly executed "Bonding Requirement" portion of the "On-Line License Approval Notice" to the State Lottery Department to be filed with his record.

B. Continuation of surety bond on annual license review.

A lottery retailer whose license is being reviewed shall:

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

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

C. Sliding scale for surety bond amounts.

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

D. Effective date for sliding scale.

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

§ 2.5. Lottery bank accounts and EFT authorization.

A. Approved retailer to establish lottery bank account.

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

B. Retailer's use of lottery account.

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

C. Retailer responsible for bank charges.

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

D. Retailer to authorize electronic funds transfer.

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

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E. Change in retailer's bank account.

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

F. Director to establish EFT account settlement schedule.

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

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

A. Payment due date.

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

B. Penalty and interest charge for late payment.

Any retailer who fails to make payment when payment is due will have his on-line terminal inactivated. The retailer will not be reactivated until payment is made by cashiers check, certified check or wire transfer. Additionally, interest will be charged on the moneys due plus a \$25 penalty. The interest charge will be equal to the "Underpayment Rate" established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended. The interest charge will be calculated beginning the date following the retailer's due date for payment through the day preceding receipt of the late payment by the department for deposit.

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

In addition to the penalty authorized by subsection B of this section, the director will assess a service charge of \$25 against any retailer whose payment through electronic funds transfer (EFT) or by check is dishonored.

D. Service charge for debts referred for collection.

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

E. Service charge, interest and penalty waived.

The service charge, interest and penalty charges may be waived when the event which would otherwise cause a service charge, interest or penalty to be assessed is not in any way the fault of the lottery retailer. For example, a waiver may be granted in the event of a bank error or lottery error.

§ 2.7. License term and annual review.

A. License term.

A general on-line license for an approved lottery retailer shall be issued on a perpetual basis subject to an annual determination of continued retailer eligibility and the payment of an annual fee fixed by the board. A general on-line license requires the retailer to sell both on-line and instant lottery tickets.

B. Annual license review.

The annual fee shall be collected within the 30 days preceding a retailer's anniversary date. Upon receipt of the annual fee, the general license shall be continued so long as all eligibility requirements are met. The director may implement a staggered, monthly basis for annual license reviews and allow for the proration of annual license fees. This section shall not be deemed to allow for a refund of license fees when a license is terminated, revoked or suspended for any other reason.

C. Amended license term.

The annual fee for an amended license will be due on the same date as the fee for the license it replaced.

D. Special license.

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

E. Surrender of license certificate.

If the license of a lottery retailer is suspended, revoked or not continued from year to year, the lottery retailer shall surrender the license certificate upon demand.

§ 2.8. License fees.

A. License fee.

The fee for a lottery retailer general license to sell on-line game tickets shall be \$25. Payment of this fee shall entitle the retailer to sell both on-line and instant game tickets. The general license fee to sell on-line game tickets shall be paid for each location to be licensed. This fee is nonrefundable.

B. Annual license fee.

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

C. Amended license fee.

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

§ 2.9. Fees for operational costs.

A. Installation fee.

The fee for initial terminal telecommunications installation for the on-line terminal shall be \$275. This fee may be subject to change based upon an annual cost review by the department.

1. If the retailer has purchased a business where a terminal is presently installed or telecommunication service is available, a fee of \$25 per year shall be charged upon issuance of a new license.

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

B. Weekly on-line telecommunications line charge.

Each retailer shall be assessed a weekly charge of \$15 per week. This fee may be subject to change based upon an annual cost review by the department.

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

A. License not transferrable.

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

B. License invalidated.

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

1. Change in business location;

2. Change in business structure (e.g., from a partnership to a sole proprietorship);

3. Change in the business owners listed on the original personal data forms for which submission of a personal data form is required under the license procedure.

C. Amended personal data form required.

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

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

A. Grounds for refusal to license.

The director may refuse to issue a license to a person if the person does not meet the eligibility criteria and standards for licensing as set out in these regulations or if:

1. The person has been convicted of a felony;

2. The person has been convicted of a crime involving moral turpitude;

3. The person has been convicted of any fraud or misrepresentation in any connection;

4. The person has been convicted of bookmaking or other forms of illegal gambling;

5. The person has been convicted of knowingly and willfully falsifying, or misrepresenting, or concealing a material fact or makes a false, fictitious, or fraudulent statement or misrepresentation;

6. The person's place of business caters to or is frequented predominantly by persons under 18 years of age;

7. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons;

8. The nature of the person's business is not consonant with the probity of the Commonwealth; or

9. The person has committed any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery.

B. Grounds for refusal to license partnership or corporation.

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

C. Appeals of refusal to license.

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

D. Grounds for suspension, revocation or refusal to continue license.

The director may suspend, revoke, or refuse to continue a license for any of the following reasons:

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

10. Failure to meet minimum point of sale standards;

11. The person's place of business caters to or is frequented predominantly by persons under 18 years of age;

12. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons; or

13. The nature of the person's business is not consonant with the probity of the Commonwealth.

E. Notice of intent to suspend, revoke or deny continuation of license.

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

F. Temporary suspension without notice.

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

G. Surrender of license and lottery property upon revocation or suspension.

A retailer shall surrender his license to the director by the date specified in the notice of revocation or suspension. The retailer shall also surrender the lottery property in his possession and give a final accounting of his lottery activities by the date specified by the director.

§ 2.12. Responsibility of lottery retailers.

Each retailer shall comply with all applicable state and federal laws, rules and regulations of the department, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the director.

§ 2.13. Display of license.

License displayed in general view. Every licensed lottery retailer shall conspicuously display his lottery license in an area visible to the general public where lottery tickets are sold.

§ 2.14. Display of material.

A. Material in general view.

Lottery retailers shall display lottery point-of-sale material provided by the director in a manner which is readily seen by and available to the public.

B. Prior approval for retailer-sponsored material.

A lottery retailer may use or display his own promotional and point-of-sale material, provided it has been submitted to and approved for use by the department in accordance with instructions issued by the director.

C. Removal of unapproved material.

The director may require removal of any licensed retailer's lottery promotional material that has not been approved for use by the department.

§ 2.15. Inspection of premises.

Access to premises by department. Each lottery retailer shall provide access during normal business hours or at such other times as may be required by the director or state lottery representatives to enter the premises of the licensed retailer. The premises include the licensed location where lottery tickets are sold or any other location under the control of the licensed retailer where the director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect the lottery materials or tickets and the licensed premises.

§ 2.16. Examination of records; seizure of records.

A. Inspection, auditing or copying of records.

Each lottery retailer shall make all books and records pertaining to his lottery activities available for inspection, auditing or copying as required by the director between the hours of 8 a.m. and 5 p.m., Mondays through Fridays and during the normal business hours of the licensed retailer.

B. Records subject to seizure.

All books and records pertaining to the licensed retailer's lottery activities may be seized with good cause by the director without prior notice.

§ 2.17. Audit of records.

The director may require a lottery retailer to submit to the department an audit report conducted by an independent certified public accountant on the licensed retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one license term.

§ 2.18. Reporting requirements and settlement procedures.

Instructions for ordering on-line terminal ticket roll stock, reporting transactions and settling accounts. Before a retailer may begin lottery sales, the director will issue to

him instructions and report forms that specify the procedures for (i) ordering on-line terminal ticket roll stock; (ii) reporting receipts, transactions and disbursements pertaining to on-line lottery ticket sales; and (iii) settling the retailer's account with the department.

§ 2.19. Training of retailers and their employees.

Retailer training. Each retailer or anyone that operates an on-line terminal at the retailer's location will be required to participate in training given by the department for the operation of each game. The director may consider nonparticipation in the training as grounds for suspending or revoking the retailer's license.

§ 2.20. License termination by retailer.

Voluntary termination of license. The licensed retailer may voluntarily terminate his license with the department by first notifying the department in writing at least 30 calendar days before the proposed termination date. The department will then notify the retailer of the date by which settlement of the retailer's account will take place. The retailer shall maintain his bond and the required accounts and records until settlement is completed and all lottery property belonging to the department has been surrendered.

PART III.

ON-LINE TICKET VALIDATION REQUIREMENTS.

§ 3.1. Validation requirements.

To be valid, a Virginia lottery on-line game ticket shall meet all of the validation requirements listed here:

1. The original ticket must be presented for validation.
2. The ticket validation number shall be presented in its entirety and shall correspond using the computer validation file to the selected numbers printed on the ticket.
3. The ticket shall not be mutilated, altered, or tampered with in any manner. (see § 3.4)
4. The ticket shall not be counterfeited, forged, fraudulently made or a duplicate of another winning ticket.
5. The ticket shall have been issued by the department through a licensed on-line lottery retailer in an authorized manner.
6. The ticket shall not have been cancelled.
7. The ticket shall be validated in accordance with procedures for claiming and paying prizes. (see §§ 3.10 and 3.12)
8. The ticket data shall have been recorded in the

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central computer system before the drawing, and the ticket data shall match this computer record in every respect.

9. The player-selected items, the validation data, and the drawing date of an apparent winning ticket must appear on the official file of winning tickets and a ticket with that exact data must not have been previously paid.

10. The ticket may not be misregistered or defectively printed to an extent that it cannot be processed by the department.

11. The ticket shall pass any validation requirement contained in the rules published and posted by the director for the on-line game for which the ticket was issued.

12. The ticket shall pass all other confidential security checks of the department.

§ 3.2. Invalid ticket.

An on-line ticket which does not pass all the validation requirements listed in these regulations and any validation requirements contained in the rules for its on-line game is invalid. An invalid ticket is not eligible for any prize.

§ 3.3. Replacement of ticket.

The director may refund the purchase price of an invalid ticket. If a defective ticket is purchased, the department's only liability or responsibility shall be to refund the purchase price of the defective ticket.

§ 3.4. When ticket cannot be validated through normal procedures.

If an on-line ticket is partially mutilated or if the ticket cannot be validated through normal procedure but can still be validated by other validation tests, the director may pay the prize for that ticket.

§ 3.5. Director's decision final.

All decisions of the director regarding ticket validation shall be final.

§ 3.6. Prize winning tickets.

Prize winning on-line tickets are those that have been validated in accordance with these regulations and the rules of the department and determined to be official prize winners. Criteria and specific rules for winning prizes shall be published for each on-line game and available for all players. Final validation and determination of prize winning tickets remain with the department.

§ 3.7. Unclaimed prizes.

A. Except for free ticket prizes, all claims for on-line game winning tickets must be postmarked or received for payment as prescribed in these regulations within 180 days after the date of the drawing for which the ticket was purchased. In the event that the 180th day falls on a Saturday, Sunday or legal holiday, a claimant may redeem his prize-winning ticket on the next business day only at a lottery regional office.

B. Any on-line lottery cash prize which remains unclaimed after 180 days following the drawing which determined the prize shall revert to the State Literary Fund. Cash prizes do not include free ticket prizes or other noncash prizes such as merchandise, vacations, admissions to events and the like.

C. All claims for on-line game winning tickets for which the prize is a free ticket must be postmarked or received for redemption as prescribed in these regulations within 60 days after the date of the drawing for which the ticket was purchased. In the event that the 60th day falls on a Saturday, Sunday or legal holiday, a claimant may only redeem his prize-winning ticket for a free ticket at an on-line lottery retailer on or before the 60th day. Except for claims for free ticket prizes mailed to lottery headquarters and postmarked on or before the 60th day, claims for such prizes will not be accepted at lottery regional offices or headquarters after the 60th day. *This section does not apply to the redemption of free tickets awarded through the subscription program (see (§ 4.14 B)).*

§ 3.8. Using winners' names.

The department shall have the right to use the names of prize winners and the city, town or county in which they live. Photographs of prize winners may be used with the written permission of the winners. No additional consideration shall be paid by the department for this purpose.

§ 3.9. No prize paid to people under 18.

No prize shall be claimed by, redeemed from or paid to any individual under 18 years of age.

§ 3.10. Where prizes claimed.

Winners may claim on-line game prizes from any licensed on-line retailer or the department in the manner specified in these regulations. Licensed on-line retailers are authorized and required to make payment of all validated prizes of less than \$600 or less.

§ 3.11. Validating winning tickets.

Winning tickets shall be validated by the retailer or the department as set out in these regulations and in any other manner which the director may prescribe in the specific rules for each type of on-line game.

§ 3.12. How prize claim entered.

A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is ~~\$600~~ \$601 or greater, the person or entity also shall furnish a tax identification number.

A. An individual shall provide his social security number if a claim form is required by these regulations. A nonresident alien shall furnish their Immigration and Naturalization Service Number. This I.N.S. number begins with an A and is followed by numerical data.

B. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) issued by the Internal Revenue Service. If the department or these regulations require that a claim form be filed, the FEIN must be shown on the claim form.

C. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the department. This form designates to whom winnings are to be paid and the person(s) to whom winnings are taxable.

D. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN and which does not file IRS Form 5754 with the department shall designate the individuals in whose names the claim shall be entered and those persons' social security numbers shall be furnished.

§ 3.13. Right to prize not assignable.

No right of any person to a prize shall be assignable, except that:

1. The director may pay any prize to the estate of a deceased prize winner, and
2. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate judicial order.

§ 3.14. No accelerated payments.

The director shall not accelerate payment of a prize for any reason.

§ 3.15. Liability ends with prize payment.

All liability of the Commonwealth, its officials, officers and employees, and of the department, the board, the director and employees of the department, terminates upon final payment of a lottery prize.

§ 3.16. Delay of payment allowed.

The director may refrain from making payment of the prize pending a final determination by the director, under

any of the following circumstances:

1. If a dispute occurs or it appears that a dispute may occur relative to any prize;
2. If there is any question regarding the identity of the claimant;
3. If there is any question regarding the validity of any ticket presented for payment; or
4. If the claim is subject to any set-off for delinquent debts owed to any agency eligible to participate in the Set-Off Debt Collection Act, when the agency has registered such debt with the Virginia Department of Taxation and timely notice of the debt has been furnished by the Virginia Department of Taxation to the State Lottery Department. No liability for interest for such delay shall accrue to the benefit of the claimant pending payment of the claim.

§ 3.17. When installment prize payment may be delayed.

The director may, at any time, delay any installment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter that has been brought to the department's attention. All delayed installments shall be brought up to date immediately upon the director's confirmation. Delayed installments shall continue to be paid according to the original payment schedule after the director's decision is given.

§ 3.18. Ticket is bearer instrument.

A ticket that has been legally issued by a licensed lottery retailer is a bearer instrument until the ticket has been signed. The person who signs the ticket is considered the bearer of the ticket.

§ 3.19. Payment made to bearer.

Payment of any prize will be made to the bearer of the validated winning ticket for that prize upon submission of a prize claim form, if one is required, unless otherwise delayed in accordance with these regulations. If a validated winning ticket has been signed, the bearer may be required to present proper identification.

§ 3.20. Marking tickets prohibited; exceptions.

Marking of tickets in any way is prohibited except by a player to claim a prize or by the department or a retailer to identify or to void the ticket.

§ 3.21. Penalty for counterfeit, forged or altered ticket.

Forging, altering or fraudulently making any lottery ticket or knowingly presenting a counterfeit, forged or altered ticket for prize payment or transferring such a ticket to another person to be presented for prize payment

State Lottery Department

is a Class 6 felony in accordance with the state lottery law.

§ 3.22. Lost, stolen, destroyed tickets.

The department is not liable for lost, stolen or destroyed tickets.

The director may honor a prize claim of an apparent winner who does not possess the original ticket if the claimant is in possession of information which demonstrates that the original ticket meets the following criteria and can be validated through other means. The exception does not apply to an on-line game ticket the prize for which is a free ticket.

1. The claim form and a photocopy of the ticket, or photocopy of the original claim form and ticket, are timely filed with the department;
2. The prize for which the claim is filed is an unclaimed winning prize as verified in the department's records;
3. The prize has not been claimed within the required redemption period; and
4. The claim is filed within 180 days of the drawing or within the redemption period, as established by game rules.

§ 3.23. Retailer to pay all prizes less than of \$600 or less .

Prizes less than of \$600 or less shall be paid by any licensed on-line retailer, or by the department at the option of the ticket holder, or by the department when the ticket cannot be validated by the retailer.

§ 3.24. Retailers' prize payment procedures.

Procedures for prize payments by retailers are as follows:

1. Retailers may pay cash prizes in cash, by certified check, cashier's check, business check, or money order, or by any combination of these methods.
2. If a check for payment of a prize by a retailer to a claimant is denied for any reason, the retailer is subject to the same service charge for referring a debt to the department for collection and penalty payments that would apply if the check were made payable to the department. A claimant whose prize check is denied shall notify the department to obtain the prize.
3. Retailers shall pay claims for all prizes under of \$600 or less during all normal business hours of the lottery retailer when the on-line terminal is operational and the ticket claim can be validated.

4. Prize claims shall be payable only at the location specified on the license.

5. The department will reimburse a retailer for prizes paid up to 180 days after the drawing date.

§ 3.25. When retailer cannot validate ticket.

If, for any reason, a retailer is unable to validate a prize winning ticket, the retailer shall provide the ticket holder with a department claim form and instruct the ticket holder on how to file a claim with the department.

§ 3.26. No reimbursement for retailer errors.

The department shall not reimburse retailers for prize claims a retailer has paid in error.

§ 3.27. Retailer to void winning ticket.

After a winning ticket is validated and signed by the ticket holder, the retailer shall physically void the ticket to prevent it from being redeemed more than once. The manner of voiding the ticket will be prescribed by the director.

§ 3.28. Prizes of less than \$600 or less .

A retailer shall pay on-line prizes of less than \$600 or less won on tickets validated and determined by the department to be official prize winners, regardless of where the tickets were sold. The retailer shall display special informational material provided by or approved by the department informing the public that the retailer pays all prizes of less than \$600 or less .

§ 3.29. When prize shall be claimed from the department.

The department will process claims for payment of prizes in any of the following circumstances:

1. If a retailer cannot validate a claim which the retailer otherwise would pay, the ticket holder shall present the signed ticket and a completed claim form to the department regional office or mail both the signed ticket and a completed claim form to the department central office.
2. If a ticket holder is unable to return to any on-line retailer to claim a prize which the retailer otherwise would pay, the ticket holder may present the signed ticket at any department regional office or mail both the signed ticket and a completed claim form to the department central office.
3. If the prize amount is \$600 \$601 or more, the ticket holder may present the signed ticket and a completed claim form at any department regional office or mail both the signed ticket and a completed claim form to the department central office.

State Lottery Department

§ 3.30. Prizes of \$25,000 or less.

Prizes of \$25,000 or less may be claimed from any of the department's regional offices. Regional offices will pay prizes by check after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.31. Prizes of more than \$25,000.

Prizes of more than \$25,000 and noncash prizes other than free lottery tickets may be claimed from the department's central office in Richmond. The central office will pay cash prizes by check, after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.32. Grand prize event.

If an on-line game includes a grand prize or jackpot event, the following general criteria shall be used:

1. Entrants in the event shall be selected from tickets which meet the criteria stated in specific game rules set by the director consistent with § 1.1 of these regulations.
2. Participation in the drawing(s) shall be limited to those tickets which are actually purchased by the entrants on or before the date announced by the director.
3. If, after the event is held, the director determines that a ticket should have been entered into the event, the director may place that ticket into a grand prize drawing for the next equivalent event. That action is the extent of the department's liability.
4. The director shall determine the date(s), time(s) and procedures for selecting grand prize winner(s) for each on-line game. The proceedings for selection of the winners shall be open to members of the news media and to either the general public or entrants or both.

§ 3.33. When prize payable over time.

Unless the rules for any specific on-line game provide otherwise, any cash prize of \$100,001 or more will be paid in multiple payments over time. The schedule of payments shall be designed to pay the winner equal dollar amounts in each year, with the exception of the first, until the total payments equal the prize amount.

§ 3.34. Rounding total prize payment.

When a prize or share is to be paid over time, except for the first payment, the director may round the actual amount of the prize or share to the nearest \$1,000 to facilitate purchase of an appropriate funding mechanism.

§ 3.35. When prize payable for "life."

If a prize is advertised as payable for the life of the winner, only an individual may claim the prize. If a claim is filed on behalf of a group, company, corporation or any other type of organization, the life of the claim shall be 20 years.

§ 3.36. When claims form required.

A claim form for a winning ticket may be obtained from any department office or any licensed lottery retailer. A claim form shall be required to claim any prize from the department's central office. A claim form shall be required to claim any prize of ~~\$600~~ \$601 or more from the department's regional offices. *This section does not apply to the redemption of prizes awarded through a subscription plan as identified in § 4.13.*

§ 3.37. Department action on claims for prizes submitted to department.

The department shall validate the winning ticket claim according to procedures contained in these regulations.

1. If the claim is not valid, the department will promptly notify the ticket holder.
2. If the claim is mailed to the department and the department validates the claim, a check for the prize amount will be mailed to the winner.
3. If an individual presents a claim to the department in person and the department validates the claim, a check for the prize amount will be presented to the bearer.

§ 3.38. Withholding, notification of prize payments.

When paying any prize of ~~\$600~~ \$601 or more, the department shall:

1. File the appropriate income reporting form(s) with the Virginia Department of Taxation and the Federal Internal Revenue Service;
2. Withhold any moneys due for delinquent debts listed with the Commonwealth's Set-Off Debt Collection Program; and
3. Withhold federal and state taxes from any winnings over \$5,000.

§ 3.39. Director may postpone drawing.

The director may postpone any drawing to a certain time and publicize the postponement if he finds that the postponement will serve and protect the public interest.

PART IV. SUBSCRIPTION PLAN.

State Lottery Department

§ 4.1. Development of subscription.

In addition to regulations set forth in this part, the conduct of subscriptions is subject to all applicable rules and regulations of the department.

§ 4.2. Subscriptions.

Subscriptions may be purchased for periods specified by the department in rules applicable to the lottery game to which the subscription applies.

§ 4.3. Subscription price.

The sale price of a subscription shall be determined by the board.

§ 4.4. Subscription cancellation.

A. A subscription entered into the department's central computer system cannot be cancelled by a subscriber or group-designated agent except when a subscriber or group-designated agent becomes employed by the lottery as an employee, board member, officer or employee of any vendor to the lottery of lottery on-line or instant ticket goods or services working directly with the department on a contract for such goods or services, or any person residing in the same household as any such board member, officer or employee during the subscription period.

B. A subscription cannot be assigned by a subscriber or group-designated agent to another person.

C. Funds remitted to the department as payment for the subscription are not refundable to the subscriber or group-designated agent unless provisions identified in subsection A of this section are present.

§ 4.5. Effective date.

The subscription shall be effective on the start date indicated in the confirmation notice for that subscription.

§ 4.6. Retailer compensation.

Active licensed lottery retailers shall receive 5% compensation on sales of subscriptions. The compensation shall be based on all subscriptions purchased at any active licensed lottery retailer location as well as on all subscription applications mailed or delivered to the department's central office with payment and bearing a valid licensed lottery retailer number. In addition, active licensed lottery retailers shall be compensated for renewals of subscriptions which originated at their retailer location. Retailer compensation for a subscription shall be cancelled in the event the tender for the subscription payment is not honored by the payor institution or if the licensed lottery retailer does not provide the retailer number.

§ 4.7. Validation requirements.

Only those subscriptions entered into the department's central computer system and which are confirmed are valid entries eligible for prizes. Otherwise, game numbers selected on a subscription application are not eligible to win a prize in any drawing.

§ 4.8. Purchase of subscription.

A. Subscription applications may be distributed through the department's central office, any department regional office, any licensed lottery retailer, or any other means as determined by the department.

B. An individual, group, family unit, club, or other organization otherwise eligible to purchase lottery tickets may purchase a subscription by mail from the department's central office or from other locations as determined by the department.

C. In order to purchase a subscription, an individual, group, family unit, club, or other organization must furnish a valid Virginia street address or post office box, as required by U.S. postal regulations.

D. After receipt of the subscription at the department's central office, the subsequent entry of data into the central computer system, and the bank clearance of the subscriber's method of payment, the department shall mail a confirmation notice to the subscriber or group-designated agent at the address provided on the subscription application.

§ 4.9. Subscription application requirements.

A. A subscription application must meet the following requirements in order to be accepted for entry:

1. The numbers selected by the player must contain the prescribed number of unduplicated game numbers from numbers available for play in the game. If permitted by the rules of the game, numbers may be duplicated;

2. The subscription application must contain a valid Virginia street address or post office box, as required by U.S. postal regulations;

3. If a subscription is entered for a group, corporation, family unit or club, one individual must be designated as the group agent; and

4. The subscription application must be an official department application.

(a) A group, family unit, club or other organization which is not a legal entity or which does not possess a Federal Employer's Identification Number (FEIN) may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving

Gambling Winnings," with the department. This form designates to whom winnings are to be paid and are taxable.

(b) If the prize winner does not furnish a social security number or taxpayer identification number, the department will not pay the prize. Failure to furnish the social security number or taxpayer identification number may expose the prize winner(s) to the risk that the prize will remain unclaimed after 180 days from the date of the drawing and will be forfeited.

B. A subscription application will be rejected for any of the following reasons:

1. If a subscription application is received by the department on an unofficial subscription form;
2. If no numbers are designated in a selected game panel and an available easy pick option is not selected;
3. If more or fewer than the prescribed set of numbers are selected;
4. If numbers are duplicated within the game panel, unless permitted by game rules;
5. If both a prescribed set of numbers and easy pick is designated in the same game panel;
6. If payment is not for the correct amount and is not made payable to the "Virginia Lottery," if a check or money order is returned unpaid, if a third-party check is remitted for payment, or if remittance is dishonored, the registration and the confirmation notice are void automatically for all drawings including those which may have occurred prior to the remittance being dishonored;
7. If the application contains an out-of-state address;
8. If the application is not signed;
9. If an individual (subscriber, group-designated agent or recipient) is under the age of 18, according to birth date recorded on the application; or
10. If an individual is found to be a Virginia Lottery Department employee, vendor employee, or household member, otherwise prohibited from playing any lottery game.

D. If the subscription is rejected by the department, both the subscription application and subscription payment will be returned to the subscriber or group-designated agent with a letter of explanation and no prize will be paid on any play appearing on the rejected subscription application for any drawing deriving from that subscription application.

These regulations assume that an easy pick option is available. If not available in a subscription plan, the criteria for accepting or rejecting a subscription application is modified accordingly.

§ 4.10. Subscription gifts.

A. Any recipient of a subscription gift must have a valid Virginia address or post office box.

B. Numbers selected by the subscriber for the recipient cannot be cancelled or reselected.

C. All other provisions of these regulations shall apply to subscription gifts, subscription purchasers and subscription recipients.

§ 4.11. Subscription renewals.

A. Approximately six (6) weeks prior to the end of a subscription, a renewal notice will be mailed to a subscriber or group-designated agent at the address on file with the department. Subscribers or group-designated agents may renew the subscription by returning the renewal notice with payment to the department's central office. Renewal notices may be obtained from the department's central office or other locations as determined by the lottery. Renewal notices shall not be mailed to subscribers or group-designated agents who no longer have a valid Virginia address or post office box.

B. Renewals will not be accepted unless the individual subscriber or group-designated agent furnishes a valid Virginia address or post office box.

§ 4.12. Change of name.

In the event a subscriber or group-designated agent's name changes during the subscription period, he or she may notify the department in writing of such change. Proof of name change may be required by the department at any time. The department reserves the right to refuse to change a name registered as a subscriber.

§ 4.13. Change of address.

In the event a subscriber or group-designated agent moves out of state during the subscription period and notifies the department of the change of address, the subscription will remain in effect until the number of draws for that subscription plan has expired. The subscriber or group-designated agent will not be eligible to receive a subscription renewal notice.

§ 4.14. Payment of prizes.

A. Before any prize of \$601 or greater can be paid, the department must be provided with the subscriber's taxpayer identification number, if it has not already been provided on the subscription application. The department will make reasonable efforts to obtain the missing

State Lottery Department

taxpayer identification number. Payment will be delayed until the number is provided. Prizes for which no taxpayer identification number has been furnished within 180 days of the date of the drawing in which the prize was won will be forfeited.

B. The department will monitor subscriptions and mail nonannuitized prize payments to subscription winners without the necessity of a claim form being filed by the subscription winners. Prizes shall be subject to payment of any taxes and Debt Set-Off Collection Act amounts due and the department shall deduct applicable taxes and debt set-off amounts prior to mailing prize payments.

C. Subscribers winning a free play will receive a check as payment of free ticket prize(s) from the department at the end of their subscription(s). In lieu of awarding free tickets to a subscriber or group-designated agent, the check will pay the cumulative value of all free tickets won during the subscription plan. The value of free tickets shall be determined by the board.

D. The department will notify subscription winners of annuitized prizes by certified mail or telephone, at the address or telephone number shown on the subscription application on file with the department, and request that they come to the department's central office to receive the first prize payment. Subsequent checks will be mailed to subscription winners. Claim forms for annuitized prizes will not be required.

E. Prize payments will be processed in the name of an individual or group-designated agent according to information furnished on the subscription application.

F. If for any reason a payment is returned by the U.S. Postal Service and a new address cannot be located, such payments will be held by the department under the state's unclaimed property laws and transferred to the state if not claimed within 180 days following the drawing. Thereafter the department shall not be liable for payment and winners who make claims after this time period will be referred to the Unclaimed Property Division, Virginia Department of the Treasury.

G. Any subscription cash prize which remains unclaimed for any reason other than the preceding subsection after 180 days following the drawing which determined the prize shall revert to the State Literary Fund. This includes, but is not limited to, failure or refusal to furnish a taxpayer identification number to complete the claim for a prize won.

§ 4.15. Player responsibility.

A. The department is not liable for department or licensed lottery retailer employee errors.

B. The player(s) assumes responsibility for any delays resulting from the choice of method of forwarding a subscription application to the department.

C. The subscriber or group-designated agent is responsible for verifying the accuracy of the lottery game data as recorded on the confirmation notice mailed to the subscriber or group-designated agent by the department.

D. The player shall notify the department if an error has been made. Notification shall be postmarked within ten (10) business days of date of the confirmation notice.

E. Player-requested corrections are not effective until entry of the corrected data into the department's central computer system and a corrected confirmation notice is mailed to the subscriber by the department. Such corrections are not retroactive. Any errors in lottery game data remain valid for all drawings occurring while the erroneous data remains effective but such erroneous game data is no longer valid for drawings occurring after the erroneous data is corrected and a corrected confirmation notice is issued.

§ 4.16. Department responsibility.

A. The department is responsible for entering the subscription data, including authorized corrections, on the department's central computer system within a reasonable period of time from receipt of the subscription application and clearance of remittance or receipt of the Request for Corrections notice.

B. If for any reason a subscription play is not accepted, the liability of the department and its retailers is limited to a refund of the purchase price for that play.

C. The department reserves the right to contract for financial services to process subscription applications.

§ 4.17. Disputes.

A. The department is not liable for nor has any responsibility to resolve disputes among group members for group subscriptions.

B. The decision of the director shall be final.

/s/ Kenneth W. Thorson, Director
Virginia State Lottery
Date: December 7, 1991

/s/ Lawrence Douglas Wilder
Governor
Date: December 31, 1991

/s/ Joan W. Smith
Registrar of Regulations
Date: January 2, 1992

* * * *

NOTICE: The forms used in administering the State Lottery Department Regulations are not being published due to the large number; however, the name of each form

is listed below. The forms are available for public inspection at the State Lottery Department, 2201 East Broad Street, Richmond, Virginia, or at the Office of the Register of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

On-Line Game Survey (SLD-120)
Retailer Data Collection
On-Line License Approval Notice
Lottery Retailer Surety Bond
Retailer Agreement Form (SLD-130, 3/89)
Virginia Lottery Licensed Retailer Certificate (4/90)
Request for Inactivating Retailer Terminal (X-0118, 6/89)
Things to Do
Bond Continuation Certificate (letter)
Commonwealth of Virginia Lottery Bond Application
Special Notice on Bonding for Lottery Retailers
Security Check (X-0077, 2/89)
Virginia Lottery On-Line Play Center;
Agreement/Order Form (SLD-0136, 4/89)
Ticket Stock Central Distribution Form (X-0095, 6/89)
Ticket Stock Regional Distribution Form (X-0133, 6/89)
On-Line Ticket Stock Return (X-0120, 6/89)
On-Line Ticket Stock Destruction Form (X-0121, 6/89)
Seal Verification Chart - Pick 3/4 (X-0103, 6/89)
Draw Verification Sheet (SLD-0137, 4/89)
On-Line Weekly Settlement Envelope (SLD-0127)
Weekly Settlement Form
A/R Online Accounting Transaction Form (X-0105, 6/89)
Cash Tickets Envelope/Cancelled Tickets Envelope
Ticket Problem Report
Hot Line Report (X-0079, 2/89)
Winner Claim Form (SLD-0007, 3/89)
Subscription Playslip
Confirmation Letter
IRS Form 5754

MARINE RESOURCES COMMISSION

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 450-01-0069. Pertaining to the Taking of Shad.

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: January 1, 1992.

Preamble:

This regulation establishes a fishing season and gear restrictions on the harvest of American shad from the tidal waters of Virginia and is designed to limit the further expansion of the American shad fishery.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.1-23 of the Code of Virginia.

B. ~~No prior regulations pertain to the taking of American Shad. This regulation amends previous VR 450-01-0069 promulgated and made effective on January 23, 1991.~~

C. ~~The effective date of this regulation is January 23, 1991. The effective date of this regulation is January 1, 1992.~~

§ 2. Purpose.

The purpose of this regulation is to establish seasonal and gear limitations on the harvest of American shad from the tidal waters of Virginia thereby preventing a further expansion of the fishery. The provisions of this regulation are an initial attempt to reverse the long-term decline in the American shad resource and to begin the process of stock recovery.

§ 3. Fishing season.

A. The lawful fishing season for the harvest of American shad from the tidal waters of Virginia shall be February 4, ~~1991~~ 1992, to April 30, ~~1991~~ 1992, both dates inclusive.

B. It shall be unlawful for any person to take or catch any American shad by any gear, including hook-and-line, from the tidal waters of Virginia outside of the lawful fishing season.

§ 4. Gear restrictions.

A. Except as provided in subsection B, below, it shall be unlawful for any person to place, set or fish any gill net in the tidal waters of Virginia whose mesh measures greater than four inches, stretched measure, during the period of January 23, ~~1991~~ 1, 1992, to February 3, ~~1991~~ 1992, both dates inclusive.

B. It shall be lawful to hang any staked gill net on its poles on or after January 22, ~~1991~~ 1992, provided that such net shall not be dropped into the fishing position until February 4, ~~1991~~ 1992.

C. 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 American shad in a vessel equipped with more than 3000 yards of gill net. Persons utilizing a vessel or boat in the harvest of American shad by gill net shall be limited to 3000 yards of gill net per vessel.

§ 5. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

Virginia Tax Bulletin

Virginia Department of Taxation

DECEMBER 15, 1991

91-11

INTEREST RATES FIRST QUARTER 1992

Rates change: State and certain local interest rates are subject to change every quarter based on changes in the federal rates established pursuant to I.R.C. 6621. The rates for the first quarter of 1992 will be 9% for tax underpayments (assessments) and 8% for tax overpayments (refunds), and 11% for "large corporate underpayments" as defined in I.R.C. 6621(c). Va. Code 58.1-15 provides that the underpayment rate for Virginia taxes will be 2% higher than the corresponding federal rates. Accordingly, the Virginia rates for the first quarter of 1992 will be 11% for tax underpayments, 8% for tax overpayments, and 13% for "large corporate underpayments".

Rate for Addition to Tax for Underpayments of Estimated Tax

Taxpayers whose taxable year ends on September 30, 1991: For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 760C (for individuals, estates and trusts), Form 760F (for farmers and fishermen), or Form 500C (for corporations), the fourth quarter 12% underpayment rate will apply through the due date of the return, January 15, 1992.

Individuals whose taxable years ends on December 31, 1991: Tax returns for the calendar year 1991 are due on May 1, 1992. For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 760C (for individuals, estates and trusts) or Form 760F (for farmers and fishermen), the first quarter 11% underpayment rate will apply through the due date of the return, May 1, 1992.

Corporations with taxable years ending on December 31, 1991: Tax returns for the calendar year 1991 are due on April 15, 1992. For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 500C, the first quarter 11% underpayment rate will apply through the due date of the return, April 15, 1992.

Local Tax

Assessments: Localities assessing interest on delinquent taxes pursuant to Va. Code section 58.1-3916 may impose interest at a rate not to exceed 10% for the first year of delinquency, and at a rate not to exceed 10% or the federal underpayment rate in effect for the applicable quarter, whichever is greater, for the second and subsequent years of delinquency. For the first quarter of 1991, the federal underpayment rate is 9%.

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Refunds: Localities which have provided for refund of erroneously assessed taxes may provide by ordinance that such refund be repaid with interest at a rate which does not exceed the rate imposed by the locality for delinquent taxes.

Accrual Period		Recent Interest Rates		
<u>Beginning</u>	<u>Through</u>	<u>Overpayment</u> <u>[Refund]</u>	<u>Underpayment</u> <u>[Assessment]</u>	<u>Large Corporate</u> <u>Underpayment</u>
1-JAN-87	30-SEP-87	8%	9%	—
1-OCT-87	31-DEC-87	9%	10%	—
1-JAN-88	31-MAR-88	10%	11%	—
1-APR-88	30-SEP-88	9%	10%	—
1-OCT-88	31-MAR-89	10%	11%	—
1-APR-89	30-SEP-89	11%	12%	—
1-OCT-89	31-MAR-91	10%	11%	—
1-APR-91	30-JUN-91	9%	10%	—
1-JUL-91	31-DEC-91	9%	12%	14%
1-JAN-92	31-MAR-92	8%	11%	13%

For Additional Information

Contact the Taxpayer Assistance Section, Office Services Division, Virginia Department of Taxation, P. O. Box 6-L, Richmond, Virginia 23282, or call the following numbers for additional information about interest rates and penalties.

Individual & Fiduciary Income Tax	(804) 367-8031
Corporation Income Tax	(804) 367-8036
Withholding Tax	(804) 367-8038
Soft Drink Excise Tax	(804) 367-8016
Aircraft Sales & Use Tax	(804) 367-8098
Other Sales & Use Taxes	(804) 367-8037

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF COMMERCE

Title of Regulation: VR 190-04-1:1. Private Security Services Businesses Regulations.

Governor's Comment:

I agree to the amendments pending public comments.

/s/ Lawrence Douglas Wilder
Governor
Date: January 7, 1992

DEPARTMENT OF GENERAL SERVICES

Title of Regulation: VR 330-05-01. Regulations for the Approval of Field Tests for Detection of Drugs.

Governor's Comment:

I recommend that the regulations contain provisions: (1) requiring direct notification to manufacturers of the results of analysis of drug detection field tests proposed for use, (2) allowing manufacturers to request retesting of field tests initially rejected for use, and (3) requiring manufacturers to notify the Division of Forensic Science of any modifications to previously approved field tests. My final approval also will be contingent upon the agency's consideration of the Department of Planning and Budget's suggestions regarding format and language clarity, establishment of a charge to manufacturers, and a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: January 7, 1992

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-02-4.1920. Fee-for-Services Reimbursement for Home Health 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: December 30, 1991

* * * * *

Title of Regulation: VR 460-03-3.1102. Case Management for Elderly.

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: December 23, 1991

REAL ESTATE APPRAISER BOARD

Title of Regulation: VR 583-01-03. Real Estate Appraiser Board Regulations.

Governor's Comment:

I approve these proposed regulations pending public comment.

/s/ Lawrence Douglas Wilder
Governor
Date: January 2, 1992

REAL ESTATE BOARD

Title of Regulation: VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

Governor's Comment:

I approve pending public comment.

/s/ Lawrence Douglas Wilder
Governor
Date: January 2, 1992

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

VR 425-02-10

NOTICE

Notices of Intended Regulatory Action are being published as a separate section of the Register beginning with the October 7, 1991, issue. The new section appears at the beginning of each issue.

DEPARTMENT OF LABOR AND INDUSTRY

Notice to the Public

The Safety and Health Codes Board adopted the following Federal OSHA Standards at its meeting on November 26, 1991:

1. Technical Amendments to the Safety Standards for Stairways and Ladders Used in the Construction Industry, 1926.1050 through 1926.1060.

Effective date is February 1, 1992.

2. Extension of the Partial Stay to the Amendment to the General Industry and Construction Industry Standards for Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite, 1910.1001 and 1926.58.

Effective date is November 27, 1991.

3. Extension of Administrative Stay to the General Industry Standard for Occupational Exposure to Formaldehyde, 1910.1048(m)(1)(i) through (m)(4)(ii).

Effective date is November 27, 1991.

Contact person for additional information: John J. Crisanti, Director of Office of Enforcement Policy, (804) 786-2384.

Notice to the Public

Statement of Final Agency Action

Virginia Occupational Safety and Health Standards for the General Industry

Extension of Partial Stay to Amendment to the General Industry Standard for Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite, 1910.1001, 1926.58

On November 26, 1991, the Virginia Safety and Health Codes Board adopted an Extension of the Partial Stay to the Amended Standard to the Final Rule of the Virginia Occupational Safety and Health Standards for General Industry entitled, "VR 425-02-10, Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite, 1910.1001 and 1926.58."

The effective date of the stay is November 27, 1991, and it will remain in effect until February 28, 1992, to allow OSHA to complete supplemental rulemaking limited to the issue of whether non-asbestiform tremolite, anthophyllite and actinolite should continue to be regulated in the same standard as asbestos, or should be treated in some other way. OSHA also is making minor conforming amendments to notes to the affected standards.

Notice to the Public

Statement of Final Agency Action

Virginia Occupational Safety and Health Standards for the General Industry

Extension of Partial Stay to Amendment to the General Industry Standard for Occupational Exposure to Formaldehyde

VR 425-02-35

On November 26, 1991, the Virginia Safety and Health Codes Board adopted an additional extension of the administrative stay for Occupational Exposure to Formaldehyde - § 1910.1048(m)(1)(9i).

The effective date of the stay is November 27, 1991, and it will remain in effect until February 4, 1992.

General Notice

January 31, 1992 - 9 a.m. - Public Briefing

Fourth Floor Auditorium, Richmond Plaza Building, 110 South Seventh Street, Richmond, Virginia 23219.

The federal Occupational Safety and Health Administration (OSHA) has authorized 23 states to operate state plans for the administration of occupational safety and health. The Virginia State Plan for Occupational Safety and Health (VOSH), operated by the Department of Labor and Industry, is one of 14 such plans to achieve final plan approval.

In September of 1991, following the accident at Imperial Food Products in Hamlet, N.C., Congress directed the U.S. Department of Labor to conduct a special reevaluation of all such state plans.

The Department of Labor and Industry will hold a public briefing to provide information regarding the special reevaluation of the VOSH program by federal OSHA. To receive registration materials for the briefing, contact Regina Hamilton, Powers-Taylor Building, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, Virginia 23219, telephone (804) 786-8705.

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 ALCOHOLIC BEVERAGE CONTROL

Title of Regulation: VR 125-01-1. Procedural Rules of the

Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations.

Publication: 8:6 VA.R. 869-888 December 16, 1991.

Correction to Final Regulation:

Page 888, column 1, number 1, first sentence should read:

- 1. Notice of Intended Regulation Action. The board...

Page 888, column 1, number 2, change "Regulatory" to "Regulation."

Page 888, column 2, subsection G, starting at the end of line 5, delete "Process Act, § 9-6.14:1 et seq. of the Code of Virginia." as it is a duplicate of the preceding line.

* * * * *

Title of Regulation: VR 125-01-2. Advertising.

Publication: 8:6 VA.R. 888-895 December 16, 1991.

Correction to Final Regulation:

Page 892, column 1, subsection D, last line change "make" to "mark."

Page 892, column 1, subsection E, last sentence, change "designed" to "designated."

* * * * *

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

Publication: 8:6 VA.R. 901-912 December 16, 1991.

Correction to Final Regulation:

Page 911, column 2, 1st paragraph, line 9, change "with" to "within."

BOARD OF OPTOMETRY

Title of Regulation: VR 510-01-1. Regulations of the Virginia Board of Optometry.

Publication: 8:4 VA.R. 588-592 November 18, 1991.

Correction to Final Regulation:

Page 590, § 3.1 3 a 2 (b) was omitted and should read, "(b) Assessment of corneal curvature."

DEPARTMENT OF WASTE MANAGEMENT

General Notices/Errata

Title of Regulation: VR 672-20-32. Yard Waste Composting Facility Regulations.

Publication: 8:7 V.A.R. 1139-1147 December 30, 1991.

Correction to Final Regulation:

Page 1146, § 4.2, lines 7 and 16, "§ 4.1 G" should read "§ 4.1 7."

Page 1146, § 4.3, line 4, "§ 4.1 D" should read "§ 4.1 4."

Page 1146, § 4.3, line 5, "§ 4.1 E" should read "§ 4.1 5."

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

January 27, 1992 - 10 a.m. – Open Meeting
January 28, 1992 - 8 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; (iv) review committee reports; and (v) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Apple Board

February 20, 1992 - 10 a.m. – Open Meeting
1219 Stoneburner Street, Staunton, Virginia. (Interpreter for deaf provided upon request)

The board convenes to conduct matters of business affecting the Virginia Apple Industry. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

NOTE: CHANGE OF ADDRESS

Contact: Clayton O. Griffin, Director, P.O. Box 718, Staunton, VA 24401, telephone (703) 332-7790.

Virginia Cattle Industry Board

† February 13, 1992 - 11:30 a.m. – Open Meeting
The Homestead, Hot Springs, Virginia. ☒

A meeting to review the financial situation, hear mid-year research reports and updates on various ongoing projects. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Reginald B. Reynolds, Executive Director, Virginia Cattle Industry Board, P.O. Box 176, Daleville, VA 24083, telephone (703) 992-1009.

Virginia Sweet Potato Board

March 11, 1992 - 7:30 p.m. – Open Meeting
Eastern Shore Agriculture Experiment Station, Route 1, Box 133, Research Drive, Painter, Virginia. ☒

A meeting to discuss marketing, promotion, research and education programs for the state's sweet potato industry and to develop the board's annual budget. At the conclusion of other business, the board will entertain public comments for a period not to exceed 30 minutes.

Contact: J. William Mapp, Program Director, Box 26, Onley, VA 23418, telephone (804) 787-5867.

DEPARTMENT OF AIR POLLUTION CONTROL

† February 3, 1992 - 7 p.m. – Public Hearing
Parry McCluer Middle School, Auditorium, Buena Vista, Virginia.

A meeting to receive public comments on a request by Hadson Power-14 to build a cogeneration facility at its site in Buena Vista.

Contact: Donald L. Shepherd, Regional Director, 5338 Peters Creek Road, Roanoke, VA, telephone (703) 857-7328.

STATE AIR POLLUTION CONTROL BOARD

† February 7, 1992 - 9 a.m. – Open Meeting
Department of Transportation, Front Auditorium, 1221 East Broad Street, Richmond, Virginia. ☒

Calendar of Events

A meeting to discuss (i) public comments on medical waste incineration; (ii) the state implementation plan for prevention of significant deterioration; (iii) pending legislation; and (iv) documents incorporated by reference. Agenda will be available two weeks before the meeting.

Contact: Dr. Kathleen Sands, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

ALCOHOLIC BEVERAGE CONTROL BOARD

February 3, 1992 - 9:30 a.m. - Open Meeting
February 19, 1992 - 9:30 a.m. - Open Meeting
March 2, 1992 - 9:30 a.m. - Open Meeting
March 16, 1992 - 9:30 a.m. - Open Meeting
March 30, 1992 - 9:30 a.m. - Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

ARCHITECTS, LAND SURVEYORS, PROFESSIONAL ENGINEERS AND LANDSCAPE ARCHITECTS, BOARD FOR

Board for Professional Engineers

† February 11, 1992 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from November 5, 1991, meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) review applications.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

ASAP POLICY BOARD - CENTRAL VIRGINIA

January 29, 1992 - 7 p.m. - Open Meeting
Central Virginia Alcohol Safety Action Program Policy Board, 2316 Atherholt Road, Suite 200, Lynchburg, Virginia.

A meeting regarding program activities and future operations.

Contact: L. T. Townes, P.O. Box 4345, Fort Hill Station, Lynchburg, VA 24502, telephone (804) 528-4073.

BOARD FOR BARBERS

† February 10, 1992 - 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) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

January 30, 1992 - 10 a.m. - Open Meeting
Virginia Housing Development Authority, Conference Room #1, 601 South Belvidere 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 January 23, 1992.

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 ☒

February 27, 1992 - 10 a.m. - Open Meeting
Virginia Housing Development Authority, Conference Room #1, 601 South Belvidere 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 February 20, 1992.

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 ☒

March 26, 1992 - 10 a.m. - Open Meeting
State Water Control Board, Conference Room, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, 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
March 19, 1992.

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 ☎

Central Area Review Committee

† **February 10, 1992 - 10 a.m. - Open Meeting**
Middle Peninsula Planning District Commission, Business
17, Saluda, Virginia. ☒ (Interpreter for deaf provided upon
request)

January 27, 1992 - 1 p.m. - Open Meeting
† **February 24, 1992 - 10 a.m. - Open Meeting**
James City County Offices, 101A Mounts Bay Road,
Williamsburg, Virginia. ☒ (Interpreter for deaf provided
upon request)

† **March 9, 1992 - 10 a.m. - Open Meeting**
† **March 23, 1992 - 10 a.m. - Open Meeting**
General Assembly Building, Senate Room B, 9th and Broad
Streets, Richmond, Virginia. ☒ (Interpreter for deaf
provided upon request)

The committee will review Chesapeake Bay
Preservation Area Programs for the Central Area.
Persons interested in observing should call the
Chesapeake Bay Local Assistance Department to verify
meeting time, location and schedule. No comments
from the public will be entertained at the Review
Committee meetings. However, written comments are
welcome.

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 ☎

Northern Area Review Committee

February 12, 1992 - 10 a.m. - Open Meeting
February 26, 1992 - 10 a.m. - Open Meeting
March 11, 1992 - 10 a.m. - Open Meeting
March 25, 1992 - 10 a.m. - Open Meeting
Council on the Environment, Conference Room, 9th Street
Office Building, Richmond, Virginia. ☒ (Interpreter for
deaf provided upon request)

The committee will review Chesapeake Bay
Preservation Area Programs for the Northern Area.
Persons interested in observing should call the
Chesapeake Bay Local Assistance Department to verify
meeting time, location and schedule. No comments
from the public will be entertained at the Review
Committee meetings. However, written comments are
welcome.

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 ☎

Regulatory Review Committee and Program Study Group

February 19, 1992 - 10 a.m. - Open Meeting
Monroe Building, Meeting Room C, 101 North 14th Street,
Richmond, Virginia. ☒ (Interpreter for deaf provided upon
request)

March 18, 1992 - 10 a.m. - Open Meeting
Monroe Building, Meeting Room E, 101 North 14th Street,
Richmond, Virginia. ☒ (Interpreter for deaf provided upon
request)

The committee will consider issues relating to
Chesapeake Bay Preservation Area Designation and
Management Regulations, VR 173-02-01. No public
comment will be taken.

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 ☎

Southern Area Review Committee

February 5, 1992 - 10 a.m. - Open Meeting
February 19, 1992 - 10 a.m. - Open Meeting
March 4, 1992 - 10 a.m. - Open Meeting
March 18, 1992 - 10 a.m. - Open Meeting
Council on the Environment, Conference Room, 9th Street
Office Building, Richmond, Virginia. ☒ (Interpreter for
deaf provided upon request)

The committee will review Chesapeake Bay
Preservation Area Programs for the Southern Area.
Persons interested in observing should call the
Chesapeake Bay Local Assistance Department to verify
meeting time, location and schedule. No comments
from the public will be entertained at the Review
Committee meetings. However, written comments are
welcome.

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

† **January 29, 1992 - 8 a.m. - Open Meeting**
† **February 5, 1992 - 8 a.m. - Open Meeting**
Koger Executive Center, West End, Blair Building,
Conference Room/Tyler Building, 1604 Santa Rosa Road,
Richmond, Virginia. ☒ (Interpreter for deaf provided upon
request)

A meeting to discuss legislation affecting child care

Calendar of Events

centers, camps, school age programs, and preschool/nursery schools.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

BOARD OF COMMERCE

February 24, 1992 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A regular quarterly meeting. Agenda will likely consist of briefings from staff on the status of bills in the General Assembly that can have an impact upon agency operations, and agency regulatory programs.

Contact: Alvin D. Whitley, Secretary/Policy Analyst, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8564.

COMPENSATION BOARD

† **January 30, 1992 - 5 p.m. – Open Meeting**
† **February 27, 1992 - 5 p.m. – Open Meeting**
† **March 26, 1992 - 5 p.m. – Open Meeting**
Ninth Street Office Building, Room 913/913A, 9th Floor, 202 North Ninth Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A routine meeting to conduct business.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206-0686, telephone (804) 786-3886.

BOARD ON CONSERVATION AND DEVELOPMENT OF PUBLIC BEACHES

† **February 5, 1992 - 10:30 – Open Meeting**
V.I.P. Room, 2nd Floor, Virginia Beach Pavilion, Virginia Beach, Virginia. ☒

A meeting to discuss proposals from localities requesting matching grant funds from the board.

Contact: Susan M. Townsend, Secretary Senior, P.O. Box 1024, Gloucester Point, VA 23062, telephone (804) 642-7121 or SCATS 842-7121.

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Scenic River Advisory Board

† **February 21, 1992 - Noon – Open Meeting**
Planning Commission Conference Room, Fifth Floor, City

Hall, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

Recreation in the Juvenile Justice System Advisory Board

† **February 7, 1992 - 10:30 a.m. – Open Meeting**
Virginia War Memorial, Richmond, Virginia. ☒

A meeting to determine third-year objectives for the project.

Contact: Kathy Hamilton Brown, Therapeutic Recreation Specialist, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-0348 or (804) 786-2121/TDD ☎

Upper James Scenic River Advisory Board

† **February 12, 1992 - Noon – Open Meeting**
Sunnybrook Inn, Hollins, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

BOARD OF CORRECTIONS

February 12, 1992 - 10 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented to the board.

Contact: Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

NOTE: CHANGE IN MEETING DATE
February 11, 1992 - 9:30 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A meeting to address criminal justice issues.

Contact: Louis E. Barber, Sheriff, Montgomery County, P.O.

Drawer 149, Christiansburg, VA 24073, telephone (703) 382-2951.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

NOTE: CHANGE IN PUBLIC HEARING DATE
February 12, 1992 - 10 a.m. - Public Hearing
6900 Atmore Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to amend regulations entitled: **VR 230-30-006. Work/Study Release Standards for Local Facilities.** The proposed regulations establish the minimum operational standards for work or study release programs in local correctional facilities.

Statutory Authority: §§ 53.1-5 and 53.1-131 of the Code of Virginia.

Written comments may be submitted until January 3, 1992.

Contact: Mike Howerton, Chief of Operations, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3041.

BOARD FOR COSMETOLOGY

February 3, 1992 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia.

A general business meeting.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES
(BOARD OF)

March 6, 1992 - 1 p.m. - Public Hearing
Virginia Housing Development Authority, 601 South
Belvidere Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Criminal Justice Services intends to adopt regulations entitled: **VR 240-04-3. Rules Relating to the Court-Appointed Special Advocate Program (CASA).** The purpose of the proposed regulation is to regulate the operation of local Court-Appointed Special Advocate programs.

Statutory Authority: §§ 9-173.7 and 9-173.8 of the Code of Virginia.

Written comments may be submitted until February 3, 1992, to Francine Ecker, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula J. Scott, Executive Assistant, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-8730.

April 1, 1992 - 9 a.m. - Public Hearing
General Assembly Building, House Room D, Richmond,
Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-2. 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 Institutional Services.** The proposed amendments mandate in-service training requirements for those criminal justice officers specified in the title of the regulation.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until March 12, 1992.

Contact: L.T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-4000.

April 1, 1992 - 9 a.m. - Public Hearing
General Assembly Building, House Room D, Richmond,
Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-12. Rules Relating to Certification of Criminal Justice Instructors.** These proposed amendments set forth mandated training requirements for certification of Criminal Justice Instructors.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until March 12, 1992.

Contact: L.T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-8475.

April 1, 1992 - 2:30 p.m. - Public Hearing
General Assembly Building, House Room D, Richmond,
Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to adopt regulations entitled:

Calendar of Events

VR 240-04-2. Rules Relating to the Forfeited Drug Asset Sharing Program. The purpose of the proposed regulation is to regulate the administration of the Forfeited Drug Asset Sharing Program.

Statutory Authority: §§ 19.2-386.4, 19.2-386.10 and 19.2-386.14 of the Code of Virginia.

Written comments may be submitted until February 28, 1992.

Contact: Paula J. Scott, Executive Assistant, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-8730.

DEPARTMENT FOR THE DEAF AND HARD OF HEARING

January 28, 1992 - 6 p.m. – Public Hearing
Fairfax High School, 3500 Old Lee Highway, 1st Floor, Multipurpose Room, Fairfax, Virginia

January 31, 1992 - 6 p.m. – Public Hearing
New River Community College, Dublin, Virginia.

February 1, 1992 - 2 p.m. – Public Hearing
Holiday Inn-Norton, Norton, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Deaf and Hard of Hearing intends to amend regulations entitled: **VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.** The regulations are used to (i) screen individuals with hearing losses and speech problems who apply for telecommunications equipment through the Telecommunications Assistance Program; (ii) determine contributions, if any; and (iii) ensure confidentiality. It also ensures that the department retains ownership of equipment costing \$5,000 or more. Consideration is being given to expanding range of telecommunications equipment.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until February 2, 1992.

Contact: Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard of Hearing, Washington Building, Capitol Square, 1100 Bank Street, 12th Floor, Richmond, Virginia 23219, telephone (804) 225-2570/Voice/TDD ☎ or toll-free 1-800-552-7917/Voice/TDD ☎

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January 28, 1992 - 6 p.m. – Public Hearing
Fairfax High School, 3500 Old Lee Highway, 1st Floor, Multipurpose Room, Fairfax, Virginia

January 31, 1992 - 6 p.m. – Public Hearing
New River Community College, Dublin, Virginia.

February 1, 1992 - 2 p.m. – Public Hearing
Holiday Inn-Norton, Norton, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Deaf and Hard of Hearing intends to amend regulations entitled: **VR 245-03-01. Regulations Governing Interpreter Services for the Deaf and Hard of Hearing.** These regulations are used to establish guidelines for assessing transliterating or interpreting skills of individuals who wish to achieve a VQAS screening level.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until February 28, 1992.

Contact: Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard of Hearing, Washington Building, Capitol Square, 1100 Bank Street, 12th Floor, Richmond, Virginia 23219, telephone (804) 225-2570/Voice/TDD ☎ or toll-free 1-800-552-7917/Voice/TDD ☎

BOARD OF DENTISTRY

January 29, 1992 - 1 p.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☎

Informal conferences beginning at 1 p.m. Legislative committee meeting at 5:30 p.m. Examination committee meeting at 7:30 p.m. Endorsement committee meeting at 8:30 p.m. Advertising committee meeting at 9 p.m. This is a public meeting and the public is invited to observe. No public testimony will be received by the board at this meeting. Please contact the board office prior to the meeting to make sure it is scheduled.

January 30, 1992 - 8:30 a.m. – Open Meeting

January 31, 1992 - 8:30 a.m. – Open Meeting

A meeting to receive committee reports, conduct regular board business and conduct formal hearings. This is a public meeting and the public is invited to observe. No public testimony will be received by the board at this meeting. Please contact the board office prior to the meeting to make sure it is scheduled.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA, telephone (804) 662-9906.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

February 11, 1992 - 9 a.m. - Open Meeting
Monroe Building, Council Conference Room, 9th Floor,
Richmond, Virginia. ☒

A general business meeting. For more information
contact the Council.

Contact: Anne Pratt, Associate Director, 101 North
Fourteenth Street, 9th Floor, Richmond, VA 23219,
telephone (804) 225-2629.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

February 6, 1992 - 5:30 p.m. - Open Meeting
† April 2, 1992 - 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 - CITIES OF HAMPTON, NEWPORT NEWS, WILLIAMSBURG AND POQUOSON AND THE COUNTY OF YORK

† February 11, 1992 - 9 a.m. - Public Hearing
Hampton Central Library (formerly Charles Taylor
Library), Room A, 4207 Victoria Boulevard, Hampton,
Virginia. ☒

A public hearing to receive comments from the public
on the Peninsula Local Emergency Response Plan.
The plan was prepared to satisfy the requirements of
Section 303(c) of Title III of the Superfund
Amendments and Reauthorization Act of 1986 and
describes the methods and procedures to be followed
in the event of a release or spill of extremely
hazardous substances.

Copies of the plan are available for review in the
offices of the Hampton Roads Planning District
Commission at Harbour Centre, Suite 502, 2 Eaton
Street, Hampton, Virginia 23669 during normal
business hours.

Contact: Henry M. Cochran, Deputy Executive Director, 2
Eaton Street, Suite 502, Hampton, VA 23669, telephone
(804) 782-2067.

LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF PORTSMOUTH

† March 11, 1992 - 9 a.m. - Open Meeting
St. Julian's Annex, Building 307, Victory Boulevard at
Magazine Road, Portsmouth, Virginia.

A general meeting.

Contact: Karen Karpowski, Portsmouth Fire Department,
361 Effingham Street, Portsmouth, VA 23704-2337,
telephone (804) 393-8765.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

February 4, 1992 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Surry Building, Richmond,
Virginia. ☒

A full board meeting. Public comment period will be
from 9 a.m. to 9:30 a.m.

February 5, 1992 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Surry Building, Richmond,
Virginia. ☒

Informal hearings.

February 6, 1992 - 9 a.m. - Open Meeting
Martinsville City Hall, Circuit Court Room, 55 West Church
Street, Martinsville, Virginia. ☒

Formal hearings.

Contact: Meredyth P. Partridge, Executive Director, 1601
Rolling Hills Drive, Richmond, VA 23229-9907, telephone
(804) 662-9907 or (804) 662-7197/TDD ☒

BOARD FOR GEOLOGY

† February 13, 1992 - 10 a.m. - Open Meeting
† February 14, 1992 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Conference Room 2, Richmond, Virginia. ☒

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 West
Broad Street, Richmond, VA 23230, telephone (804)
367-8595.

DEPARTMENT OF GENERAL SERVICES

January 31, 1992 - Written comments may be submitted
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Department of

Calendar of Events

General Services intends to adopt regulations entitled: **VR 330-05-01. Regulations for the Approval of Field Tests for Detection of Drugs.** The purpose of the proposed regulation is to establish requirements for approval of field tests for drugs by the Division of Forensic Science, Department of General Services.

Statutory Authority: §§ 2.1-424 and 19.2-188.1 of the Code of Virginia.

Written comments may be submitted until January 31, 1992.

Contact: Paul B. Ferrara, Division Director, Division of Forensic Science, 1 North 14th Street, Richmond, VA 23219, telephone (804) 786-2281.

intends to amend regulations entitled: **VR 355-28-300. Rules and Regulations of the Board of Health, Commonwealth of Virginia, for the Immunization of School Children.** The proposed amendments will make the regulations consistent with the current recommendations of the U.S. Public Health Service.

Statutory Authority: §§ 22.1-271.1, 22.1-272.1, 32.1-46 and 32.1-12 of the Code of Virginia.

Written comments may be submitted until March 16, 1992, to A. Martin Cader, M.D., Virginia Department of Health, Division of Communicable Disease Control, P.O. Box 2448, Room 113, Richmond, VA 23218.

Contact: Marie Krauss, Executive Secretary, Virginia Department of Health, Division of Communicable Disease Control, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261.

STATE BOARD OF HEALTH

January 27, 1992 - 7 p.m. - Dinner
Richmond Marriott, 500 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Informal dinner.

January 28, 1992 - 7:30 a.m. - Breakfast
Richmond Marriott, 500 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Legislative breakfast. Legislative day for board members.

January 29, 1992 - 9 a.m. - Open Meeting
Richmond Marriott, 500 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A business meeting.

Contact: Susan R. Rowland, Assistant to the Commissioner, Virginia Department of Health, P.O. Box 2448, Richmond, VA 23118, telephone (804) 786-3561.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

January 27, 1992 - 7 p.m. - Open Meeting
Medical College of Hampton Roads, Hofeimer Hall, 7th Floor Board Room, 725 Fairfax Avenue, Norfolk, Virginia. ☒

The council will conduct its monthly meeting. Public comment is welcome. Public comments must be limited to three minutes; written statements requested.

† **February 25, 1992 - 9:30 a.m. - Open Meeting**
Blue Cross/Blue Shield of Virginia, 2015 Staples Mill Road, Richmond, Virginia. ☒

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DEPARTMENT OF HEALTH (STATE BOARD OF)

February 10, 1992 - 9 a.m. - Public Hearing
Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-30-000-06. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** The proposed regulations amend the existing Virginia Medical Care Facilities Certificate of Public Need (COPN) Rules and Regulations in order to implement the COPN Program to be consistent with the amended COPN law which became effective July 1, 1991.

Statutory Authority: §§ 32.1-12 and 32.1-102.1 of the Code of Virginia.

Written comments may be submitted until February 28, 1992.

Contact: Paul E. Parker, Director, Division of Resources Development, Virginia Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-7463.

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February 19, 1992 - 10 a.m. - Public Hearing
Main Floor Conference Room, James Madison Building, 109 Governor Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health

The council will conduct its monthly meeting.

Contact: Kim Schulte Barnes, Information Officer, 805 East Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

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March 15, 1992 – 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 Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The proposed amendments (i) waive the audit requirement and the imposition of a penalty if an "extenuating circumstance," such as a bankruptcy proceeding, exists; (ii) require the filing of an institution's historical and its certified audited financial statement prior to acceptance by council of the filing of a subsequent year's budget or the filing of any request for an interim rate increase; and (iii) require each individual licensed health care institution to submit filings, but that the screening process would still be applied to allow for hospital systems to be analyzed systemwide by the Virginia Hospital Rate Review Program.

Statutory Authority: §§ 9-158, 9-159 and 9-164 of the Code of Virginia.

Written comments may be submitted until March 15, 1992.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

BOARD FOR HEARING AID SPECIALISTS

† **January 27, 1992 - 8:30 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) administer examinations to eligible candidates; (ii) review enforcement cases; (iii) sign certificates; and (iv) consider other matters which require board action.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8534.

BOARD OF HISTORIC RESOURCES

† **February 19, 1992 - 10 a.m.** – Open Meeting
Old City Hall, Council Chambers, Fredericksburg, Virginia. (Interpreter for deaf provided if requested)

A general business meeting.

Contact: Margaret Peters, Information Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

DEPARTMENT OF HISTORIC RESOURCES

State Review Board

† **February 18, 1992 - 10 a.m.** – Open Meeting
Virginia Housing Development Authority Building, 601 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places.

Buckroe Beach Carousel, City of Hampton
Center Theater, Norfolk
Crockett's Cove Presbyterian Church, Wythe County
Fairfax Elementary School Annex, City of Fairfax
Godwin House, Chuckatuck, Suffolk
Hughlett's Tavern, Heathsville, Northumberland County
Rothsay, Bedford County
Tastee 29 Diner, City of Fairfax
Norge Historic District, James City County
Onancock Historic District, Accomack County
Rosemont Historic District, Alexandria
Town of Potomac Historic District, Alexandria
Mauplin-Maury House, City of Richmond, (de-listing)

Contact: Margaret Peters, Information Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

VIRGINIA HISTORIC PRESERVATION FOUNDATION

† **March 11, 1992 - 9:30 a.m.** – Open Meeting
State Treasurer's Office, Board Room, 3rd Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A general business meeting.

Contact: Hugh Miller, Director or Margaret Peters, Information Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

February 4, 1992 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee Meeting on

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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 LABOR AND INDUSTRY

Apprenticeship Council

† **February 20, 1992 - 10 a.m.** – Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

A regular meeting.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South 13th St., Richmond, VA 23219, telephone (804) 786-2381.

LIBRARY BOARD

† **March 17, 1992 - 9:30 a.m.** – Open Meeting
Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, Richmond, Virginia. ☒

A meeting to discuss administrative matters.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

LONG-TERM CARE COUNCIL

† **February 14, 1992 - 9 a.m.** – Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A general business meeting.

Contact: Janet Lynch, Director, Long-Term Care Council, 700 East Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 225-2271.

LONGWOOD COLLEGE

Board of Visitors

February 3, 1992 - 9:30 a.m. – Open Meeting
Longwood College, Ruffner Building, Virginia Room, Farmville, Virginia. ☒

A meeting to conduct business relating to the 1992 Session of the General Assembly.

Contact: William F. Dorrill, President, President's Office, Longwood College, Farmville, VA 23901, telephone (804) 395-2001.

STATE LOTTERY BOARD

January 27, 1992 - 10 a.m. – Open Meeting
February 24, 1992 - 10 a.m. – Open Meeting
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ☒

A regular monthly meeting. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2210 W. Broad Street, Richmond, VA 23901, telephone (804) 367-9433.

MARINE RESOURCES COMMISSION

January 28, 1992 - 9:30 a.m. – Open Meeting
† **February 25, 1992 - 9:30 a.m.** – Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for deaf provided upon request)

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 ☒

BOARD OF MEDICAL ASSISTANCE SERVICES

January 29, 1992 - 9 a.m. – Open Meeting
600 East Broad Street, Board Room, Suite 1300, Richmond, Virginia. ☒

A meeting to discuss medical assistance services and issues pertinent to the board.

Contact: Patricia A. Sykes, Legislative Analyst, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-3481 or 1-800-343-0634/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

January 31, 1992 – 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 460-03-4.1940:1. Nursing Home Payment System (PIRS)**. This regulation proposes to promulgate permanent regulations to supersede three existing emergency regulations providing for mortgage debt refinancing, nursing facility rate change, and technical language changes.

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

Written comments may be submitted until 4:30 p.m., January 31, 1992, to William R. Blakely, Jr., Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

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† **March 27, 1992** – 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 Specialized Care Services: VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality Care; VR 460-02-4.1940. Methods and Standards for Establishing Payment Rates - Long-Term Care; and VR 460-03-4.1944. Class Resource Cost Assignment, Computation of Service Intensity Index and Ceiling and Rate Adjustments to the Prospective Direct Patient Care Operating Cost Rate - Allowance for Inflation Methodology Base "Current" Operating Rate (Appendix IV to Nursing Home Payment System)**. This proposal establishes existing agency policies for providing services to eligible recipients who require intensive nursing and other medical services.

STATEMENT

Basis and Authority: Section 32.1-324 of the Code of Virginia 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) § 9-6.14:9, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews.

The Code of Federal Regulations, Title 42, Part 447, Subpart B, grants states the authority to establish and change methods and standards for setting payment rates for all covered services.

Purpose: The purpose of this proposal is to promulgate regulations that modify specialized care services reimbursement language in response to a federal requirement.

Summary and Analysis: The sections of the State Plan for Medical Assistance which are affected by this proposed regulation are as follows: VR 460-02-3.1300, VR 460-02-4.1940 § f and VR 460-03-4.1944: Appendix IV of the Nursing Home Payment System.

The existing Plan language was determined by the Health Care Financing Administration (HCFA) to be unacceptable because it appeared that for specialized care services, DMAS negotiated rates with specific facilities on a case-by-case basis. HCFA requires that the Plan "describe comprehensively the methods and standards used to establish rates for services." HCFA determined that the Plan required amendment for conformance to these requirements. In addition, HCFA has required DMAS' assurance that the rates for these services are reasonable and adequate to meet the costs of efficiently and economically operated facilities.

DMAS has determined that clarifying existing policy rather than a policy change is indicated. Therefore, Attachment 3.13 C, Attachment 4.19 D § f and Appendix IV to the Supplement to Attachment 4.19 D have been modified to set forth more clearly the agency's current policies on reimbursing for specialized care services.

Impact: VR 460-02-4.1940 § f (Attachment 4.19 D). Modifying the language providing for specialized care services is effecting no policy or reimbursement methodology changes. Therefore, there is no fiscal impact attached to this change.

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

Written comments may be submitted until 4:30 p.m., March 27, 1992, to Mary Chiles, Manager, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

BOARD OF MEDICINE

February 3, 1992 – 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 465-03-01. Regulations Governing the Practice of Physical Therapy.** The board proposes to further define supervisory responsibilities of the licensed physical therapist for traineeship, on-site supervision of the physical therapy assistant in the work area, and further define the work settings of patient care.

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

Written comments may be submitted until February 3, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

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February 3, 1992 – 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 465-05-01. Regulations Governing the Practice of Physician's Assistants.** The board proposes to amend §§ 3.4 and 5.1 B to require biennial renewal of license in each odd numbered year on the licensee's birth month and substitute the term "license" for "certification" to conform with the Code of Virginia, throughout the regulations.

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

Written comments may be submitted until February 3, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

- † **February 6, 1992** - 8 a.m. – Open Meeting
- † **February 7, 1992** - 8 a.m. – Open Meeting
- † **February 8, 1992** - 8 a.m. – Open Meeting
- † **February 9, 1992** - 8 a.m. – Open Meeting

Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia, ☒

A meeting to (i) conduct general board business; (ii) review reports; (iii) interview licensees; (iv) make decisions on disciplinary matters; and (v) discuss other items which may come before the board. The board will entertain brief public comments at the beginning of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

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† **March 31, 1992** – 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 or Abnormal Conditions of the Human Eye and its Adnexa with Certain Therapeutic Pharmaceutical Agents.** The proposed amendments (i) delete the CPR requirements; (ii) redefine the examination format; (iii) redefine the diseases and conditions of the human eye and its adnexa; (iv) add new therapeutic agents; and (v) add a method to treat emergencies.

STATEMENT

Basis: Section 54.1-2400 of the Code of Virginia.

Purpose: The proposed amendments to the current regulations, VR 465-09-01, will ease the regulatory burden for doctors of optometry by deleting the requirement for proof of certification of cardiopulmonary resuscitation (CPR) for the initial certification and certification renewal, more clearly defining the diseases and conditions of the human eye and its adnexa, restating the strength of a specific agent, adding a new agent, and establishing a method or procedure for treating a patient with anaphylactic shock.

Estimated entities and impact: Regulated entities: There are 204 doctors of optometry certified to treat the human eye and its adnexa with therapeutic pharmaceutical agents in Virginia.

Projected costs to the agency for implementation and enforcement: The Board of Medicine projects no increase in expenditure to implement the proposed changes. This assumption is based upon the removing of the regulatory burden of requiring additional documentation that is an established part of the graduate training program (CPR), and expanding the scope of practice for the optometrist, by providing new definition of diseases and therapeutic pharmaceutical agents.

Source of funds: All funds of the Board of Medicine are derived from fees paid by licensees and applicants for licensure.

Explanation of need of proposed regulations: The proposed amendments are necessary to ease the regulatory burden for the certified optometrist and new applicants by deleting the proof of cardiopulmonary resuscitation (CPR) for certification renewal and eligibility to sit for the examination, to provide a clearer statement relating to the format of the certification examination; to establish a clearer description of the diseases and conditions which may be treated by the optometrist, establish the correct strength of the therapeutic pharmaceutical agent, and provide a new agent for treating the human eye without blurring the patient's vision.

Assurance of clarity and simplicity: Clarity and simplicity were assured in the drafting of these proposed amendments to the regulations through an editing process involving the board, its staff, and the office of the Attorney General.

Impact on small business: It is estimated that most of the currently licensed optometrists who may seek certification to treat the human eye and administer topical therapeutic pharmaceutical agents meet the definition of "small business." The proposed amendments to the regulations, however, do not differentially impact small or large professional practice organizations.

Statutory Authority: §§ 54.1-2400, 54.1-2957.1, 54.1-2957.2 and 54.1-2957.3 of the Code of Virginia.

Written comments may be submitted until March 31, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

Credentials Committee

† February 22, 1992 - 8 a.m. - Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general board business; (ii) interview and review medical credentials of applicants applying for licensure in Virginia in open and executive session; (iii) discuss other items which may come before the committee. The Credentials Committee will entertain brief public comments at the beginning of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Board on Physical Therapy

March 6, 1992 - 9 a.m. - Open Meeting
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) review and respond to public comments on proposed regulations, bylaws, procedure manuals; (ii) receive reports; and (iii) discuss other items which may come before the advisory board. Public comments will be received at the pleasure of the chairperson.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Prevention and Promotion Advisory Council

† February 13, 1992 - 10 a.m. - Open Meeting
James Madison Building, 13th Floor Conference Room, 109 Governor Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A regular meeting to (i) finalize by-laws; (ii) conduct general business; (iii) discuss an update of activities of the Prevention Office and (iv) begin plans for Phase II of the Plan for Prevention Services.

Contact: Harriet Russell, Director, Office of Prevention, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530 or (804) 371-8977/TDD ☒

State Human Rights Committee

† January 31, 1992 - 9 a.m. - Open Meeting
James Madison Building, Main Floor Conference Room, 109 Governor Street, Richmond, Virginia. ☒

A regular meeting to discuss business relating to human rights issues. Agenda items are listed for the meeting.

Contact: Elsie D. Little, State Human Rights Director, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988.

Virginia Council on Teen Pregnancy Prevention

† February 6, 1992 - 10 a.m. - Open Meeting
Koger Executive Center, Blair Building, 8007 Discovery Drive, Conference Rooms A and B, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A regular meeting to develop the plan to implement

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the recommendations that were made to the Secretary of Health and Human Resources (recommendations address reducing the rate of teen pregnancy in the Commonwealth).

Contact: Harriet Russell, Director, Office of Prevention, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530 or (804) 371-8977/TDD ☎

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

February 6, 1992 - 7 p.m. - Open Meeting
March 5, 1992 - 7 p.m. - Open Meeting
502 South Main Street #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 South Main Street #4, Culpeper, VA 22701, telephone (703) 825-4562.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

February 15, 1992 - 8:30 a.m. - Open Meeting
Virginia Military Institute, Smith Hall, Board Room, Lexington, Virginia. ☎

A regular meeting to (i) consider committee reports; (ii) consider 1992-1993 budget; and (iii) discuss reports on visits to academic departments.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board of Visitors, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mined Land Reclamation

† **February 11, 1992 - 1 p.m. - Open Meeting**
Department of Mines, Minerals and Energy, Conference Room 116, located off U.S. Route 23 North adjacent to Mountain Empire Community College Campus, Big Stone Gap, Virginia. ☎

A meeting to give interested persons an opportunity to be heard in regard to the FY92 Abandoned Mine

Land Administrative Grant Application to be submitted to the Federal Office of Surface Mining.

Contact: Roger L. Williams, Abandoned Mine Land Manager, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8206.

BOARD OF NURSING

January 27, 1992 - 9 a.m. - Open Meeting
January 28, 1992 - 9 a.m. - Open Meeting
January 29, 1992 - 9 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 (i) matters related to nursing education programs; (ii) discipline of licensees; (iii) licensure by examination and endorsement; and (iv) 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, January 27, 1992.

Contact: Corrine F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

BOARDS OF NURSING AND MEDICINE

January 29, 1992 - 1:30 p.m. - Public Hearing
Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Boards of Nursing and Medicine intend to adopt regulations entitled: **VR 465-12-1 and VR 495-03-1. Regulations for Prescriptive Authority for Nurse Practitioners.** The proposed regulations authorize limited prescriptive authority for nurse practitioners as allowed by changes in law enacted during the 1991 session of the General Assembly of Virginia.

Statutory Authority: §§ 54.1-2400 and 54.1-2757.01 of the Code of Virginia.

Written comments may be submitted until March 12, 1992.

Contact: Corrine F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909.

BOARD FOR OPTICIANS

† **February 4, 1992 - 9 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street

Richmond, Virginia. ☒

A 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 Street, Richmond, VA 23230-4917, telephone (804) 367-8534.

VIRGINIA OUTDOORS FOUNDATION

† **February 3, 1992 - 10:30 a.m.** – Open Meeting
Powers "B" Roslyn Conference Center, Richmond, Virginia. ☒

A general business meeting.

Contact: Tyson B. VanAuken, Executive Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-5539.

BOARD OF PROFESSIONAL COUNSELORS

† **February 13, 1992 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to (i) conduct general business; (ii) conduct regulatory review; and (iii) respond to committee reports. No public comments.

† **February 14, 1992 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

An informal administrative hearing, not for public comment.

Contact: Evelyn B. Brown Executive Director or Joyce D. Williams, Administrative Assistant, Department of Health Professions, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9912.

BOARD OF REHABILITATIVE SERVICES

February 13, 1992 - 10 a.m. – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to (i) receive department reports; (ii) consider regulatory matters; and (iii) conduct the regular business of the board.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD/Voice ☎ or (804) 67-0280/TDD ☎

Finance Committee

February 13, 1992 - 9 a.m. – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to review monthly financial reports and budgetary projections.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Legislation Committee

February 13, 1992 - 9 a.m. – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

General Assembly legislative update.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Program and Evaluation Committee

February 13, 1992 - 9 a.m. – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss appropriate program information relative to General Assembly issues.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD and Voice ☎ or (804) 367-0280/TDD ☎

DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

Protection and Advocacy for Mentally Ill Individuals Advisory Council

† **February 20, 1992 - 9:30 a.m.** – Open Meeting
James Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A regular bi-monthly meeting. Time is provided for public comment.

Contact: Rebecca Currin, Department for Rights of Virginians with Disabilities, Monroe Building, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962.

Calendar of Events

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

February 28, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: **VR 615-25-01:1. Minimum Standards for Licensed Group Family Day Care Homes.** The proposed regulation makes major additions and revisions in the licensing standards caused by changes in the Code of Virginia relating to a group family day care homes and deemed necessary to update licensing requirements which have not been significantly revised since 1979.

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

Written comments may be submitted until February 28, 1992.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

February 28, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to repeal regulations entitled: **VR 615-25-01. Minimum Standards for Licensed Family Day Care Homes.** The existing regulation, Minimum Standards for Licensed Family Day Care Homes, is proposed for repeal while concurrently promulgating Minimum Standards for Licensed Group Family Day Care Homes.

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

Written comments may be submitted until February 28, 1992.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

STATE BOARD OF SOCIAL SERVICES

February 19, 1992 - 2 p.m. – Open Meeting
February 20, 1992 - if necessary - 9 a.m. – Open Meeting
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ☒

Work session and formal business meeting of the board.

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 ☎

COMMONWEALTH TRANSPORTATION BOARD

† **February 19, 1992 - 2 p.m.** – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Work session of the Commonwealth Transportation Board and the Department of Transportation staff.

† **February 20, 1992 - 10 a.m.** – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

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, 1491 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

BOARD OF VETERINARY MEDICINE

† **February 12, 1992 - 8:30 a.m.** – Open Meeting
Ritz Carlton Tysons Corner, Plaza Room, 1700 Tysons Boulevard, McLean, Virginia. ☒ (Interpreter for deaf provided upon request)

A general board and business meeting.

Contact: Terri H. Behr, Executive Secretary, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9915 or 1-800-533-1560.

UNIVERSITY OF VIRGINIA

Institute of Law, Psychiatry and Public Policy

† **March 12, 1992 - 9 a.m.** – Open Meeting
† **March 13, 1992 - 9 a.m.** – Open Meeting
Richmond Hyatt Hotel, Richmond, Virginia. ☒

Fifteenth annual symposium on mental health law

issues including: (i) patient self-determination act; (ii) substance abuse and AIDS; (iii) management of care; (iv) child sexual abuse - changes in the statute of limitations; (v) satanism and ritualistic crime; (vi) workshops on civil commitment, ethical concerns regarding incompetent assent; and (vii) Americans with Disabilities Act.

Contact: Carolyn L. Engelhard, Administrator, Institute of Law, Psychiatry and Public Policy, University of Virginia, Box 100, Blue Ridge Hospital, Charlottesville, VA 22901, telephone (804) 924-5435 or (804) 924-HEAR/TDD ☐

VIRGINIA RACING COMMISSION

† **February 19, 1992 - 9:30 a.m.** - Open Meeting
VSRS Building, 1200 East Main Street, Richmond, Virginia.

☐

A regular meeting including discussion and public participation on drafts of proposed regulations pertaining to the Virginia Breeders Fund and medication.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

VIRGINIA RESOURCES AUTHORITY

February 11, 1992 - 9 a.m. - Open Meeting
March 10, 1992 - 9 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 its previous meeting; (ii) review the Authority's operations for the prior months; and (iii) consider other matters and take other actions as it 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: Mr. Shockley D. Gardner, Jr., 909 East Main Street, Suite 707, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX number (804) 644-3109.

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† **February 25, 1992 - 1 p.m.** - Open Meeting
Sheraton Airport Inn, 4700 South Laburnum Avenue, Richmond, Virginia.

1 p.m. - Committee Meetings

2 p.m. - General Session

3 p.m. - Work Session

† **February 26, 1992 - time and location to be announced**
- Open Meeting

Meeting with Virginia Board of Education.

Contact: George S. Orr, Jr., Virginia Council on Vocational Education, 7420-A Whitepine Road, Richmond, VA 23237, telephone (804) 275-6218.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

February 24, 1992 - 10 a.m. - Public Hearing
101 North 14th Street, Conference Room C, Richmond, Virginia.

February 26, 1992 - 1 p.m. - Public Hearing
Room 2123, Amherst Building, Central Virginia Community College, Lynchburg, Virginia.

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 672-20-11. Solid Waste Management Facility Permit Application Fees.** The purpose of the proposed regulation is to establish schedules and procedures pertaining to the payment and collection of fees from any applicant seeking a new permit or seeking an amendment to an existing permit for operation of a solid or infectious waste management facility in the Commonwealth.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Written comments may be submitted until March 1, 1992.

Contact: W. Gulevich, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-2383.

† **February 27, 1992 - 7:30 p.m.** - Public Hearing
Charles City County Community Neighborhood Center, Neighborhood Facility Building located in Courthouse Complex, 10600 Courthouse Road, Charles City, Virginia. ☐

Pursuant to the requirements of Part VII of the Virginia Solid Waste Management Regulations (Permitting of Solid Waste Management Facilities), the Department of Waste Management will hold a public hearing on the draft permit amendments proposed by Chambers, Inc., on behalf of Charles City County for a vertical expansion of the landfill, design, operational and closure plan changes.

The public comment period will extend until March 9 at 5 p.m. A copy of the proposed draft permit amendments may be obtained from Russell McAvoy Jr., Department of Waste Management, Sixth Floor, Monroe Building, 101 North 14th Street, Richmond, VA

Calendar of Events

23219.

Contact: Hassan Vakili, Environmental Technical Services Administrator, Virginia Department of Waste Management, Sixth Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-0519 or toll-free 1-800-552-2075.

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February 28, 1992 - 11 a.m. - Public Hearing
Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **VR 672-30-1. Virginia Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed amendments is to incorporate by reference changes that were made by U.S. DOT to Title 49, Code of Federal Regulations from July 1, 1990, to June 30, 1991.

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Written comments may be submitted until February 28, 1992, to John E. Fly, Virginia Department of Waste Management, 11th Floor, Monroe Building, Richmond, Virginia 23219.

Contact: C. Ronald Smith, Hazardous Waste Enf. Chief, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 225-4761 or toll-free 1-800-552-2075.

STATE WATER CONTROL BOARD

January 30, 1992 - 7 p.m. - Public Hearing
City of Lynchburg Public Library, Community Meeting Room, 2315 Memorial Avenue, Lynchburg, Virginia. ☐

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0051888 for the City of Lynchburg Abert Water Treatment Plant, 525 Taylor Street, Lynchburg, Virginia 24504. The purpose of the hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Lori Freeman Jackson, Hearings Reporter, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, 4900 Cox Road, Richmond, Virginia 23230-1143, telephone (804) 527-5163.

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January 27, 1992 - 7:30 p.m. - Public Hearing
Virginia Beach City Council Chambers, City Hall Building, Second Floor, Courthouse Drive, Virginia Beach, Virginia.

January 28, 1992 - 7:30 p.m. - Public Hearing
State Water Control Board, Board Room, Innsbrook Corporate Center, 4900 Cox Road, Richmond, Virginia.

January 29, 1992 - 7:30 p.m. - Public Hearing
Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

February 3, 1992 - 7:30 p.m. - Public Hearing
Spotsylvania County Board of Supervisors Room, County Administration Building, Route 208 at Spotsylvania Courthouse, Spotsylvania, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-15-02. Virginia Water Protection Permit Regulation.** The proposed regulation delineates the procedures and requirements to be followed for issuance of a Virginia Water Protection Permit. An informal question and answer period has been scheduled before each hearing. At that time, staff will answer questions from the public on the proposal. The questions and answer period will begin at 6:30 p.m. on the same day and at the same location as the public hearings.

Statutory Authority: § 62.1-44.15:5 of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 17, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Martin Ferguson, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5030.

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February 10, 1992 - 7 p.m. - Public Hearing
Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia. 7

February 12, 1992 - 7 p.m. - Public Hearing
University of Virginia, Southwest Center, Classroom 1 and 2, Highway 19 North, Abingdon, Virginia.

February 13, 1992 - 2 p.m. - Public Hearing
Lynchburg Public Library, Community Meeting Room, 2315 Memorial Avenue, Lynchburg, Virginia.

February 19, 1992 - 7 p.m. - Public Hearing
James City County, Board of Supervisors Room, 101C Mounts Bay Road, Williamsburg, Virginia.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposal is to adopt, for statewide application, standards for toxics for protection of aquatic life and human health to comply with the Clean Water Act. The board will hold a formal hearing at a time and place to be established, if a petition for such a hearing is received and granted. Affected persons may petition for a formal hearing concerning any issue of fact directly relevant to the legal validity of the proposed action. Petitions must meet the requirements of § 1.23(b) of the board's Procedural Rule No. 1 (1980), and must be received by the contact person designated below by 4 p.m. on Thursday, January 30, 1992.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m., March 2, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5093.

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February 10, 1992 - 7 p.m. -- Public Hearing
Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia.

February 14, 1992 - 2 p.m. -- Public Hearing
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, 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 680-14-09. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.** The purpose of the proposal is to adopt as a permanent regulation the emergency regulation which became effective July 12, 1991, authorizing the issuance of a general permit for qualifying domestic sewage discharges of less than or equal to 1,000 gallons per day.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., March 2, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143,

Richmond, Virginia 23230, telephone (804) 527-5059.

* * * * *

February 12, 1992 - 2 p.m. -- Public Hearing
Russel County Circuit Court Room, Main Street, Lebanon, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-00. Water Quality Standards (VR 680-21-08.15 Tennessee and Big Sandy River Basin, Clinch River Subbasin and VR 680-21-07.1 Special Standards and Requirements.** The purpose of the proposed amendment is to establish a site-specific numerical water quality criterion for copper in the Clinch River between Carbo and St. Paul. The board will hold a formal hearing at a time and place to be determined, if a petition for such a hearing is received and granted. Affected persons may petition for a formal hearing concerning any issue of fact directly relevant to the legal validity of the proposed action. Petitions must meet the requirements of § 1.23(b) of the board's Procedural Rule No. 1 (1980), and must be received by the contact person designated below by 4 p.m. on Thursday, January 30, 1992.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m., March 2, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5093.

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February 26, 1992 - 7 p.m. -- Public Hearing
Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia.

February 27, 1992 - 2 p.m. -- Public Hearing
Municipal Office, Multi-Purpose Room, 150 East Monroe Street, Wytheville, Virginia.

March 2, 1992 - 7 p.m. -- Public Hearing
Prince William County Boardroom, 1 County Complex, McCourt Building, Prince William, Virginia.

March 4, 1992 - 7 p.m. -- Public Hearing
James City County, Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg, 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 680-15-03. Surface Water Management Area**

Calendar of Events

Regulation. The purpose of the proposed regulation is to establish the procedures and requirements to be followed in connection with establishment of surface water management areas, and the issuance of surface water withdrawal permits and certificates.

Statutory Authority: Chapter 25 (§ 62.1-242 et seq.) of Title 62.1 of the Code of Virginia.

Written comments may be submitted until 4 p.m., March 16, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Thomas Felvey, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5092.

THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA

Board of Visitors

† February 6, 1992 - 3 p.m. - Open Meeting
† February 7, 1992 - 7:30 a.m. - Open Meeting
Blow Memorial Hall, Richmond Road, Williamsburg, Virginia.

A regularly scheduled meeting to (i) review quarterly operations of the College and Richard Bland College; (ii) receive reports from several committees of the board; and (iii) act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College. An informational release will be available four days prior to the board meeting for those individuals or organizations who request it.

Contact: William N. Walker, Director, Office of University Relations, James Blair Hall, Room 101C, College of William and Mary, P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-1004.

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DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

January 31, 1992 - 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 Youth and Family Services intends to adopt regulations entitled: **VR 690-30-001. Standards for Secure Detention Homes.** The purpose of the proposed regulation is to

establish operating standards for the care and custody of youth in secure detention homes.

Statutory Authority: §§ 16.1-311 and 66-10 of the Code of Virginia.

Written comments may be submitted until January 31, 1992.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0692.

LEGISLATIVE

Notice to Subscribers

Legislative meetings held during the Session of the General Assembly are exempt from publication in The Virginia Register of Regulations. You may call Legislative Information for information on standing committee meetings. The number is (804) 786-6530.

CHRONOLOGICAL LIST

OPEN MEETINGS

January 27

Accountancy, Board for
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Health Services Cost Review Council, Virginia
† Hearing Aid Specialists, Board for
Lottery Department, State
Nursing, Board of

January 28

Accountancy, Board for
Marine Resources Commission
Nursing, Board of

January 29

ASAP Policy Board - Central Virginia
† Child Day-Care Council
Dentistry, Board of
Health, State Board of
Medical Assistance Services, Board of
Nursing, Board of

January 30

Chesapeake Bay Local Assistance Board
† Compensation Board
Dentistry, Board of

January 31

Dentistry, Board of
† Mental Health, Mental Retardation and Substance Abuse Services, Department of

Calendar of Events

- State Human Rights Committee

February 3

Alcoholic Beverage Control Board
Cosmetology, Board for
Longwood College
- Board of Visitors
† Outdoors Foundation, Virginia

February 4

Funeral Directors and Embalmers, Board of
Hopewell Industrial Safety Council
† Opticians, Board for

February 5

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
† Child Day-Care Council
† Conservation and Development of Public Beaches,
Board on
Funeral Directors and Embalmers, Board of

February 6

Emergency Planning Committee, Local - Chesterfield
County
Funeral Directors and Embalmers, Board of
† Medicine, Board of
† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Virginia Council on Teen Pregnancy Prevention
Middle Virginia Board of Directors and the Middle
Virginia Community Corrections Resources Board
† William and Mary in Virginia, The College of
- Board of Visitors

February 7

† Air Pollution Control Board, State
† Conservation and Recreation, Department of
- Recreation in the Juvenile Justice System Advisory
Board
† Medicine, Board of
† William and Mary in Virginia, The College of
- Board of Visitors

February 8

† Medicine, Board of

February 9

† Medicine, Board of

February 10

† Barbers, Board for
† Chesapeake Bay Local Assistance Board
- Central Area Review Committee

February 11

† Architects, Land Surveyors, Professional Engineers
and Landscape Architects, Board for
- Board for Professional Engineers
Higher Education for Virginia, State Council on
† Mines, Minerals and Energy, Department of

- Division of Mined Land Reclamation
Virginia Resources Authority

February 12

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Conservation and Recreation, Department of
- Upper James Scenic River Advisory Board
Corrections, Board of
† Veterinary Medicine, Board of

February 13

† Agriculture and Consumer Services, Department of
- Virginia Cattle Industry Board
Corrections, Board of
- Liaison Committee
† Geology, Board for
† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Prevention and Promotion Council
† Professional Counselors, Board of
Rehabilitative Services, Board of
- Finance Committee
- Legislation Committee
- Program and Evaluation Committee

February 14

† Geology, Board for
† Long-Term Care Council
† Professional Counselors, Board of

February 15

Military Institute, Virginia
- Board of Visitors

February 18

† Historic Resources, Department of
- State Review Board

February 19

Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study
Group
- Southern Area Review Committee
† Historic Resources, Board of
Social Services, State Board of
† Commonwealth Transportation Board
† Virginia Racing Commission

February 20

Agriculture and Consumer Services, Department of
- Virginia Apple Board
† Commonwealth Transportation Board
† Labor and Industry, Department of
- Virginia Apprenticeship Council
† Rights of Virginians with Disabilities, Department for
- Protection and Advocacy for Mentally Ill
Individuals Advisory Council

February 21

Calendar of Events

† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board

February 22

† Medicine, Board of
- Credentials Committee

February 24

† Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Commerce, Board of
Lottery Department, State

February 25

† Health Services Cost Review Council, Virginia
† Marine Resources Commission
† Vocational Education, Virginia Council

February 26

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Vocational Education, Virginia Council

February 27

Chesapeake Bay Local Assistance Board
† Compensation Board

March 2

Alcoholic Beverage Control Board

March 4

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee

March 5

Middle Virginia Board of Directors and the Middle
Virginia Community Corrections Resources Board

March 6

Medicine, Board of
- Advisory Board on Physical Therapy

March 9

† Chesapeake Bay Local Assistance Board
- Central Area Review Committee

March 10

Virginia Resources Authority

March 11

Agriculture and Consumer Services, Department of
- Virginia Sweet Potato Board
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Emergency Planning Committee, Local - City of
Portsmouth
† Historic Preservation Foundation, Virginia

March 12

† University of Virginia
- Institute of Law, Psychiatry and Public Policy

March 13

† University of Virginia
- Institute of Law, Psychiatry and Public Policy

March 16

Alcoholic Beverage Control Board

March 17

† Library Board

March 18

Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study
Group
- Southern Area Review Committee

March 23

† Chesapeake Bay Local Assistance Board
- Central Area Review Committee

March 25

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee

March 26

Chesapeake Bay Local Assistance Board
† Compensation Board

March 30

Alcoholic Beverage Control Board

April 2

† Emergency Planning Committee, Local - Chesterfield
County

PUBLIC HEARINGS

January 27

Water Control Board, State

January 28

Water Control Board, State

January 29

Nursing and Medicine, Boards of
Water Control Board, State

January 30

Water Control Board, State

February 3

† Air Pollution Control, Department of
Water Control Board, State

February 10

Health, Department of
Water Control Board, State

Calendar of Events

February 11

† Emergency Planning Committee, Local - Cities of Hampton, Newport News, Williamsburg and Poquoson and the County of York

February 12

Corrections, Department of
Water Control Board, State

February 13

Water Control Board, State

February 14

Water Control Board, State

February 19

Health, Department of
Water Control Board, State

February 24

Waste Management, Department of

February 26

Waste Management, Department of
Water Control Board, State

February 27

† Waste Management, Department of
Water Control Board, State

February 28

Waste Management, Department of

March 2

Water Control Board, State

March 4

Water Control Board, State

March 6

Criminal Justice Services, Department of

April 1

Criminal Justice Services, Department of

Calendar of Events
