

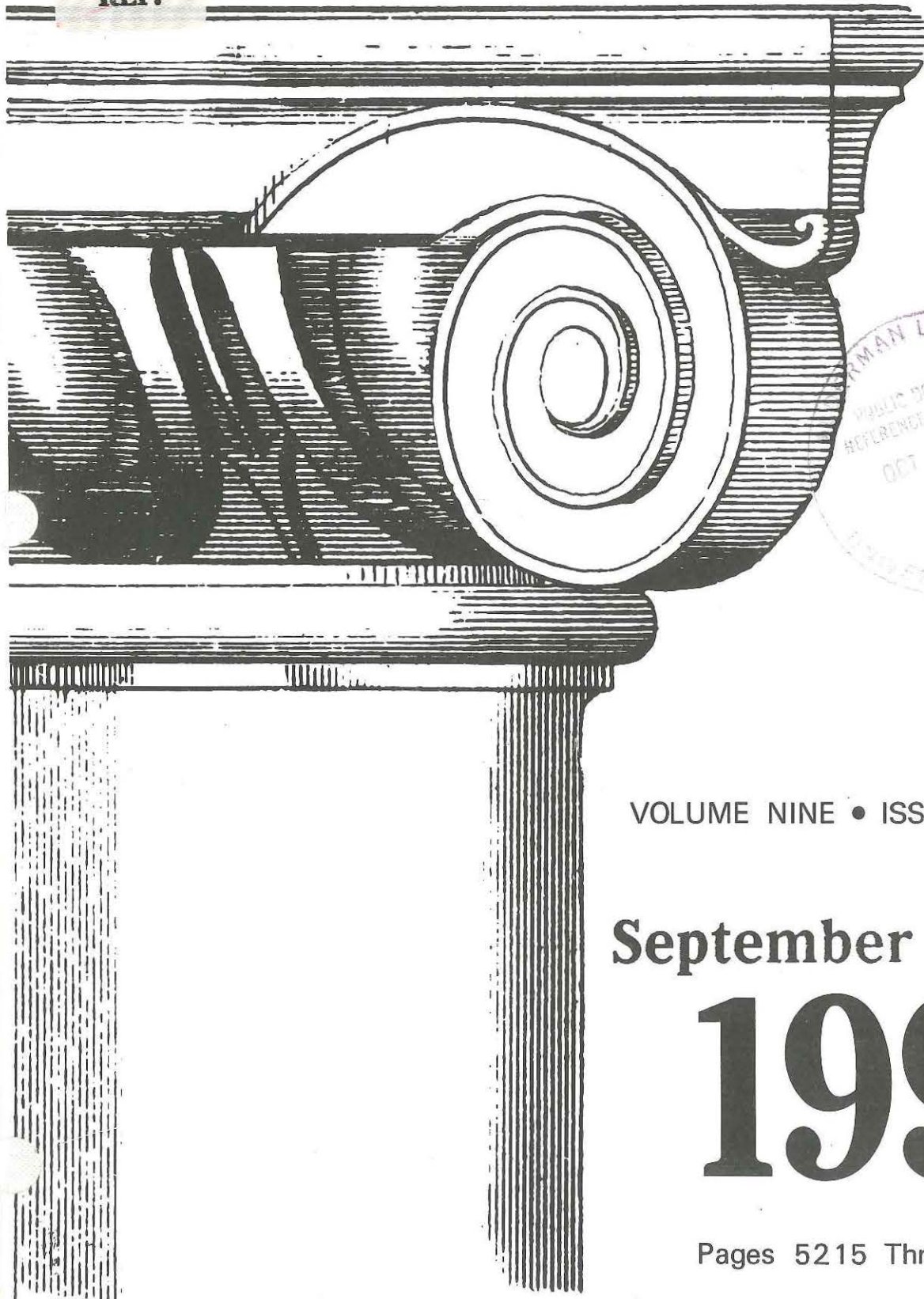
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# THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME NINE • ISSUE TWENTY-SIX

September 20, 1993

# 1993

Pages 5215 Through 5416

## 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 the regulation becomes final.

### 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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# NOTICES OF INTENDED REGULATORY ACTION

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<b>Symbol Key †</b> † Indicates entries since last publication of the Virginia Register
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## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Pesticide Control Board

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Pesticide Control Board intends to consider amending regulations entitled: **VR 115-04-20. Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services under the Virginia Pesticide Control Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need including, but not limited to (i) establishing a single product registration fee; (ii) establishing a deadline for registering pesticide products each year and to assess a late fee for pesticide products registered after the deadline; and (iii) deleting the provisions allowing a commercial applicator or a registered technician, in lieu of paying a penalty, to submit an affidavit certifying that he has not applied pesticides classified for restricted use subsequent to the expiration of his certificate. The agency invites comment on whether there should be an advisor appointed for the present regulatory action. An advisor is (i) a standing advisory panel; (ii) an ad hoc advisory panel; (iii) consultation with groups; (iv) consultation with individuals; or (v) any combination thereof. The agency plans to hold a public hearing on the proposed regulation after it is published.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until 8:30 a.m. on September 23, 1993.

**Contact:** Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558.

V.A.R. Doc. No. C93-1995; Filed August 2, 1993, 2:35 p.m.

### BOARD FOR BARBERS

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Barbers intends to consider repealing regulations entitled: **VR 170-01-00. Public Participation Guidelines.** The purpose of

the proposed action is to promulgate regulations to replace emergency regulations. The agency does not intend to hold a public hearing on the proposed repeal of the regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

**Contact:** Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

V.A.R. Doc. No. C93-1991; Filed July 30, 1993, 11:53 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Barbers intends to consider promulgating regulations entitled: **Board for Barbers Public Participation Guidelines.** The purpose of the proposed action is to promulgate regulations to replace emergency regulations. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

**Contact:** Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

V.A.R. Doc. No. C93-1990; Filed July 30, 1993, 11:53 a.m.

### BOARD FOR COSMETOLOGY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider repealing regulations entitled: **VR 235-01-01. Public Participation Guidelines.** The purpose of the proposed action is to repeal public participation guidelines in accordance with the Administrative Process Act prior to the expiration of



# Notices of Intended Regulatory Action

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emergency public participation guidelines on June 22, 1994. The agency does not intend to hold a public hearing on the proposed repeal of the regulations after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1202 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

**Contact:** Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509.

VA.R. Doc. No. C93-2030; Filed August 4, 1993, 12:02 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider repealing regulations entitled: **VR 235-01-02. Board for Cosmetology Rules and Regulations.** The purpose of the proposed action is to undertake a review and seek public comments for the purpose of repealing regulations as necessary to regulate the practice of cosmetology. The agency will hold a public hearing on the proposed repeal of the regulations after publication. Date, time and location to be announced.

Statutory Authority: § 54.1-1202 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

**Contact:** Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509.

VA.R. Doc. No. C93-2027; Filed August 4, 1993, 12:01 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider promulgating regulations entitled: **Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines in accordance with the Administrative Process Act prior to the expiration of emergency public participation guidelines on June 22, 1994. The agency does not intend to hold a public hearing on the proposed regulations after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1202 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

**Contact:** Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509.

VA.R. Doc. No. C93-2031; Filed August 4, 1993, 12:02 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider promulgating regulations entitled: **Board for Cosmetology Rules and Regulations.** The purpose of the proposed action is to undertake a review and seek public comments for the purpose of promulgating regulations as necessary to regulate the practice of cosmetology. The agency will hold a public hearing on the proposed regulations after publication. Date, time and location to be announced.

Statutory Authority: § 54.1-1202 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

**Contact:** Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509.

VA.R. Doc. No. C93-2029; Filed August 4, 1993, 12:02 p.m.

## DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider promulgating regulations entitled: **Crime Prevention Specialist.** The purpose of the proposed action is to establish requirements and administrative procedures for individuals employed by local and state law-enforcement agencies who are given the designation Crime Prevention Specialist. The Crime Prevention Specialist designation is available only to individuals employed by a local or state law-enforcement agency in Virginia. A public hearing will be held after publication of the proposed regulations.

Statutory Authority: §§ 9-170(1) and (25), 9-173.14 and 9-173.15 of the Code of Virginia.

Written comments may be submitted until October 20, 1993.

**Contact:** Patrick D. Harris, Department of Criminal Justice Services, 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8467.

VA.R. Doc. No. C93-2180; Filed August 19, 1993, 1:28 p.m.

## BOARD OF DENTISTRY

### Notice of Intended Regulatory Action

# Notices of Intended Regulatory Action

The Board of Dentistry is conducting a biennial regulatory review in response to the requirement of § 9-6.14 of the Code of Virginia and § 3.6 of Board Regulations VR 255-01-2. A public hearing will be held at a later date at which time all written comments will be included from this review.

Statutory Authority: § 54.1-2400.6 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906.

VA.R. Doc. No. C93-2149; Filed August 19, 1993, 11:31 a.m.

## 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 State Board of Education intends to consider amending regulations entitled: **VR 270-01-0006. Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia.** The purpose of the proposed action is to amend these regulations to conform with changes to the Code of Virginia, federal mandates and national standards. All interested parties will be notified and the Department of Education will hold at least one public hearing on the proposed regulation after publication.

Statutory Authority: §§ 22.1-16 and 22.1-176 of the Code of Virginia.

Written comments may be submitted until September 30, 1993.

**Contact:** Barbara V. Goodman, Principal Specialist, PTS, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2037.

VA.R. Doc. No. C93-1992; Filed July 30, 1993, 4:46 p.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider promulgating regulations entitled: **School Breakfast Program Requirements.** The purpose of the proposed action is to fulfill the requirements of the Code of Virginia to promulgate regulations for the implementation of school breakfast programs in Virginia public schools. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 22.1-207.3 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

**Contact:** Dr. Jane Logan, Principal Specialist, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 371-2339.

VA.R. Doc. No. C93-2015; Filed August 4, 1993, 10:11 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider promulgating regulations entitled: **VR 270-01-0042.1. Regulations Governing the Employment of Professional Personnel.** The purpose of the proposed action is to establish new regulations to govern the hiring procedures and contractual agreements.

The 1992 General Assembly required the Department of Education to study local school division hiring process and provide a report to the 1993 session. A team of professionals studied hiring procedures for teachers and professional personnel in conjunction with a Department of Education study on the Revision of Teacher Contracts. The result of the study was report entitled "Report on Contracts for Local School Personnel and Uniform Hiring Procedures for Teachers." The recommendations set forth in the report form the basis for the proposed regulations. All of the major professional organizations participated as full team members in the development of the recommendations. Representatives from the Virginia Education Association, the Virginia Association of School Superintendents, the Virginia School Board Association, and the Virginia Association of School Personnel Administrators were team members and their constituency groups provided input into the team process. In addition, representatives of rural, urban, and suburban school communities participated as full team members. The recommendations represent the result of a thorough and comprehensive study and the agreements made among the team members and other representatives indicated above. Considerable input was provided on the perspective of teachers through the representatives from the Virginia Education Association.

The Board of Education and the Department of Education will hold public hearings on the proposed regulations.

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

Written comments may be submitted until September 30, 1993.

**Contact:** Brenda F. Briggs or Charles W. Finley, Compliance, P.O. Box 2120, 101 N. 14th St., Richmond, VA 23216-2120, telephone (804) 225-2750 or (804) 225-2747.

VA.R. Doc. No. C93-1893; Filed July 21, 1993, 10:16 a.m.

## DEPARTMENT OF FORESTRY

# Notices of Intended Regulatory Action

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## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Forestry intends to consider repealing regulations entitled: **VR 310-01-1. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. Public comment is also requested on whether to use advisor counsel with regard to this matter. An informational meeting will be held at the Department of Forestry, Conference Room, Charlottesville, Virginia, on October 25, 1993, at 2 p.m. The agency intends to hold a public hearing on the repeal of the proposed regulations after publication.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1101 of the Code of Virginia.

Written comments may be submitted until October 25, 1993.

**Contact:** Ronald Jenkins, Supervisor, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903-0758, telephone (804) 977-6555.

VA.R. Doc. No. C93-2169; Filed August 19, 1993, 2:28 p.m.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Forestry intends to consider promulgating regulations entitled: **VR 310-01-1:1. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. Public comment is also requested on whether to use advisor counsel with regard to this matter. An informational meeting will be held at the Department of Forestry, Conference Room, Charlottesville, Virginia, on October 25, 1993, at 2 p.m. The agency intends to hold a public hearing on the proposed regulations after publication.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1101 of the Code of Virginia.

Written comments may be submitted until October 25, 1993.

**Contact:** Ronald Jenkins, Supervisor, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903-0758, telephone (804) 977-6555.

VA.R. Doc. No. C93-2268; Filed August 19, 1993, 2:28 p.m.



## DEPARTMENT OF HEALTH (STATE BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider repealing regulations entitled: **VR 355-17-02. Sewerage Regulations.** The purpose of the proposed action is to replace the existing joint Board of Health and State Water Control Board regulations with a new regulation adopted by the Board of Health and implemented through the Virginia Department of Health. The agency intends to hold a public hearing on the repeal of the regulations. The repeal of these regulations will occur concurrently with the adoption of VR 355-17-100, Sewage Collection and Treatment Regulations.

Statutory Authority: §§ 32.1-164 and 62.1-44.19 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

**Contact:** C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-6277.

VA.R. Doc. No. C93-2122; Filed August 18, 1993, 10:45 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider promulgating regulations entitled: **VR 355-17-100. Sewerage Collection and Treatment Regulations.** The purpose of the proposed action is to provide current standards for the design, construction and operation of sewage collection systems and sewage treatment works, including the use of sewage sludge in order that the appropriate permits may be issued by the State Health Commissioner. A public hearing will be held on the proposed regulations after publication. Existing regulations, VR 355-17-02, Sewerage Regulations, will be repealed upon adoption of this regulation.

Statutory Authority: §§ 32.1-164 and 62.1-44.19 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

**Contact:** C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-6277.

VA.R. Doc. No. C93-2123; Filed August 18, 1993, 10:45 a.m.

### Notice of Intended Regulatory Action

## Notices of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider promulgating regulations entitled: **VR 355-32-500. Regulations Governing the Emergency Medical Services DO NOT RESUSCITATE Program.** The purpose of the proposed action is to promulgate regulations to implement the EMS DO NOT RESUSCITATE Program as created by the General Assembly in SB 360 (1992). Emergency regulations under the same title are currently in place, effective July 1, 1993 through June 30, 1994. The department intends to hold a public hearing following publication of the proposed regulations.

Statutory Authority: § 54.1-2987 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

**Contact:** Susan McHenry, Director, Office of Emergency Medical Services, 1538 East Parham Road, Richmond, VA 23228, telephone (804) 371-3500.

V.A.R. Doc. No. C93-2125; Filed August 18, 1993, 10:45 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-40-400:2. Medical Scholarship Program.** The purpose of the proposed action is to amend the regulations to reflect recent amendments to the Medical Scholarship program statute and to consider revisions to improve the program's effectiveness in increasing the number of primary care physicians in Virginia's medically underserved communities. One public hearing is planned during the public comment period following publication of the proposed revisions.

Statutory Authority: § 32.1-122.5 et seq. of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

**Contact:** George Stone, Director, Medical Scholarship Program, 1500 East Main Street, Room 213, Richmond, VA 23219, telephone (804) 786-4891.

V.A.R. Doc. No. C93-2126; Filed August 18, 1993, 10:45 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider promulgating regulations entitled: **VR 355-40-700. Rules and Regulations Governing the Virginia Nurse Practitioner/Nurse Midwife Scholarship Program.** The purpose of the proposed action is to carry out the legislative intent of the program, to provide an incentive to registered nurses in Virginia to attend nurse practitioner/nurse midwife programs and subsequently provide services in medically underserved

areas. Emergency regulations under the same title are currently in place, effective July 1, 1993 through June 30, 1994. The department intends to hold a public hearing during the public comment period following publication of the proposed regulations.

Statutory Authority: § 32.1-122.6.02 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

**Contact:** Marjorie Plott, PHN Coordinator, P.O. Box 2448, Suite 227, Richmond, VA 23219, telephone (804) 371-2910.

V.A.R. Doc. No. C93-2124; Filed August 18, 1993, 10:45 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider repealing regulations entitled: **Rules and Regulations Governing the Maternal and Neonatal High-Risk Hospitalization Program (last amended July 9, 1984).** The purpose of the proposed action is to repeal the Rules and Regulations Governing the Maternal and Neonatal High-Risk Hospitalization Program. Appropriations for the program ended in FY 88. Services that were provided through the program are now being provided through Medicaid as well as the trust fund which reimburses hospitals for uncompensated care. No public hearings will be held.

Statutory Authority: § 32.1-12 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

**Contact:** Rosanne Kolesar, Health Programs Analyst, Department of Health, 1500 East Main Street, Room 213, Richmond, VA 23219, telephone (804) 786-4891.

V.A.R. Doc. No. C93-2129; Filed August 18, 1993, 11:26 a.m.

## BOARD OF HEALTH PROFESSIONS

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health Professions intends to consider promulgating regulations entitled: **Public Participation Guidelines of the Board of Health Professions.** The purpose of the proposed action is to develop guidelines the board will use to obtain public input in developing regulations. This regulation will replace emergency regulations currently in effect. The agency intends to hold a public hearing on the proposed regulations after publication.

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia.

Written comments may be submitted until October 21, 1993.

# Notices of Intended Regulatory Action

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**Contact:** Richard D. Morrison, Deputy Director for Research, 6606 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9918.

VA.R. Doc. No. C93-2197; Filed August 25, 1993, 2:15 p.m.

## STATE LOTTERY DEPARTMENT

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Department intends to consider promulgating regulations entitled: **VR 447-01-1. Guidelines for Public Participation in Regulation Development and Promulgation.** The purpose of the proposed action is to promulgate public participation guidelines to replace the emergency public participation guidelines adopted in June 1993, and to provide full opportunity for public participation in the regulation formation and promulgation process. The department intends to hold a public hearing on the proposed regulation after publication. This action will begin promulgation of an emergency regulation which became effective June 29, 1993.

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

Written comments may be submitted until October 15, 1993.

**Contact:** Barbara L. Robertson, Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

VA.R. Doc. No. C93-2131; Filed August 18, 1993, 11:30 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Department intends to consider promulgating regulations entitled: **VR 447-01-2. Administration Regulations.** The purpose of the proposed action is to amend existing administration regulations relating to the administration of contracts and to make housekeeping changes. The department intends to hold a public hearing on the proposed regulation after publication.

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

Written comments may be submitted until October 15, 1993.

**Contact:** Barbara L. Robertson, Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

VA.R. Doc. No. C93-2130; Filed August 18, 1993, 11:30 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Department intends to consider promulgating regulations entitled: **VR 447-02-1. Instant Game Regulations.** The purpose of the proposed action is to amend existing instant game regulations relating to the payment of prizes, estate taxes, beneficiaries, licensing of and compensation to lottery retailers, and to make housekeeping changes. The department intends to hold a public hearing on the proposed regulation after publication.

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

Written comments may be submitted until October 15, 1993.

**Contact:** Barbara L. Robertson, Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

VA.R. Doc. No. C93-2132; Filed August 18, 1993, 11:31 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Department intends to consider promulgating regulations entitled: **VR 447-02-2. On-Line Game Regulations.** The purpose of the proposed action is to amend existing on-line game regulations relating to the payment of prizes, estate taxes, beneficiaries, licensing of and compensation to lottery retailers, and to make housekeeping changes. The department intends to hold a public hearing on the proposed regulation after publication.

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

Written comments may be submitted until October 15, 1993.

**Contact:** Barbara L. Robertson, Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106.

VA.R. Doc. No. C93-2133; Filed August 18, 1993, 11:31 a.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Criteria for Preadmission Screening and Continued Stay.** The purpose of the proposed action is to revise the definition of medical/nursing need and the evaluation of persons seeking community-based care to avoid future nursing facility placement. The agency does not intend to hold a public hearing on this regulatory action after publication.

# Notices of Intended Regulatory Action

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

Written comments may be submitted until November 5, 1993, to Chris Pruett, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-2079; Filed August 13, 1993, 2:47 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Methods and Standards for Establishing Payment Rates, Home Health Reimbursement; Methods and Standards for Establishing Payment Rates-Long Term Care; Home Health Agency Reimbursement; Nursing Facility Criminal Record Checks.** The purpose of the proposed action is to revise home health agency methodologies, to revise regulations to reimburse providers for the costs of obtaining criminal record background checks on nursing facility employees. The agency does not intend to hold a public hearing on this regulatory action after publication.

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

Written comments may be submitted until November 5, 1993, to Vicki Simmons, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-2078; Filed August 13, 1993, 2:46 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **PASARR and Annual Resident Review/Education Component of NF Care/NF Residents' Appeal Rights.** The purpose of the proposed action is to amend regulations to comply with regulations issued by the Health Care Financing Administration regarding PASARR. The agency does not intend to hold a public hearing on this regulatory action after publication.

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

Written comments may be submitted until November 5, 1993, to Margie Jernigan, Department of Medical

Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-2081; Filed August 13, 1993, 2:47 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Payment of Title XVIII Part A and Part B Deductible/Coinsurance; Methods and Standards for Establishing Payment Rates - Long Term Care; Nursing Facility Payment System.** The purpose of the proposed action is to limit the payment of Medicare Part A coinsurance amount paid by Medicaid and eliminate overpayments made to providers during the first nine months of the second fiscal year. The agency does not intend to hold a public hearing on this regulatory action after publication.

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

Written comments may be submitted until November 5, 1993, to Stan Fields, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-2080; Filed August 13, 1993, 2:47 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-04-8.9. Public Participation Guidelines.** The purpose of the proposed action is to amend the agency's public participation guidelines to conform with changes to the Administrative Process Act. The agency does not intend to hold a public hearing for this regulatory change.

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

Written comments may be submitted until September 22, 1993, to Roberta Jonas, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804)

# Notices of Intended Regulatory Action

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786-7933.

V.A.R. Doc. No. C93-2026; Filed August 4, 1993, 11:54 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-05-1000.0000. State/Local Hospitalization Program**. The purpose of the proposed action is to limit the allocation of remaining state funds consistent with these regulations and limit the use of funds allocated for one fiscal to that year. DMAS does not intend to hold a public hearing on the proposed amendments.

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

Written comments may be submitted until September 22, 1993, to Dave Austin, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

V.A.R. Doc. No. C93-1860; Filed July 20, 1993, 11:18 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **MR Waiver Services**. The purpose of the proposed action is to remove certain impediments to the effective and efficient implementation of services to persons with mental retardation and mental illness. DMAS does not intend to hold a public hearing on the proposed amendments.

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

Written comments may be submitted until September 22, 1993, to Chris Pruett, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

V.A.R. Doc. No. C93-1859; Filed July 20, 1993, 11:17 p.m.

## BOARD OF MEDICINE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-01. Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture**. The purpose of the proposed regulation is to add § 4.4, Limited Licenses to Foreign Medical Graduates; add § 4.5, Temporary Licenses to Interns and Residents; amend § 3.1 C, amend § 4.1 D, Amending the Interpretation of National Test Scores of Podiatric Medicine.

**CORRECTION:** The agency does not intend to hold a public hearing on the proposed regulations after publication.

Statutory Authority: §§ 54.1-2400, 54.1-2936, 54.1-2937, and 54.1-2961 of the Code of Virginia.

Written comments may be submitted until October 10, 1993, to Hilary H. Connor, M.D., 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

**Contact:** Russell Porter, Assistant Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

V.A.R. Doc. No. C93-2128; Filed August 18, 1993, 11:27 a.m.

## DEPARTMENT OF MOTOR VEHICLES

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider amending regulations entitled: **VR 485-10-9304 (formerly VR 485-10-9101). Public Participation Guidelines for Regulation Development and Promulgation**. The purpose of the proposed action is to revise the existing regulations in accordance with the legislative changes made to the Administrative Process Act in the 1993 General Assembly session. A public hearing on the proposed regulations will be held after the proposed regulations have been published.

Statutory Authority: §§ 9-6.14:7.1 and 46.2-203 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

**Contact:** Marc Copeland, Legislative Analyst, Department of Motor Vehicles, 2300 W. Broad St., Room 319, Richmond, VA 23220, telephone (804) 367-1875.

V.A.R. Doc. No. C93-1996; Filed August 3, 1993, 2:41 p.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider repealing regulations

# Notices of Intended Regulatory Action

entitled: **VR 485-50-7801. Virginia Driver Improvement Act Rules and Regulations.** The purpose of the proposed action is to revise and update the Driver Improvement Program regulations. A public hearing on the proposed regulations will be held after the proposed regulations have been published.

Statutory Authority: §§ 46.2-203 and 46.2-489 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

**Contact:** Marc Copeland, Legislative Analyst, Department of Motor Vehicles, 2300 W. Broad St., Room 319, Richmond, VA 23220, telephone (804) 367-1875.

VA.R. Doc. No. C93-1997; Filed August 3, 1993, 2:41 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider promulgating regulations entitled: **VR 485-50-9301. Virginia Driver Improvement Program Rules and Regulations.** The purpose of the proposed action is to revise and update the Driver Improvement Program regulations. This notice supercedes the notice previously published on April 19, 1993. A public hearing on the proposed regulations will be held after the proposed regulations have been published.

Statutory Authority: §§ 46.2-203 and 46.2-489 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

**Contact:** Marc Copeland, Legislative Analyst, Department of Motor Vehicles, 2300 W. Broad St., Room 319, Richmond, VA 23220, telephone (804) 367-1875.

VA.R. Doc. No. C93-1988; Filed August 3, 1993, 2:41 p.m.

## BOARD OF NURSING HOME ADMINISTRATORS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing Home Administrators intends to consider amending regulations entitled: **VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.** The purpose of the proposed action is to amend continuing education requirements of the board, to establish as permanent fee increases in emergency regulations, and to delete the public participation guidelines. The agency does not intend to hold a public hearing on the proposed regulation.

Statutory Authority: § 54.1-3100 of the Code of Virginia.

Written comments may be submitted until September 22, 1993.

**Contact:** Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9907.

VA.R. Doc. No. C93-1994; Filed July 21, 1993, 4:37 p.m.

## BOARD OF OPTOMETRY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Optometry intends to consider amending regulations entitled: **VR 510-01-1. Board of Optometry Regulations.** The purpose of the proposed action is to respond to the requirement for biennial regulatory review in keeping with § 3.6 of the board's public participation guidelines. A public hearing will be held after publication of the proposed amendments or revisions to the board regulations.

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

Written comments may be submitted until October 6, 1993, to Carol Stamey, Board of Optometry, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

**Contact:** Elizabeth Carter, Ph.D., Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

VA.R. Doc. No. C93-2103; Filed August 18, 1993, 8:07 a.m.

## DEPARTMENT OF PERSONNEL AND TRAINING

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Personnel and Training intends to consider promulgating regulations entitled: **VR 525-01-1. Public Participation Guidelines.** The purpose of the proposed action is to establish guidelines for public participation in regulation development and promulgation. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

**Contact:** Gina Irby, Legislative Liaison, Department of Personnel and Training, James Monroe Bldg., 13th Floor, Richmond, VA 23219, telephone (804) 371-6212.

VA.R. Doc. No. C93-1993; Filed August 2, 1993, 11:09 a.m.



# Notices of Intended Regulatory Action

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## BOARD OF PROFESSIONAL COUNSELORS

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Professional Counselors intends to consider amending regulations entitled: **VR 560-01-03. Regulations Governing the Certification of Substance Abuse Counselors.** The purpose of the proposed action is to amend the examination fees and reduce renewal fees for certified substance abuse counselors. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Written comments may be submitted until October 20, 1993.

**Contact:** Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7328.

V.A.R. Doc. No. C93-2233; Filed August 31, 1993, 12:18 p.m.

## DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Professional and Occupational Regulation intends to consider repealing regulations entitled: **VR 190-00-01. Public Participation Guidelines.** The purpose of the proposed action is to notify the board's intent to repeal current public participation guidelines. The board welcomes comment on this notice of intended regulatory action. The board does not intend to hold a public hearing on the repeal of these regulations after publication.

Statutory Authority: § 54.1-310.5 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

**Contact:** Joyce K. Brown, Secretary to the Board, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8564.

V.A.R. Doc. No. C93-2107; Filed August 17, 1993, 11:51 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Professional and Occupational Regulation intends to consider promulgating regulations entitled: **VR 190-00-01. Public Participation Guidelines.** The purpose of the proposed action is to notify the board's intent to adopt public participation guidelines. The board welcomes

comment on this notice of intended regulatory action. The board does not intend to hold a public hearing on the proposed regulations after publication.

Statutory Authority: § 54.1-310.5 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

**Contact:** Joyce K. Brown, Secretary to the Board, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8564.

V.A.R. Doc. No. C93-2171; Filed August 17, 1993, 11:51 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Professional and Occupational Regulation intends to consider promulgating regulations entitled: **Employment Agencies Public Participation Guidelines.** The purpose of the proposed action is to promulgate regulations to replace emergency regulations. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1302 of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

**Contact:** Mark N. Courtney, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

V.A.R. Doc. No. C93-1988; Filed August 3, 1993, 11:52 a.m.

## REAL ESTATE APPRAISER BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Appraiser Board intends to consider repealing regulations entitled: **VR 583-01-01. Public Participation Guidelines.** The purpose of the proposed action is to repeal public participation guidelines in accordance with the Administrative Process Act prior to the expiration of the emergency public participation guidelines on June 30, 1994. The agency does not intend to hold a public hearing on the proposed repeal of the regulations after publication.

Statutory Authority: §§ 9-6.4:7.1 and 54.1-2013 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

**Contact:** Karen W. O'Neal, Assistant Director, Real Estate

# Notices of Intended Regulatory Action

Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039.

VA.R. Doc. No. C93-2036; Filed August 4, 1993, 12:01 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Appraiser Board intends to consider promulgating regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to promulgate public participation guidelines in accordance with the Administrative Process Act prior to the expiration of the emergency public participation guidelines on June 30, 1994. The agency does not intend to hold a public hearing on the proposed regulations after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-2013 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

**Contact:** Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039.

VA.R. Doc. No. C93-2032; Filed August 4, 1993, 12 noon

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Appraiser Board intends to consider amending regulations entitled: **VR 583-01-03. Real Estate Appraiser Board Rules and Regulations**. The purpose of the proposed action is to undertake a review and seek public comment for the purpose of amending regulations as necessary to regulate the practice of real estate appraisal. The agency will hold a public hearing on the proposed regulations after publication. Date, time and location to be announced.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Written comments may be submitted until September 23, 1993.

**Contact:** Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039.

VA.R. Doc. No. C93-2034; Filed August 4, 1993, 12:01 p.m.

## REAL ESTATE BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Real Estate Board intends to consider amending regulations entitled: **Real**

**Estate Board Regulations, Real Estate License Laws, Fair Housing Laws**. The purpose of the proposed action is to propose to undertake a review and seek public comments on all its regulations for promulgation, amendment and repeal as is deemed necessary in its mission to regulate Virginia real estate licensees. A public hearing will be held on the proposed action after publication.

Statutory Authority: §§ 54.1-200 and 54.1-2105 of the Code of Virginia.

Written comments may be submitted until November 1, 1993.

**Contact:** Joan L. White, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552.

VA.R. Doc. No. C93-2093; Filed August 16, 1993, 12:18 p.m.

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

### Withdrawal of Notice of Intended Regulatory Action

The Board of Social Services has **withdrawn** the Notice of Intended Regulatory Action for the regulation entitled "Child Day Care Policy" published in VA.R. 6:8 1209 January 15, 1990. The department is in the process of issuing a new Notice of Intended Regulatory Action to issue proposed regulations.

VA.R. Doc. C93-2097; Filed August 16, 1993, 12:10 p.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **VR 615-53-01.2. Child Day Care Services**. The purpose of the proposed action is to assure that children receiving child day care services purchased by the Department of Social Services will receive basic health and safety protections. The agency does not intend to hold a public hearing on the proposed regulations after publication.

Statutory Authority: §§ 63.1-25 and 63.1-55; PL 100-485, PL 101-508; PL 100-435 of the Code of Virginia.

Written comments may be submitted until October 6, 1993, to Paula S. Mercer, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849.

**Contact:** Margaret J. Friedenbergh, Legislative Analyst, Governmental Affairs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

VA.R. Doc. No. C93-2096; Filed August 9, 1993, 4:39 p.m.

### Notice of Intended Regulatory Action

# Notices of Intended Regulatory Action

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Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **Auxiliary Grants Program: Levels of Care and Rate Setting**. The purpose of the proposed action is to establish two levels of care in licensed adult care residences for which payment can be made from the Auxiliary Grants Program, and to establish the method for calculating rates of payment for adult care residences. The agency does not intend to hold a public hearing on the proposed regulations after publication. The State Board of Social Services will consider public comments on the proposed regulation at its next regularly scheduled meeting.

Statutory Authority: § 63.1-25.1 the Code of Virginia.

Written comments may be submitted until October 6, 1993, to Jeanine LaBrenz, Program Manager, Medical Assistance Unit, Department of Social Services, 730 East Broad Street, 7th Floor, Richmond, Virginia 23219-1849.

**Contact:** Margaret J. Friedenberg, Legislative Analyst, Governmental Affairs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

V.A.R. Doc. No. C93-2094; Filed August 16, 1993, 12:07 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **Regulations for Case Management for Applicants and Residents of Adult Care Residences**. The purpose of the proposed action is to promulgate regulations pertaining to the assessment and reassessment of applicants and residents of licensed adult care facilities to determine appropriateness of placement including appropriateness of residential care or assistance living. The agency does not intend to hold a public hearing on the proposed regulations after publication. The State Board of Social Services will consider public comments on the proposed regulation at its next regularly scheduled meeting.

Statutory Authority: §§ 63.1-25.1 and 63.1-173.3 of the Code of Virginia.

Written comments may be submitted until October 6, 1993, to Helen B. Leonard, Adult Services Program Manager, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849.

**Contact:** Margaret J. Friedenberg, Legislative Analyst, Governmental Affairs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

V.A.R. Doc. No. C93-2108; Filed August 17, 1993, 2:45 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

public participation guidelines that the State Board of Social Services intends to consider amending regulations entitled: **Standards and Regulations for Licensed Adult Care Residences**. The purpose of the proposed action is to promulgate regulations pertaining to the care and supervision of individuals residing in licensed adult care residences. The proposed regulation will provide for two levels of licensure: residential living and assisted living. The agency does not intend to hold a public hearing on the proposed regulations after publication. The State Board of Social Services will consider public comments on the proposed regulation at its next regularly scheduled meeting.

Statutory Authority: §§ 63.1-25 and 63.174 of the Code of Virginia.

Written comments may be submitted until October 6, 1993, to Cheryl W. Worrell, Program Development Supervisor, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849.

**Contact:** Margaret J. Friedenberg, Legislative Analyst, Governmental Affairs, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1820.

V.A.R. Doc. No. C93-2095; Filed August 16, 1993, 12:07 p.m.

## BOARD OF SOCIAL WORK

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Work intends to consider amending regulations entitled: **VR 626-01-2. Regulations Governing the Practice of Social Work**. The purpose of the proposed action is to amend the requirement that supervised experience be completed and documented 90 days prior to examination and to amend the standards of practice. The agency intends to hold a public hearing on the proposed regulations after publication.

Statutory Authority: § 54.1-2400.6 of the Code of Virginia.

Written comments may be submitted until October 6, 1993.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9914.

V.A.R. Doc. No. C93-2092; Filed August 16, 1993, 4:35 p.m.

## SOIL AND WATER CONSERVATION BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Soil and Water Conservation Board intends to consider amending

## Notices of Intended Regulatory Action

regulations entitled: **VR 625-02-00. Erosion and Sediment Control Regulations.** The purpose of the proposed action is to amend the existing erosion and sediment control regulations for compliance with the changes to the Erosion and Sediment Control Law made by Chapter 925 of the 1993 Virginia Acts of Assembly which became effective on July 1, 1993.

**Basis and Statutory Authority:** The basis for this action is Article 4 (§ 10.1-560 et seq.) Chapter 5 of Title 10.1 of the Code of Virginia which establishes the authority for these regulations. Applicable laws and regulations include the Erosion and Sediment Control Law, Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia; VR 625-02-00. Erosion and Sediment Control Regulations; all other Acts of Assembly and the Code of Virginia references conferring powers, duties, and responsibilities on the board.

**Need:** This proposed regulatory action is necessary to form the basis for the administration, implementation, and enforcement of the Virginia Erosion and Sediment Control Law (Act) for compliance with the changes to the Act enacted by the 1993 General Assembly.

**Substance:** The intent of these regulations is to provide a framework for compliance with the Act while at the same time providing flexibility for innovative solutions to erosion and sediment control practices. These regulations set forth minimum standards for the effective control of soil erosion, sediment deposition and nonagricultural runoff that are required to be met in erosion and sediment control programs adopted by districts and localities under the Act.

**Estimated Impact:** There are anticipated impacts on regulated entities and the public since the proposed amendments impose new requirements. Regulated entities and the public should benefit from the proposed amendments in that the regulations will comply with amendments to the Act.

**Alternatives:** There is no alternative to taking action to amend the erosion and sediment control regulations. Chapter 925 amendments to the Erosion and Sediment Control Law require the board to amend the regulations and adopt procedures which comply with the Act.

**Public Comments:** The board seeks oral and written comments from interested persons on the intended action to include recommendations on the regulations and costs and benefits of any alternatives. To be considered, written comments should be directed to Mr. Leon E. App at the address below and must be received by 4 p.m. on Friday, October 1, 1993.

The director has decided to form an ad-hoc advisory committee to assist the department in the development of amendments to the regulations. In addition the department's staff will hold a public meeting at 7 p.m. on Tuesday, September 28, 1993, in the General Assembly

Building, House Room D, (1st floor) Capitol Square, Richmond, Virginia 23219 to receive views and comments and to answer questions of the public.

**Accessibility to Persons with Disabilities:** The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Leon E. App at the address below or telephone at (804) 786-4570 or TDD (804) 786-2121. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, September 13, 1993.

**Intent To Hold an Informational Proceeding or Public Hearings:** The board intends to hold informational proceedings (informal hearings) on the proposed amendments to the regulations after the amended regulation is published in the Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the regulations after the amended regulation is published in the Register of Regulations.

**Statutory Authority:** Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on October 1, 1993.

**Contact:** Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570.

V.A.R. Doc. No. C93-1986; Filed August 3, 1993, 10:50 a.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Soil and Water Conservation Board intends to consider promulgating regulations entitled: **VR 625-02-01. Erosion and Sediment Control Certification Regulations.** The purpose of the proposed action is to adopt certification regulations for the board for compliance with the changes to the Erosion and Sediment Control Law made by Chapter 925 of the 1993 Virginia Acts of Assembly which became effective on July 1, 1993.

**Basis and Statutory Authority:** The basis for this action is Article 4 (§ 10.1-560 et seq.) Chapter 5 of Title 10.1 of the Code of Virginia which establishes the authority for these regulations. Applicable laws and regulations include the Erosion and Sediment Control Law, Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia; VR 625-02-00, Erosion and Sediment Control Regulations; all other Acts of Assembly and the Code of Virginia references conferring powers, duties, and responsibilities on the board.

**Need:** This proposed regulatory action is necessary to form the basis for the administration, implementation, and

# Notices of Intended Regulatory Action

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enforcement of the issuance of certificates of competence for the compliance with the Virginia Erosion and Sediment Control Law (Act) changes enacted by the 1993 General Assembly.

**Substance:** These regulations are applicable to every program authority that administers an erosion and sediment control program under the Virginia Erosion and Sediment Control Law and Regulations. The proposed regulations establish the general requirements and minimum standards for certificates of competence issued by the board for the following classifications: program administrator, plan reviewer, and project inspector. The Department of Conservation and Recreation (Department) in administering education and training programs for specified subject areas of the Act is authorized under § 10.1-561 E to charge reasonable fees to persons attending such programs to cover the costs of administering the programs.

**Estimated Impact:** There are anticipated impacts on regulated entities and the public since the proposed amendments impose new requirements. Regulated entities and the public should benefit from the proposed amendments in that the regulations will comply with amendments to the Act.

**Alternatives:** There is no alternative to taking action to amend the erosion and sediment control regulations. Chapter 925 amendments to the Act require the board to promulgate the certification regulations which comply with the Act.

**Public Comments:** The board seeks oral and written comments from interested persons on the intended action to include recommendations on the regulations and costs and benefits of any alternatives. To be considered, written comments should be directed to Mr. Leon E. App at the address below and must be received by 4 p.m. on Friday, October 1, 1993.

The director has decided to form an ad-hoc advisory committee to assist the department in the development of amendments to the regulations. In addition the department's staff will hold a public meeting at 7 p.m. on Tuesday, September 28, 1993, in the General Assembly Building, House Room D, (1st floor) Capitol Square, Richmond, Virginia 23219 to receive views and comments and to answer questions of the public.

**Accessibility to Persons with Disabilities:** The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Leon E. App at the address below or telephone at (804) 786-4570 or TDD (804) 786-2121. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, September 13, 1993.

**Intent To Hold an Informational Proceeding or Public Hearings:** The board intends to hold informational

proceedings (informal hearings) on the proposed amendments to the regulations after the amended regulation is published in the Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed amendments to the regulations after the amended regulation is published in the Register of Regulations.

**Statutory Authority:** Article 4 (§ 10.1-560 et seq.) Chapter 5 of Title 10.1 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on October 1, 1993.

**Contact:** Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570.

VA.R. Doc. No. C93-1987; Filed August 3, 1993, 10:50 a.m.

## 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 385-01-5. Hazardous Materials Transportation Rules and Regulations at Bridge-Tunnel Facilities.** The purpose of the proposed action is to revise the format of the manual to bring it into conformity with federal regulations concerning hazardous materials transportation. The department will hold a public hearing on the proposed amendments after publication.

**Statutory Authority:** §§ 33.1-12 and 33.1-49 of the Code of Virginia.

Written comments may be submitted until September 22, 1993.

**Contact:** Ken Harris, Emergency Operations Manager, Maintenance Division, Emergency Operations Center, Old Highway Bldg., 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2848.

VA.R. Doc. No. C93-2016; Filed August 4, 1993, 10:36 a.m.

## DEPARTMENT OF THE TREASURY (TREASURY BOARD)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of the Treasury and the Treasury Board intend to consider amending regulations entitled: **VR 640-01-1. Public Participation Guidelines for the Department of the Treasury and Treasury Board (formerly VR 640-01).** The

# Notices of Intended Regulatory Action

purpose of the proposed action is to solicit and promote the participation of all interested parties in the development, formulation and adoption of such regulations as the department and Treasury Board may promulgate under the authority established by state law. Interested parties should contact the department in writing of their desire to take part in the development of these guidelines. The agency does not intend to hold a public hearing on the amendment of the regulations after publication.

Statutory Authority: §§ 9-6.14:7.1, 2.1-177 and 2.1-179(9) of the Code of Virginia.

Written comments may be submitted until September 24, 1993.

Contact: Robert S. Young, Director of Financial Policy, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215-1879, telephone (804) 225-3131.

V.A.R. Doc. No. C93-2017; Filed August 4, 1993, 11:22 a.m.

## 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 entitled: **VR 672-10-1. Hazardous Waste Management Regulations - Amendment 14.** The purpose is to amend those regulations that establish standards and procedures pertaining to hazardous waste management in the Commonwealth as may be necessary to carry out its powers and duties required by the Act and consistent with the federal statutes and regulations.

Basis and Statutory Authority: The basis for this regulation is the Virginia Waste Management Act as set out in Chapter 14 (§ 10.1-1402(11)) of Title 10.1 of the Code of Virginia.

Need: It is necessary to continue the effective monitoring of the generation, transportation, treatment, storage, and disposal of hazardous waste in the Commonwealth. By regulating these activities the Commonwealth protects public health, natural resources and the environment. By maintaining the equivalence of its regulations with those issued by the United States Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act of 1976 (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA), the Commonwealth remains eligible to carry out its own hazardous waste management program instead of the federal program.

Substance and Purpose: The purpose is to amend those regulations that establish standards and procedures pertaining to hazardous waste management in the Commonwealth in order to protect the public health and

public safety, and to enhance the environment and natural resources. The proposed amendments to the regulation will reflect amendments to the EPA regulations adopted between July 1, 1991 and September 30, 1993 maintaining the equivalence of board regulations. Notably, the amendment will incorporate changes in regulation of used oil allowing use of the amended federal standards.

Estimated Impact: There are more than 3,000 generator, treatment, storage, incinerator and disposal facilities and more than 200 transporters managing hazardous waste in the state. The proposed amendments will allow used oil dealers to receive used oil for recycling without the full application of the regulations if the proposed amendment is adopted. The amendment allows more consistent program implementation between the state and EPA and avoids the application of conflicting regulations.

Alternatives: The EPA authorization for the hazardous waste program requires the periodic updating of regulations to reflect consistency with EPA regulations. Grant commitments include periodic amendments to achieve consistency between the federal and state regulations. Because of EPA changes in waste oil regulations, failure to amend would result in a more stringent regulation with fewer options. The alternative of no action would cause the regulated community to be subject to both federal and state regulations except in those areas where the state received authorization in 1984. Full authorization would not be possible. Therefore, the most appropriate alternative is the proposed amendment.

Public Comments: The Department of Environmental Quality will hold a public meeting to consider public comment on the proposed regulatory action. The Department requests that the public submit comments, at the meeting or by letter, on the correctness of the regulatory action, any ideas or advice the agency should consider in formation and drafting of the proposed amendments to the regulations, and the costs and benefits of the proposed regulation amendment. The Department intends to use an ad hoc advisory committee to assist in revising the proposed regulations. Persons interested in being on the "Interested Persons Mailing List" should provide name, address and specific areas of interest.

The department intends to hold at least one informational proceeding (informal hearing) after the proposed regulations are published. The Department does not intend to hold a public hearing (evidentiary hearing). On October 6, 1993, at 10:00 AM the Department will hold a public meeting to discuss proposed amendments and to hear public comment on the proposed amendment, VR 672-10-1, Virginia Hazardous Waste Management Regulations. The meeting will be held in the Main Board Room, at the department's Innsbrook office, 4900 Cox Road, Glen Allen, Virginia. Written comments will be received until October 15, 1993, at 5 p.m. Please submit comments to Mr. William F. Gilley, Department of Environmental Quality, Eleventh Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia 23219.

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**Accessibility to Persons with Disabilities:** The meetings are being held at a public facility believed to be accessible to persons with disabilities. Any person with question on the accessibility to the facility should contact Mr. William F. Gilley at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than September 15, 1993.

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

Written comments may be submitted until October 15, 1993.

**Contact:** William F. Gilley, Regulatory Service Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966.

VA.R. Doc. No. C93-2104; Filed August 18, 1993, 8:32 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider promulgating regulations entitled: **VR 672-20-20. Regulations Governing Management of Coal Combustion Byproduct.** The purpose is to adopt regulations that establish standards and procedures pertaining to management, use and disposal of coal combustion byproducts or residues in the Commonwealth.

**Basis and Statutory Authority:** The basis for this regulation is the Virginia Waste Management Act as set out in Chapter 14 (§§ 10.1-1402(11) and 10.1-1408.1.) of Title 10.1 of the Code of Virginia.

**Need:** Coal combustion byproducts are presently regulated as a solid waste under solid waste management regulations with specific requirements for storage and disposal. Coal combustion byproducts have properties that would allow use under certain circumstances for which the present regulations do not adequately address. Volume of waste residuals produced demand management to protect public health, natural resources and the environment. Use and reuse needs to become a more definitive alternative management approach for which the board is considering the adoption of such regulations.

**Substance and Purpose:** The purpose of these regulations is to establish standards and procedures pertaining to use, storage and disposal of coal combustion byproducts in the Commonwealth in order to protect the public health and public safety, and to enhance the environment and natural resources as well as to promote use and reuse. The proposed regulation will provide the appropriate management alternatives available which meet the requirements for protection of public health, environment and natural resources.

**Estimated Impact:** There are two major utility companies, other utilities and manufacturing facilities and

cogeneration facilities producing large quantities coal combustion residuals demanding more alternative approaches to proper management. A number of utilities are demanding that coal companies take back combustion residues as a part of sales contract. Establishment of environmentally sound management techniques and standards are essential to proper, consistent management practices.

**Alternatives:** The alternatives considered have been the development of the regulation as proposed, the amendment of solid waste regulations to incorporate alternative standards, or continued regulation as a solid waste under the present regulations. Amending the present solid waste regulation would be more time consuming and complex as coal combustion byproducts would be one of numerous areas requiring amendment. This could occur when it becomes necessary to amend the solid waste management regulations to incorporate changes in the federal Subtitle D Criteria promulgated by EPA under the Resource Conservation and Recovery Act. Continued use of the solid waste regulations does not allow for appropriate alternatives and would be more staff intensive in effort for each specific case. Adopting the proposed regulation would be a direct approach to providing appropriate alternatives in a minimal time period and be less staff intensive during the implementation. Therefore, the most appropriate alternative is the proposed regulation.

**Public Comments:** The Department of Environmental Quality will hold a public meeting to consider public comment on the proposed regulatory action. The department requests that the public submit comments, at the meeting or by letter, on the correctness of the regulatory action, any ideas or advice the agency should consider in formation and drafting of the proposed amendments to the regulations, and the costs and benefits of the proposed regulation amendment. The department intends to use an ad hoc advisory committee to assist in revising the proposed regulations. Persons interested in being on the "Interested Persons Mailing List" should provide name, address and specific areas of interest.

The department intends to hold at least one informational proceeding (informal hearing) after the proposed regulations are published. The department does not intend to hold a public hearing (evidentiary hearing). On October 6, 1993, at 2 p.m., the department will hold a public meeting to discuss proposed regulation. The meeting will be held in the Main Board Room, at the department's Innsbrook office, 4900 Cox Road, Glen Allen, Virginia. Written comments will be received until October 15, 1993, at 5 p.m. Please submit comments to Dr. W. Gulevich, Department of Environmental Quality, Eleventh Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia 23219.

**Accessibility to Persons with Disabilities:** The meetings are being held at a public facility believed to be accessible to persons with disabilities. Any person with question on the accessibility to the facility should contact Mr. William F.

# Notices of Intended Regulatory Action

Gilley at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than September 15, 1993.

Statutory Authority: §§ 10.1-1402(11) and 10.1-1408.1 of the Code of Virginia.

Written comments may be submitted until October 15, 1993, to Dr. W. Gulevich, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, Virginia 23219.

**Contact:** William F. Gilley, Regulatory Service Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966.

VA.R. Doc. No. C93-2105; Filed August 18, 1993, 8:30 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider promulgating regulations entitled: **VR 672-20-30. Regulations Governing Management of Vegetative Waste.** The purpose is to adopt regulations governing management of vegetative waste that establish standards and procedures pertaining to management, use and disposal of vegetative waste to encourage the development of facilities for the decomposition of vegetative waste.

**Basis and Statutory Authority:** The basis for this regulation is the Virginia Waste Management Act as set out in Chapter 14 (§§ 10.1-1402(11) and 10.1-1408.1.L.) of Title 10.1 of the Code of Virginia.

**Need:** Vegetative wastes are presently regulated as a solid waste under solid waste management regulations with specific requirements. The board is required to provide for reasonable exemptions from the permitting requirements, both procedural and substantive, in order to encourage the development of facilities for the decomposition of vegetative waste. It is necessary to develop this regulation to carry out the requirements of § 10.1-1408.1.L. of the Code.

**Substance and Purpose:** The purpose of these regulations is to establish standards and procedures pertaining to use, storage and disposal of vegetative waste. The proposed regulation will provide the appropriate management alternatives available which meet the requirements for protection of public health, environment and natural resources. The regulations will provide for reasonable exemptions from the permitting requirements, both procedural and substantive, in order to encourage the development of facilities for the decomposition of vegetative waste. The regulations will address an expedited approval process. The purpose is to encourage the development of facilities for the decomposition of vegetative waste.

**Estimated Impact:** There are 135 sanitary landfills and 52 Construction/Demolition/Debris landfills presently permitted for operation in the state with new permit applications pending. They handle or propose to handle varying quantities and types of vegetative wastes. Adoption of proposed regulations would simplify the present handling of the material and affect the processing of new permits. Establishment of environmentally sound management techniques and standards are essential to proper, consistent management practices.

**Alternatives:** The General Assembly in amending the Code of Virginia mandated the development of procedures to encourage the development of facilities for decomposition of vegetative wastes. The alternatives considered have been the development of the regulation as proposed or the amendment of solid waste regulations to incorporate alternative standards. Amending the present solid waste regulation would be more time consuming and delay the development of appropriate standards and alternatives. Developing a specific regulation for vegetative waste focuses the regulatory effort more efficiently and simplifies public participation.

**Public Comments:** The Department of Environmental Quality will hold a public meeting to consider public comment on the proposed regulatory action. The department requests that the public submit comments, at the meeting or by letter, on the correctness of the regulatory action, any ideas or advice the agency should consider in formation and drafting of the proposed amendments to the regulations, and the costs and benefits of the proposed regulation amendment. The department intends to use an ad hoc advisory committee to assist in revising the proposed regulations. Persons interested in being on the "Interested Persons Mailing List" should provide name, address and specific areas of interest.

The department intends to hold at least one informational proceeding (informal hearing) after the proposed regulations are published. The department does not intend to hold a public hearing (evidentiary hearing). On October 7, 1993, at 10 a.m., the department will hold a public meeting to discuss the proposal and to hear public comment on the proposed regulation. The meeting will be held in the Conference Room C, 1st Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia. Written comments will be received until October 20, 1993, at 5 p.m. Please submit comments to Mr. William F. Gilley, Department of Environmental Quality, Eleventh Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia 23219.

**Accessibility to Persons with Disabilities:** The meetings are being held at a public facility believed to be accessible to persons with disabilities. Any person with question on the accessibility to the facility should contact Mr. William F. Gilley at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than September 15, 1993.



# Notices of Intended Regulatory Action

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

Written comments may be submitted until October 20, 1993.

**Contact:** William F. Gilley, Regulatory Service Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966.

VA.R. Doc. No. C93-2172; Filed August 18, 1993, 8:31 a.m.

## 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 672-30-1. Regulations Governing the Transportation of Hazardous Materials - Amendment 12.** The purpose is to amend the hazardous materials transportation regulations to incorporate U.S. DOT and U.S. NRC amendments in federal regulations for the period from June 2, 1992 through July 1, 1993. The proposed Amendment 12 to these regulations incorporates changes to U.S. Department of Transportation ("DOT") and U.S. Nuclear Regulatory Commission ("NRC") regulations on hazardous materials transportation and motor carrier safety. The new provisions promulgated by DOT and NRC from June 2, 1992, through July 1, 1993, necessitate that changes be made to the existing state regulations. The proposed changes maintain consistency with the federal regulations.

**Basis and Statutory Authority:** The bases for this regulation are the Virginia Waste Management Act, § 10.1-1400 et seq. of the Code of Virginia and § 44-146.30 of the Code of Virginia addressing the Transportation of Hazardous Radioactive Materials. Changes in federal regulations promulgated from June 2, 1992, through July 1, 1993, necessitate this amendment to preclude conflicts between Virginia regulations and the federal regulations.

**Need:** The issuance of this Notice of Intended Regulatory Action is necessary to incorporate changes to federal regulations and to incorporate the transportation of hazardous radioactive materials into the transportation of hazardous materials regulation.

**Substance and Purpose:** The Virginia Waste Management Board is promulgating these amended regulations to ensure that hazardous materials transported within the Commonwealth are loaded, packed, identified, marked, and placarded in order to protect public health, safety, and the environment. The amendments will also incorporate requirements contained in § 44-146.30 that the Coordinator of the Department of Emergency Services will maintain a registry of shippers of hazardous radioactive materials and monitor the transportation of hazardous radioactive materials within the Commonwealth.

**Estimated Impact:** The information that the board intends to incorporate has already been through the federal

rulemaking process and is already in force for the interstate and, in some cases, intrastate transportation of hazardous materials. For this reason, this amendment is not expected to have a significant impact on the regulated community.

**Alternatives:** This amendment is necessary to incorporate changes to federal DOT and NRC regulations. There is no alternative to the proposed amendment due to the need to maintain consistency with federal regulations.

**Public Comments:** The Department of Environmental Quality will hold a public meeting to consider public comment on the proposed regulatory action. The Department requests that the public submit comments, at the meeting or by letter, on the correctness of the regulatory action, any ideas or advice the agency should consider in formation and drafting of the amendments to the regulation, and the costs and benefits of the proposed amendments. The department intends to use an ad hoc advisory committee to assist in amending the regulation. Persons interested in being on the "Interested Persons Mailing List" should provide name, address and specific areas of interest to the contact person listed below.

The department intends to hold at least one informational proceeding (informal hearing) after the proposed regulations are published. The department does not intend to hold a public hearing (evidentiary hearing). The department will hold a public meeting to discuss this Notice of Intended Regulatory Action at 10 a.m. on October 7, 1993, 10th Floor Conference Room, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia. Written comments will be received until October 18, 1993, at 5 p.m. Please submit comments to Mr. C. Ronald Smith, Department of Environmental Quality, 11th Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia 23219.

**Accessibility to Persons with Disabilities:** The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility to the facility should contact Mr. William F. Gilley at (804) 225-2966 or TDD (804) 371-8737. Persons needing interpreter services for the deaf must notify Mr. Gilley no later than September 13, 1993.

**Statutory Authority:** §§ 10.1-1402(11), 10.1-1450, and 44-146.30 of the Code of Virginia.

Written comments may be submitted until October 15, 1993, to C. Ronald Smith, Department of Environmental Quality, Monroe Building, 101 North 14th Street, 11th Floor, Richmond, Virginia 23219.

**Contact:** William F. Gilley, Regulatory Service Manager, Department of Environmental Quality, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966.

VA.R. Doc. No. C93-2106; Filed August 18, 1993, 8:29 a.m.

# Notices of Intended Regulatory Action

## STATE WATER CONTROL BOARD

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-13-07. Ground Water Withdrawal Regulation.** The purpose of the proposed action is to establish regulatory guidelines for agricultural ground water withdrawals as required by the Ground Water Management Act of 1992.

**Basis and Statutory Authority:** Section 62.1-256.1 of the Ground Water Management Act of 1992 requires that the board issue ground water withdrawal permits in accordance with adopted regulations. Section 62.1-256.8 of the Act authorizes the board to adopt regulations necessary to administer and enforce the Act. Section 62.1-260 E of the Act requires that all persons withdrawing ground water in excess of 300,000 gallons per month for agricultural or livestock watering purposes in the Eastern Virginia or Eastern Shore Ground Water Management Areas apply for and obtain a ground water withdrawal permit. Section 62.1-258 of the Act requires that any person who proposes a new withdrawal of ground water in excess of 300,000 gallons per month in any ground water management area for agricultural or livestock watering purposes obtain a ground water withdrawal permit.

**Need:** The Ground Water Management Act of 1992 requires that persons who withdraw more than 300,000 gallons per month for agricultural or livestock watering purposes obtain a ground water withdrawal permit. The Act further requires that the board issue ground water withdrawal permits in accordance with adopted ground water withdrawal regulations. The current Ground Water Withdrawal Regulations must be amended to incorporate application requirements and permit issuance criteria for agricultural ground water withdrawal permits.

**Substance and Purpose:** This proposed regulatory amendment will establish regulatory guidelines for agricultural ground water withdrawals as required by the Ground Water Management Act of 1992. Agricultural ground water withdrawals were previously exempted from regulation in the Ground Water Act of 1973.

The purpose of this proposed amendment is to establish regulatory controls on agricultural users of more than 300,000 gallons of ground water per month in order to protect the public welfare, safety and health from the negative impacts of over utilization of the ground water resource. Application requirements, permit issuance criteria, and withdrawal monitoring requirements for agricultural ground water withdrawals will be included in the existing regulation.

**Estimated Impact:** Amendments to the Ground Water Withdrawal Regulation will impact 23 known agricultural ground water users who have voluntarily reported their ground water withdrawals in the past. An unknown

additional number of existing agricultural ground water users in the Eastern Virginia and Eastern Shore Ground Water Management Areas will also be impacted. It is anticipated that a maximum of 16 hours will be required to gather necessary information and complete an application for an existing agricultural ground water user. There may be additional costs associated with an agricultural ground water withdrawal permit for withdrawal monitoring and reporting. The range of these costs will be dependent on regulatory requirements. The costs associated with an application for a new agricultural ground water withdrawal will be determined by the information requirements to support such an application that are included in the proposed amendment to the regulation.

**Alternatives:** The Ground Water Management Act of 1992 requires that agricultural ground water withdrawals in excess of 300,000 gallons per day within ground water management areas be permitted. The Act further requires that the board issue all permits in accordance with adopted regulations. No alternative, other than amending the Ground Water Withdrawal Regulation, is considered appropriate.

**Public Comments:** The board seeks written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternative or other alternatives. In addition, the board will hold two public meetings to receive views and comments on amendments to the Ground Water Withdrawal Regulation to include agricultural withdrawals. The meetings will be held on October 25, 1993, 7:30 p.m. at the Eastern Shore Community College, Lecture Hall, 29300 Lankford Highway, Melfa, VA 23410 and October 26, 1993, 2 p.m. at the James City County Board of Supervisors Room, Building C, 101 C Mounts Bay Road, Williamsburg, VA 23185. A question and answer session on the proposed action will be held one-half hour prior to the beginning of both of these meetings.

**Intent to Hold an Informational Proceeding or Public Hearing:** The board intends to hold at least one informational proceeding (informal hearing) on this proposed amendment after it is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a formal evidential hearing on this proposed amendment after it is published in the Register of Regulations.

**Accessibility to Persons with Disabilities:** The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Doneva A. Dalton at the address listed below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Mrs. Dalton no later than October 13, 1993.

**Advisory Committee/Group:** An advisory group was

# Notices of Intended Regulatory Action

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convened during the late spring of 1993 to provide input to the agency regarding the proposed amendment to the regulation. The advisory group is composed of representatives from state and federal agencies with knowledge of agricultural water use, the academic community, agricultural interest groups, independent agricultural producers, and regional ground water protection groups. The advisory group is currently finalizing its position on topics to be included in the proposed regulatory amendment.

Statutory Authority: §§ 62.1-256.1, 62.1-256.8, 62.1-260 E and 62.1-258 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on November 5, 1993, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Terry D. Wagner, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5203.

V.A.R. Doc. No. C93-2232; Filed August 31, 1993, 3:27 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 630-15-07. General Virginia Water Protection Permit Regulations for Minor Road Crossings, Associated Fills and Channel Modifications.** The purpose of the proposed action is to establish standard conditions for accomplishing the construction of minor road crossings with their associated fills and stream crossings. Provisions will be included to address the protection of state waters and endangered species.

Basis and Statutory Authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15:5 authorizes the board to issue Virginia Water Protection Permits (VWPP) for activities which require a Water Quality Certification under Section 401 of the Clean Water Act. Section 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes, § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations, and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the

wastes from a discharge on the quality of state waters.

Section 401 of the Clean Water Act (Act) (33 USC 1251 et seq.) requires that any applicant for a federal license or permit to conduct any activity, including but not limited to, the construction and operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the state in which the discharge originates or will originate, that any such discharge will comply with the applicable provisions of Sections 301, 302, 303, 306 and 307 of the Act. No license or permit will be granted until such a certification has been obtained or has been waived by the State. In cases where the request for certification has been denied by the state, no federal permit or license will be granted.

Need: Most road crossing construction involves the discharge of fill materials for road approaches to bridges, instream support piers, footings, box and pipe culvert placement, as well as excavation, channelization and other instream modifications for proper alignment and placement of the structure to be utilized for crossing state waters, including wetlands. Any such activity is considered a discharge under the Clean Water Act and State Water Control Law, and is therefore subject to regulation through the VWPP permit program.

Substance and Purpose: The intent of this general permit regulation is to establish standard conditions for accomplishing the construction of minor road crossings with their associated fills and stream channel modifications. Minor Road Crossings are defined as impacting 100 linear feet or less of surface waters and/or one third acre or less of wetlands. Provisions will be included to address the protection of state waters and endangered species. Language will also be included which requires that the least impacting structure be utilized in all waters.

Monitoring and reporting requirements will be established based upon the water quality degradation potential of the road crossing construction, finished structure, and any mitigation necessary as part of the project for which this general permit is issued. The reporting provisions will assist in evaluating the effectiveness of the steps taken to reduce impacts to state waters, the success of any mitigation necessary, provide information to identify water quality impacts and support future permitting activities.

Estimated Impact: Adoption of this regulation will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general VWP permits would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VWPP permitting system. The staff estimates that there are approximately 500 projects within this category of discharges that may be covered by VWP permits.

# Notices of Intended Regulatory Action

The board recognizes the need for general VWP permits to ease the burden on the regulated community and to facilitate the issuance of timely permits while maintaining water quality protection of state waters. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

**Alternatives:** There are two alternatives to comply with the requirements to permit minor road crossings. One is to issue an individual VWPP permit for each of the estimated 500 minor road crossings. The other is to adopt a general VWPP permit to cover this category of discharger.

**Public Comments:** The board seeks oral and written comments from interested persons on the intended regulatory action, on the costs and benefits of the stated alternatives, or other alternatives.

In addition, the board will hold public meetings to receive views and comments and to answer questions of the public on the following dates: Monday, September 27, 1993, in the Norfolk City Council Chambers, City Hall Building, 11th Floor, 810 Union Street, Norfolk at 7 p.m.; Tuesday, September 28, 1993, in the Board Room at the Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen at 7 p.m.; Wednesday, September 29, 1993, in the Board Chambers, McCourt Building, Prince William County Administration Center, 1 County Complex, 4859 Davis Ford Rd., Prince William at 2 p.m.; and, Thursday, September 30, 1993, in the Community Room, Roanoke County Administration Center, 3738 Brambleton Ave., S. W., Roanoke at 2 p.m..

**Accessibility to Persons with Disabilities:** The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Donnie Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than 4 p.m., Friday, September 17, 1993.

**Advisory Committee/Group:** The board seeks comments on whether the agency should form an ad hoc advisory group, use a standing advisory committee or consult with groups or individuals to assist in the drafting and formation of the proposal. In addition the board seeks the names of individuals who would be interested in serving on an ad hoc advisory group.

**Intent to Hold an Informational Proceeding or Public Hearing:** The board intends to hold an informational proceeding (informal hearing) on the proposed regulation after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed

regulation after the proposal is published in the Register of Regulations.

**Statutory Authority:** § 62.1-44.2 et seq. of the Code of Virginia.

Written comments may be submitted until 4 p.m. on October 5, 1993, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

**Contact:** Martin Ferguson, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5030.

V.A.R. Doc. No. C93-2002; Filed August 3, 1993, 3:41 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-16-02. Roanoke River Basin Water Quality Management Plan.** The purpose of the proposed action is to amend the Roanoke River Basin Water Quality Management Plan by deleting the references to the Smith-Dan River subarea.

**Basis and Statutory Authority:** Section 62.1-44.15(13) of the Code of Virginia authorizes the board to establish policies and programs for effective area-wide or basin-wide water quality control and management. Section 62.1-44.15(10) of the Code of Virginia authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth.

Title 40, Parts 35 and 130, of the Code of Federal Regulations requires states to develop a continuing planning process of which water quality management plans (WQMP) are a part. No VPDES permit may be issued which is in conflict with an approved WQMP.

**Need:** The Roanoke River Basin WQMP was adopted by the board in 1976. Since that time the Smith-Dan subarea has grown in population and developed unique problems associated with population growth and development not seen in the other areas covered by the Roanoke River Basin WQMP. Furthermore, the information on the Smith-Dan River Subarea portion of that plan has not been updated to reflect current data, scientific studies; and, new or revised legislation, procedures, policy, and regulations. By preparing a separate WQMP, the board will be better able to focus on the important issues facing the Smith-Dan River Subarea.

**Substance and Purpose:** Water quality management plans set forth measures for the State Water Control Board to implement in order to reach and maintain water quality goals. The purpose of this proposal is to amend the existing Roanoke River Basin WQMP by deleting

# Notices of Intended Regulatory Action

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references for those areas to be covered by the new Smith-Dan Subarea WQMP (VR 680-16-02.2). The new Plan will update those portions of the Roanoke River Basin WQMP in the Smith-Dan River Subarea and bring the plan into compliance with federal law.

**Estimated Impact:** No major impacts on the regulated community are anticipated as a result of the proposed amendments to the Roanoke River Basin WQMP. There are currently 90 permitted facilities and approximately 218,000 persons residing in the Smith-Dan Subarea, who will be directly affected by the proposed plan. Changes in segment classification will be made in the plan by adding water quality limited segments for fecal coliform for the South Fork of the Mayo River, Sandy River, and several other tributaries and by adding water quality limited segments for ammonia to a number of small tributaries.

**Alternatives:** The Smith-Dan River Subarea has not been updated to reflect current data, scientific studies; new or revised legislation, procedures, policy, and regulations; and changes in area growth and development since the Roanoke River Basin WQMP was adopted. One alternative is to continue to use the outdated Roanoke River Basin WQMP. To do this would result in noncompliance with the amendments to the Clean Water Act for achieving current water quality goals. A second alternative is to update the existing plan. While this is possible, it would be a very long process. Furthermore, the current Roanoke River Basin WQMP is presented in four lengthy volumes with emphasis on the upper basin area. The board is interested in focusing more attention on the special issues and needs of the Smith-Dan Subarea, updating information for the subarea and meeting new regulatory requirements and believes that a separate plan is warranted.

**Public Comments:** The board seeks written and oral comments from interested persons on the costs and benefits of the stated alternatives or other alternatives. In addition, the Board will hold a public meeting at 7:00 p.m. on Thursday, September 30, 1993, at the Henry County Administration Building, Board Room, Kings Mountain Road, Collinsville, Virginia, to receive comments from the public.

**Intent to Hold an Informational Proceeding or Public Hearing:** The board intends to hold an informational proceeding (informal hearing) on the proposed regulation after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

**Accessibility to Persons with Disabilities:** The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230 or by

telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than 4 p.m., Monday, September 20, 1993.

**Statutory Authority:** § 62.1-44.15(10) et seq. of the Code of Virginia.

Written comments may be submitted until 4 p.m. on October 5, 1993, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

**Contact:** Martin Ferguson, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5030.

V.A.R. Doc. No. C93-2000; Filed August 3, 1993, 3:41 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-16-02.02. Smith-Dan River Subarea Water Quality Management Plan.** The purpose of the proposed action is to adopt a new Smith-Dan River subarea water quality management plan.

**Basis and Statutory Authority:** Section 62.1-44.15(13) of the Code of Virginia authorizes the board to establish policies and programs for effective area-wide or basin-wide water quality control and management. Section 62.1-44.15(10) of the Code of Virginia authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth.

Title 40, Parts 35 and 130, of the Code of Federal Regulations requires states to develop a continuing planning process of which water quality management plans (WQMP) are a part. No VPDES permit may be issued which is in conflict with an approved WQMP.

**Need:** The Roanoke River Basin WQMP was adopted by the board in 1976. Since that time the Smith-Dan subarea has grown in population and developed unique problems associated with population growth and development not seen in the other areas covered by the Roanoke River Basin WQMP. Furthermore, the information on the Smith-Dan River Subarea portion of that plan has not been updated to reflect current data, scientific studies; and, new or revised legislation, procedures, policy, and regulations. By preparing a separate WQMP, the board will be better able to focus on the important issues facing the Smith-Dan River Subarea.

**Substance and Purpose:** Water quality management plans set forth measures for the State Water Control Board to implement in order to reach and maintain water quality goals. The purpose of this proposal is to amend the

# Notices of Intended Regulatory Action

existing Roanoke River Basin WQMP by deleting references for those areas to be covered by the new Smith-Dan Subarea WQMP. The new Plan will focus attention on the unique problems and issues within the Smith-Dan Subarea, update those portions of the Roanoke River Basin WQMP in the Smith-Dan River Subarea and bring the plan into compliance with federal law.

**Estimated Impact:** There are currently 90 permitted facilities and approximately 218,000 persons residing in the Smith-Dan Subarea, who will be directly affected by the plan. Changes in segment classification will be made in the plan by adding water quality limited segments for fecal coliform for the South Fork of the Mayo River, Sandy River, and several other tributaries and by adding water quality limited segments for ammonia to a number of small tributaries.

**Alternatives:** The Smith-Dan River Subarea has not been updated to reflect current data, scientific studies; new or revised legislation, procedures, policy, and regulations; and changes in area growth and development since the Roanoke River Basin WQMP was adopted. One alternative is to continue to use the outdated Roanoke River Basin WQMP. To do this would result in noncompliance with the amendments to the Clean Water Act for achieving current water quality goals. A second alternative is to update the existing plan. While this is possible, it would be a very long process. Furthermore, the current Roanoke River Basin WQMP is presented in four lengthy volumes with emphasis on the upper basin area. The board is interested in focusing more attention on the special issues and needs of the Smith-Dan Subarea, updating information for the subarea and meeting new regulatory requirements and believes that a separate plan is warranted.

**Public Comments:** The board seeks written and oral comments from interested persons on the costs and benefits of the stated alternatives or other alternatives. In addition, the Board will hold a public meeting at 7 p.m. on Thursday, September 30, 1993, at the Henry County Administration Building, Board Room, Kings Mountain Road, Collinsville, Virginia, to receive comments from the public.

**Intent to Hold an Informational Proceeding or Public Hearing:** The board intends to hold an informational proceeding (informal hearing) on the proposed regulation after the proposal is published in the Register of Regulations. This informational proceeding will be convened by a member of the board. The board does not intend to hold a hearing (evidential) on the proposed regulation after the proposal is published in the Register of Regulations.

**Accessibility to Persons with Disabilities:** The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton, Water Division, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230 or by

telephone at (804) 527- 5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than 4 p.m., Monday, September 20, 1993.

**Statutory Authority:** § 62.1-44.15(10) et seq. of the Code of Virginia.

Written comments may be submitted until 4 p.m. on October 5, 1993, to Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, Virginia 23230.

**Contact:** Wellford Estes, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5030.

VA.R. Doc. No. C93-2001; Filed August 3, 1993, 3:40 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards (VR 680-21-07:1.b. Potomac Embayment Standards)**. The purpose of the proposed action is to consider amendments to the Potomac Embayment standards.

**Need:** The board adopted the Potomac Embayment Standards (PES) in 1971 to address serious nutrient enrichment problems evident in the Virginia embayments and Potomac River at that time. These standards apply to sewage treatment plants discharging into Potomac River embayments in Virginia from Jones Point to the Route 301 bridge and for expansions of existing plants discharging into the nontidal tributaries of these embayments.

Based upon these standards, several hundred million dollars were spent during the 1970s and 1980s upgrading major treatment plants in the City of Alexandria and the Counties of Arlington, Fairfax, Prince William, and Stafford. Today these localities operate highly sophisticated advanced wastewater treatment plants which have contributed a great deal to the dramatic improvement in the water quality of the upper Potomac estuary.

Even before the planned upgrades at these facilities were completed, questions arose over the high capital and operating costs that would result from meeting all of the requirements contained in the PES. Questions also arose due to the fact that the PES were blanket effluent standards that applied equally to different bodies of water. Therefore, in 1978, the Board committed to reevaluate the PES. In 1984, a major milestone was reached when the Virginia Institute of Marine Science (VIMS) completed state-of-the-art models for each of the embayments. The Board then selected the Northern Virginia Planning District Commission (NVPDC) to conduct waste load allocation studies of the Virginia embayments using the VIMS models. In 1988, these studies were completed and

# Notices of Intended Regulatory Action

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effluent limits were developed for each major facility that would protect the embayments and the mainstem of the Potomac river. However, the PES were not amended to reflect the results of these efforts.

Since the PES have not been amended or repealed, VPDES permits have included the PES standards as effluent limits. Since the plants cannot meet all of the requirements of the PES, the plant owners have operated under consent orders or consent decrees with operating effluent limits for the treatment plants that were agreed upon by the owners and the Board.

In 1991, several Northern Virginia jurisdictions with embayment treatment plants submitted a petition to the board requesting that the Board address the results of the VIMS/NVPDC studies and that the PES be replaced with a descriptive process for establishing effluent limits for these plants to meet water quality standards. The petitioners claimed the current standards do not allow for scientifically based permit limits.

A board staff workgroup was formed to consider the changes to the PES recommended by the petitioners. At their June 1991 meeting, the board authorized holding a public hearing to solicit comments on proposed amendments based upon the recommendations of the work group. These amendments would allow permit by permit development of appropriate effluent limits for the affected discharges using the Board's Permit Regulation and Water Quality Standards Regulation. They would also apply a total phosphorus effluent limit of 0.18 mg/l which is the regionally agreed limit to protect the embayments and the upper Potomac estuary from nutrient enrichment.

Based upon the request of Fairfax County, a hearing was not scheduled on the proposed amendments so the petitioners could consider revisions to their original petition. By letter dated October 28, 1992, Fairfax County requested the board to proceed with a revised petition to change the PES. The revised petition was supported by the Counties of Arlington, Prince William, and Stafford and the Alexandria Sanitation Authority.

**Substance and Purpose:** The purpose of this proposed regulatory action is to consider amendments to the Potomac Embayment Standards.

Under the recent petition from the Northern Virginia localities for amending the PES, minimum effluent limits are retained in the Standards and state-of-the-art modeling is required to be performed for construction of any major new plant or expansion of an existing plant.

Information on the following issues would help the Board develop appropriate amendments to the PES:

- adopting the amendments included with the revised petition from the local governments,
- repealing the Potomac Embayment Standards and

using the Permit Regulation and Water Quality Standards Regulation to determine effluent limits,

replacing the standards with a comprehensive policy to protect the embayments (similar to the approach used with the Occoquan Policy),

coverage of existing small sewage treatment plants and single family home discharges by the Potomac Embayment Standards.

**Estimated Impact:** Amendments to the Potomac Embayment Standards would impact eight major and several smaller sewage treatment plants discharging to the Potomac embayments. Upgrading the existing treatment plants to meet the current standards would cost millions of dollars. The alternatives identified thus far for amending the current standards would result in significant cost savings.

**Alternatives:** Three alternatives have so far been identified: 1. no change to the current standards; 2. amend the standards to remove specific effluent limits and rely on the Permit Regulation and Water Quality Standards Regulation (approach previously authorized for hearing by the Board); or 3. amend the standards by changing the specific effluent limits (local government petition).

**Public Meeting:** The board will hold a public meeting to receive views and comments on the local government petition as well as other comments on amending the Potomac Embayment Standards. The meeting will be held at 7:00 p.m. on Thursday, September 16, 1993, Fairfax County Government Center, Conference Center, Rooms 4 & 5, 12000 Government Center Parkway, Fairfax.

**Accessibility to Persons with Disabilities:** The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Doneva A. Dalton at the address listed below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Mrs. Dalton no later than Wednesday, September 1, 1993.

**Statutory Authority:** § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on September 23, 1993, to Ms. Doneva Dalton, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230.

**Contact:** Alan E. Pollock, Chesapeake Bay Program, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5155.

VA.R. Doc. No. C93-1907; Filed July 21, 1993, 11:17 a.m.

# PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

## Symbol Key

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

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

**Title of Regulation:** VR 270-01-0034. Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits.

**Statutory Authority:** §§ 22.1-321 and 22.1-327 of the Code of Virginia.

**Public Hearing Date:** December 3, 1993 - 4 p.m.

Written comments may be submitted until December 3, 1993.

(See Calendar of Events section for additional information)

**Basis:** The Board of Education has specific authority under §§ 22.1-321 and 22.1-327 of the Code of Virginia to regulate the management and conduct of proprietary schools, to establish standards for programs offered by the schools, to authorize Superintendent of Public Instruction to issue certificates to operate such schools, and to establish fees and methods of collecting fees for the administration of §§ 22.1-319 through 22.1-335 of the Code of Virginia.

**Purpose:** The purpose of these amendments is to bring the regulations into line with amendments to Title 22.1, Chapter 16, §§ 22.1-319 through 22.1-335 of the Code of Virginia as adopted by the 1993 General Assembly; to bring these regulations into conformity with changes in statutes and regulations governing the education of the handicapped; to bring these regulations into conformity with current practice; and to increase fees to help defray the cost to the Department of Education for regulating these programs.

**Substance:** These amendments include provisions for increasing fees to defray, in part, the cost associated with licensing and regulating private career schools. Currently the proposed fee structure is in place through emergency regulatory action (VR 270-01-0056) which went into effect earlier this year. The amendments also update the nomenclature used for special education classifications included and approved in the 1993 amendments to § 22.1-319 of the Code of Virginia. This also coincides with language in the Americans with Disabilities Act as well as state and federal special education regulations. Section 22.1-322 of the Code of Virginia allows for the creation of a five-member advisory committee to arbitrate and resolve complaints; amendments to the regulations provide some detail for the establishment and authority of this committee. Further amendments allow the schools to submit, rather than a surety bond, other types of guaranty instruments such as certificates of deposit or irrevocable

letters of credit; these amendments are in response to changes made to § 22.1-324 of the Code of Virginia. Amendments changing the validation period of Certificates to Operate to anniversary dates are in response to 1993 changes to the Code of Virginia (§ 22.1-328). All other proposed changes are to bring the regulations in line with current practice.

**Issues:** These regulations were initially adopted in 1970. Regulations for schools for the handicapped were added in 1973. The regulations were not revised again until 1991. These proposed changes were developed due to changes in the budget, in current practice and climate, changes to the Code of Virginia adopted in 1993 as well as other federal and state regulatory revisions and from input from the Virginia Association of Private Career Schools, the Proprietary Schools Advisory Committee and the Virginia Association of Independent Special Education Facilities.

**Impact:** These regulations affect approximately 95 private postsecondary career schools and 40 private special education facilities for children with disabilities. The cost of licensing and regulation to the career schools will increase significantly due to the increased user fees; this cost will be passed on to the students in the form of increased tuition and fees at the school level. There is no additional cost to the department to implement and enforce these proposed regulations.

## Summary:

*The proposed regulations state the criteria for the establishment, operation and continuing approval of certain privately owned and operated postsecondary schools offering occupational training, correspondence schools and schools for handicapped children. Although some of the defined schools may be operated by nonprofit entities, the majority are for-profit institutions. The regulations further set forth the criteria to be used for monitoring the operation of the schools by staff of the Department of Education. Amendments were made to the regulations to have them conform to applicable state and federal statutes, to provide a basis for improved consumer protection, to respond to new budgetary needs due to changes imposed by the 1992 budget bill and as a result of input from the Proprietary Schools Advisory Committee, the Virginia Association of Private Career Schools and the Virginia Association of Independent Special Education Facilities.*

*The proposed regulations delete some existing language as well as amend and add new language. The original adoption of these regulations occurred in*



# Proposed Regulations

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1970 and the subsequent addition of the requirement of regulating privately owned and operated schools for the handicapped occurred in 1973. In 1991 revisions were also made; however, this submission is the most substantial since the regulations went into effect in 1970.

Major changes to the regulations are (i) substantial increases to user fees which allow the Department of Education to collect moneys to support, in part, the proprietary schools regulatory function; (ii) an updating of the nomenclature for special classifications to coincide with language in the Americans with Disabilities Act and federal special education regulations; (iii) the creation of a five-member committee to arbitrate and resolve student/school complaints; (iv) new definitions added to clarify certain activities for which fees will be charged; and (v) revisions which update and provide for consistency between the regulations and current practice.

VR 270-01-0034. Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits.

## PART I. DEFINITIONS, EXEMPTIONS.

### § 1.1. Definitions.

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

*"Agent"* means a person who is employed by any school, whether such school is located within or outside this Commonwealth, to act as an agent, solicitor, procurer, broker or independent contractor to procure students or enrollees for any such school by solicitation in any form at any place in this Commonwealth other than the office or principal location of such school.

*"Assessment year"* means the calendar year (January 1 through December 31) to which the term "gross tuition collected" is applicable.

*"Aversive stimuli"* means physical forces (e.g. sound, electricity, heat, cold, light, water or noise) or substances (e.g. hot pepper or pepper sauce on the tongue) measurable in duration and intensity which when applied to a student are noxious or painful to the student, but in no case shall the term "aversive stimuli" include striking or hitting the student with any part of the body or with an implement or pinching, pulling, or shaking the student.

*"Behavior management"* means planned, individualized, and systematic use of various techniques selected according to group and individual differences of the students and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior. (The term is consistently generic and is not confined to those techniques which derive specifically from behavior

therapy, operant condition, etc.

*"Board"* means the Virginia Board of Education.

*"Branch campus"* means any institution or other nonmain campus where courses and student services are offered on a regular continuing basis.

*"Correspondence school"* means a privately owned and operated educational organization which, for a consideration, profit or tuition, teaches or instructs in any subject through the medium of correspondence between the pupil and the school by which the school transmits or exchanges matter to the pupil via printed material, telecommunications or other means.

*"Course"* means presentation of an orderly sequence of lectures or other presentation of material related to an individual topic or portion of a topic.

*"Extension classroom"* means a location away from the main campus where only courses are offered.

*"Fees"* means a cost or charge associated with an approval or other activity completed in response to upgrading or maintaining a certificate to operate.

*"Fund"* means Student Tuition Guaranty Fund.

*"Gross tuition collected"* means all fees received on a cash or accrual accounting method basis for all instructional programs or courses, except for nonrefundable registration and application fees and charges for materials, supplies, and books which have been purchased by, and are the property of, the student.

*"Guaranty instrument"* means a surety bond, irrevocable letter of credit or certificate of deposit.

*"Intrusive aversive therapy"* means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior. The term shall not include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia or psychotropic medications which are used for purposes other than intrusive aversion therapy.

*"Regulations"* means this document in its entirety.

*"Person"* means any individual, group of individuals, partnership, association, business trust, corporation, or other business entity.

*"Program"* means a listing of an orderly sequence of individual courses.

*"Proprietary career school"* means a privately owned

and operated institution or organization, no matter how titled, maintaining or conducting classes for the purpose of offering instruction for a consideration, profit or tuition, designed to prepare an individual for entry level positions in occupations, including but not limited to business, industry, skilled trades, or service occupations, or to upgrade an individual in previously acquired occupational-related skills. Such schools may be further classified by the board as necessary.

"School" or "schools" means any school defined in this section.

~~"School for the handicapped" "School for students with disabilities" means a privately owned and operated preschool, school, industrial institution or educational organization, no matter how titled, maintained or conducting classes for the purpose of offering instruction, for a consideration, profit or tuition, to mentally retarded persons with mental retardation, visually impaired visual impairment, speech impaired impairment, hearing impaired impairment, learning disabled disabilities, physically handicapped physical disabilities, emotionally disturbed emotional disabilities or multiple handicapped persons disabilities.~~

"Superintendent" means the Superintendent of Public Instruction.

*"Teach-out" means the process whereby a school undertakes to fulfill its educational and contractual obligations to currently enrolled students prior to voluntarily closing. Among its options are a cessation of enrollments with continued operation until present students are graduated, or making an agreement with a school or a group of schools in the same geographic areas to absorb its students at no additional cost to the affected students.*

## § 1.2. Exemptions.

A. Any school that is licensed or approved pursuant to other statutes of the Commonwealth.

B. Any school conducted by any person, firm, corporation, or other organization solely on a contractual basis where approval as a school is not a requirement of the contract and no individual person is charged tuition or for which no tuition or charge is made.

C. Any course or instruction not exceeding 16 hours in length offered by any person or any course or instruction not exceeding 40 hours which is offered as an adjunct to another primary business or service by any person.

D. Any college, university or professional school approved or recognized as such by the State Council of Higher Education for Virginia or similar agency of another state in which its primary campus is located, which has offered or which may offer one or more courses covered in this chapter, if any tuition, fees and charges made by the institution are collected in accordance with the

regulations prescribed by the board of trustees or other governmental body of such university, college, or institution of higher education.

E. Any public or private high school accredited or recognized by the Board of Education which has offered or which may offer one or more courses covered in this chapter, if any tuition, fees and charges made by the school or collected in accordance with the regulations prescribed by the governing body of such school.

F. Tutorial instruction given in a private home or elsewhere as supplemental to regular classes for students enrolled in any public or private school or in preparation of an individual for an examination for professional practice or higher education.

G. Schools of fine arts or other avocational courses which are conducted solely to further artistic appreciation, talent, or for personal development or information.

H. Schools offering exclusively religious instruction.

I. A program through which ~~handicapped~~ persons with disabilities are provided employment and training primarily in simple skills in a sheltered or protective environment.

J. Any school, institute or course of instruction offered by any trade association or any nonprofit affiliate of a trade association on subjects related to the trade, business or profession represented by such trade association.

## PART II COMPLIANCE.

### § 2.1. Certificate to operate requirement.

It shall be unlawful for any school defined in the Act to be operated in this Commonwealth without having received a Certificate to Operate issued by the board.

### § 2.2. Application process period.

A school seeking a Certificate to Operate shall submit the required information on forms provided by the Board of Education at least 30 days prior to the date approval is requested.

### § 2.3. Application completion deadline.

Following notification of the results of the initial review of an application for certification, all deficiencies must be corrected within a period of time, not to exceed 90 100 days. Thereafter, the school must submit a written request for continued consideration and ~~repay the initial application fee~~ pay the penalty prescribed in § 14.1 A 7 of these regulations.

### § 2.4. Restrictions.

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No school may advertise or enroll students prior to receiving a Certificate to Operate.

## § 2.5. *Exemption of certain information for accredited schools.*

Any school which is accredited by an accrediting agency recognized by the United States Department of Education shall continue to be certified or may operate branch campuses after the initial issuance of a Certificate to Operate without the submission of certain information required by §§ 22.1-319 through 22.1-335 of the Code and these regulations. Such accreditation shall exempt the school from the inspection provisions of § 22.1-323 and from submission of information required by subdivisions 4, 5, 6, and 9 of § 22.1-324 of the Code and subsections C, F, G, H, and K of § 3.1 of these regulations. In addition, such schools may be exempt from the periodic monitoring visits required by § 5.1 A of these regulations if department staff is invited and accompanies the team from the school's accrediting agency on its visits to the school.

## § 2.6. *Certification of branch campus/extension facilities.*

Any school holding a Certificate to Operate may open an additional facility to be operated under that certificate in this Commonwealth by submitting an application ~~on forms provided by the department~~ and securing authorization from the board or Superintendent acting under authority from the board.

## § 2.7. *Penalty for noncompliance with regulations.*

Any person who opens, operates or conducts any school defined in the Act without having first obtained a Certificate to Operate shall be guilty of a Class 2 misdemeanor, and each day the owner permits the school to be open and operate without such a certificate shall constitute a separate offense.

## § 2.8. *Enforcement.*

Any alleged or known violation of the provisions of the Act and this part shall be referred to the Office of the Attorney General for referral to the attorney for the Commonwealth of the county or city in which the violation is alleged to have occurred or is occurring.

## § 2.9. *Information sharing.*

The department may seek information on applicant schools and may provide information on certified schools from other states and agencies as it deems necessary to administer these regulations.

### PART III. APPLICATION.

## § 3.1. *Application requirements.*

The following information shall be submitted as part of

the application:

1. The title or name of the school, together with the names and home addresses of its owners, controlling officials, and managing employees. Where a school is owned by a partnership or corporation, evidence of compliance with all applicable regulations of the State Corporation Commission to lawfully conduct business in the Commonwealth shall be submitted. Every school shall be designated by a permanent and distinct name which shall not be changed without first securing the approval of the department. The school name shall not be in violation of § 23-272 D of the Code of Virginia which deals with the use of the word "college" in the school name nor shall it misrepresent the nature of the school;

2. Program outlines, along with narrative descriptions of the courses in the program and occupational objectives shall be submitted where applicable;

3. A scale drawing or copy of the floor plan which includes room dimensions of the location or locations where such instruction will take place;

4. A Certificate of Occupancy or other report(s) from the appropriate government agency(ies) indicating that the location or locations meet applicable fire safety, building code and sanitation requirements;

5. A copy of the deed, lease, or other legal instruments authorizing the school to occupy such locations;

6. A listing of the equipment, training aids and textbooks used for instruction in each program or course;

7. The maximum anticipated enrollment to be accommodated with the equipment available in each specified program or course and the ratio of students to instructors;

8. A listing of the educational and teaching qualifications of instructors and administrative staff of the school;

9. A copy of the financial statements of the school or owning entity to include, but not be limited to, the following:

a. A balance sheet, reflecting assets, liabilities, equity, and retained earnings;

b. An income statement, reflecting revenues, expenses, and profits and losses;

c. A statement of increase or decrease in cash, reflecting the sources and uses of working capital; and

d. Explanatory notes, which reflect the disclosures required by generally accepted accounting principles. These statements must be as of the date of the school's most recently-ended fiscal year.

The department reserves the right to call for, if need be in specific cases, one of these two types of statements:

a. An audited financial statement, certified by an outside, independent, certified public account in accordance with standards established by the American Institute of Certified Public Accountants; or

b. A financial statement which has been "reviewed" by an outside, independent, certified public accountant in accordance with principles established for reviews by the American Institute of Certified Public Accountants.

10. A copy of the student enrollment agreement, a current schedule of tuition and other fees, copies of all other forms used to keep student records, and the procedure for collecting and refunding tuition;

11. Copies of all advertising currently used or proposed for use by such school;

12. Documentation as determined by the department evidencing compliance with the student tuition guaranty provisions of § 22.1-324 B of the Code and Part XIII of these regulations;

13. A *signed teach-out agreement*.

14. Such additional information as the board or department may deem necessary to carry out the provisions of the Act.

### § 3.2. *Applicant commitments.*

Each application for a Certificate to Operate also shall include the following commitments:

1. To conduct the school in an ethical manner and in accordance with the provisions of §§ 22.1-319 through 22.1-335 of the Code and all applicable regulations which may from time to time be established by the board;

2. To permit the board or department to inspect the school or classes being conducted therein at any time and to make available to the board or department, when requested to do so, all information pertaining to the activities of the school and its financial condition;

3. To advertise the school at all times in a form and manner that is free from misrepresentation, deception, or fraud and that conforms to the regulations of the board governing advertising;

4. To see that all representations made by anyone authorized by the school to act as an agent or solicitor for prospective students shall be free from misrepresentation, deception, or fraud and shall conform to the regulations of the board governing such representations;

5. To display prominently the current Certificate to Operate where it may be inspected by students, visitors, and the board or department;

6. To maintain all premises, equipment, and facilities of the school in an adequate, safe, and sanitary condition;

7. To submit to the department, in the event a school should close with students enrolled who have not completed their program of study, a list of students enrolled at the time the school closes, including the amount of tuition paid and the amount of their course or program completed;

8. To maintain current, complete, and accurate student records which shall be accessible at all times to the Board of Education or its authorized representatives. These records shall include information outlined in Part VII of these regulations;

9. To conduct all courses or programs in substantial accordance with outlines submitted to and approved by the department; and

10. To publish and adhere to policies which conform to all state and federal laws and regulations barring discrimination on the basis of race, religion, sex, national origin or handicapping condition in all school operations.

## PART IV. STAFF QUALIFICATIONS.

### § 4.1. Administrators.

Personnel employed as administrators shall have the following qualifications:

1. Hold a degree from an accredited college or university with a major in one of the areas of study offered by the school or appropriate to the job responsibilities; or

2. Is qualified by appropriate education and relevant experience; and

3. Have documented four years of experience related to the job responsibilities.

### § 4.2. Instructional staff.

All persons employed as instructional staff shall have the following qualifications:

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1. Hold a degree from an accredited college or university with a major in the area of teaching responsibility, where applicable, or hold a degree in a related subject area; or

2. Be a graduate of a proprietary school certified by the board (or similar certification or approval if the school is located in another state) or other training program above the high school level with a major in the area of teaching responsibility and have a minimum of two years of occupational experience in the area of teaching responsibility or a related area; or

3. Have a minimum of four years of occupational experience, above the learning stage, in the area(s) of teaching responsibility.

## § 4.3. Staff competency requirements.

Administrators and instructors must be competent to carry out their assigned responsibilities. The board or department may utilize the services of consultants or employ other measures to determine the qualifications of personnel for the position in which they are employed.

## § 4.4. Personnel policies.

Each school shall develop written personnel policies for employees which shall include, but not be limited to, job descriptions, evaluation procedures and termination policies and make them available to the board or department if requested.

## § 4.5. Staff, schools for students with disabilities.

Personnel employed in schools for the ~~handicapped~~ *students with disabilities* shall meet the specific requirements of Part XI of these regulations.

## § 4.6. Exceptions.

The board or department may make exception to any of the above sections for good cause.

## PART V. PHYSICAL FACILITIES, INSPECTIONS.

### § 5.1. Facilities.

A. The department shall make an inspection of the school plant and facilities and file a report ~~with the board which is available to the board for review~~ as a prerequisite to certification. The department shall schedule periodic monitoring visits to each school at least once every two years. All facilities in use shall comply with appropriate state and local ordinances governing fire safety, sanitation, and health.

B. A change in the location of a school shall be reported to the department at least 30 days before the

move on forms provided by the department, and documents required by subsections C, D and E of § 3.1 of these regulations for the new location shall be submitted to the department before the actual move takes place. An on-site visit shall be made by the department as soon as possible following notification of the change.

C. The services of representatives from the ~~Division Divisions of Special Education Management Services or the Special Education Compliance Service Regional Services, Compliance Coordination, Early Childhood, Pre and Early Adolescent or Adolescent~~ may be utilized in the inspection of schools for the ~~handicapped students with disabilities~~ . Whenever possible, the inspection of schools for the ~~handicapped students with disabilities~~ should be made by a team knowledgeable of education for the ~~handicapped disabled~~ . In addition, representatives of local school divisions or other schools for the ~~handicapped students with disabilities~~ may be included if appropriate.

D. Schools which find it necessary to utilize extension facilities must submit the information required by subsections C, D, and E of § 3.1 of these regulations and undergo an on-site visit to the facilities conducted by staff of the department.

## PART VI. INSTRUCTIONAL PROGRAMS.

### § 6.1. Occupational training programs.

A. The instructional programs shall consist of those programs or courses or subjects which schools have been certified to offer. The course of study shall conform to state, federal, trade, or manufacturing standards of training for the occupational fields in which such standards have been established or must conform to recognized training practices in those fields.

B. Each program shall include clearly defined occupational objectives, an orderly sequence of individual courses or units of instruction, standards of progress and grading, and specific requirements for entrance and completion.

C. Narrative descriptions of programs and courses or units shall be submitted.

D. Where programs contain internships or externships, in any form, the school shall enter into a written agreement for such internship or externship with the receiving company or entity, a copy of which shall be available for review by the board or department.

E. Each resident school offering programs longer than three months in length shall divide the programs into sessions such as semesters, terms, quarters, or the like, most suitable to the school's operating calendar for a given year. Schools operating on a nonterm basis may divide their programs into modules not longer than four and one-half months in length.

F. The holder of a certificate may present a supplementary application in such form as may be prescribed by the department for approval of additional programs or courses of instruction at any time.

G. Revisions to existing programs must be submitted to the department for approval prior to implementation.

§ 6.2. Programs in schools for ~~the~~ *handicapped students with disabilities*.

Specific requirements for programs in schools for ~~the~~ *handicapped students with disabilities* are found in Part XI of these regulations.

## PART VII. STUDENT SERVICES, RECORDS, AND CONTRACTS.

§ 7.1. Student services and records.

A. Each school shall develop, use and maintain adequate student records which shall include, but not be limited to, the following:

1. Application for admission;
2. Enrollment agreement;
3. Academic/attendance record (transcript);
4. Financial payment record; and
5. Placement record.

B. Each school shall maintain a directory listing of all students who enroll which includes, but is not limited to, the student's name, address, telephone number, social security number, program, start date and anticipated graduation date. The information shall be current as of the date the student enrolls and shall be available for inspection by or submission to the board or department upon request.

C. Each school offering career training shall offer placement services to the graduates of the school. A written policy must be developed and an explicit description of the extent and nature of the service submitted to the department with the application for a certificate and published in the school's catalog. In the case of correspondence schools, promises for job placement or career enhancement shall be as reported, to include a placement service if appropriate.

D. Records of student counseling sessions for academic or disciplinary reasons shall be maintained in the student's permanent record if termination, dismissal or withdrawal is the basis for the counseling while he is in attendance and shall be signed by the student and the staff member administering the counseling or the institution must document the student's refusal to sign. The student shall receive a copy of said report.

E. Schools shall develop, publish and provide to students clearly written, definitive policies governing conduct, attendance, satisfactory progress, and other matters relative to encouraging responsible student behavior during their matriculation at the school.

F. Each school shall develop, publish and make available to students a procedure for resolving complaints which shall include information on reporting such complaints to the department. The department may utilize outside services to investigate and resolve complaints. The department may appoint an arbitration panel to review and resolve complaints if requested by the school. If such a panel is requested, it shall consist of three persons, one selected by the school, one selected by the department and one selected by mutual agreement between the department and the school a five-member committee to arbitrate and resolve complaints. Reasonable expenses incurred by the panel, if any, shall be paid by the school requesting the arbitration.

§ 7.2. Applications and enrollment agreements.

A. The application for admission to a school which has received a Certificate to Operate from the board or Superintendent under authority from the board shall be in writing on a form separate from any other document.

B. Any contract between a school certificated by the board or Superintendent under authority from the board and a student shall be separate from the application for admission referred to previously and shall clearly outline the obligations of both the school and the student.

C. Any contract or enrollment agreement used by the school shall comply with the following provisions:

1. The name and address of the school shall be clearly stated;
2. The name or other identification of the course or program, including the credit or number of hours of classroom instruction, home study lessons, or their study units shall be included;
3. The total cost of the course or program, including tuition and all other charges, shall be clearly stated;
4. Inclusion of a disclosure that such agreement becomes a legally binding instrument upon the school's written acceptance of the student, unless cancelled pursuant to applicable sections of these regulations;
5. Shall contain the school's cancellation and refund policy, which shall be clearly stated; and
6. Each contract or enrollment agreement shall contain an explanation of the form and notice that should be used if a student elects to cancel the contract or enrollment agreement, the effective date of cancellation, and the name and address to which

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the notice should be sent.

D. An application for admission is not to be construed as binding on the student.

## § 7.3. Students records maintenance.

Records for students in schools for ~~the handicapped children with disabilities~~ shall be kept in accordance with the provisions found in Part XI of these regulations.

## PART VIII. CANCELLATION AND REFUND POLICY.

### § 8.1. Cancellations, refunds, and minimum refund policy.

A. The school shall adopt a minimum refund policy relative to the refund of tuition, fees, and other charges if the student does not enroll in the school, does not begin the program or course, withdraws, or is dismissed.

B. A school may require the payment of a reasonable nonrefundable initial fee, not to exceed \$50, to cover expenses in connection with processing a student's enrollment, provided it retains a signed statement in which the parties acknowledge their understanding that the fee is nonrefundable. No other nonrefundable fees shall be allowed prior to enrollment.

C. All fees and payments, with the exception of the nonrefundable fee described in subsection B above, remitted to the school by a prospective student shall be refunded if the student is not admitted.

D. The school shall provide a period of at least three business days, weekends and holidays excluded, during which a student applicant may cancel his enrollment without financial obligation other than the nonrefundable fee described in subsection B above.

E. Following the period described in subsection D above, a student applicant (one who has applied for admission to a school) may cancel, by written notice, his enrollment at any time prior to the first class day of the session for which application was made. When cancellation is requested under these circumstances, the school is required to refund all tuition paid by the student, less a maximum tuition fee of 15% of the stated costs of the course or program or \$100 whichever is ~~greater~~ less. A student applicant will be considered a student as of the first day of classes.

F. An individual's status as a student shall be terminated by the school not later than seven consecutive instructional days after the last day on which the student actually attended the school. Termination may be effected earlier by written notice. In the event that a written notice is submitted, the effective date of termination will be the date the student last attended classes. Schools may require that written notice be transmitted via registered or certified mail, provided that such a stipulation is contained

in the written enrollment contract. The school may require that the parents or guardians of students under 18 years of age submit notices of termination on behalf of their children or wards. Schools are required to submit refunds to individuals who have terminated their status as students within 30 days after receipt of a written request or the date the student last attended classes whichever is sooner.

G. The minimum refund policy for schools which financially obligate the student for a quarter, semester, trimester or other period not exceeding four and one-half months shall be as follows:

1. A student who enters school but withdraws during the first one-fourth (25%) of the period is entitled to receive as a refund a minimum of 50% of the stated cost of the course or program for the period.

2. A student who enters a school but withdraws after completing one-fourth (25%), but less than one-half (50%) of the period is entitled to receive as a refund a minimum of 25% of the stated cost of the course or program for the period.

3. A student who withdraws after completing half, or more than half, of the period is not entitled to a refund.

H. The minimum refund policy for schools which financially obligate the student for the entire amount of tuition and fees for the program or course shall be as follows:

1. A student who enters the schools but withdraws or is terminated during the first one-fourth of the program shall be entitled to a minimum refund amounting to 75% of the cost of the program.

2. A student who withdraws or is terminated during the second one-fourth of the program shall be entitled to a minimum refund amounting to 50% of the cost of the program.

3. A student who withdraws or is terminated during the third one-fourth of the program shall be entitled to a minimum refund amounting to 25% of the cost of the program.

4. A student who withdraws after completing three-fourths (75%) of the program shall not be entitled to a refund.

I. Fractions of credit for courses completed shall be determined by dividing the total amount of time required to complete the period or the program by the amount of time the student actually spent in the program or the period, or by the number of correspondence course lessons completed, as described in the contract.

J. It is not required that expenses incurred by students for instructional supplies, tools, activities, library, rentals,

service charges, deposits, and all other charges be considered in tuition refund computations when these expenses have been represented separately to the student in the enrollment contract and catalogue, or other documents prior to enrollment in the course or program. Schools shall adopt and adhere to reasonable policies regarding the handling of these expenses when calculating the refund and submit the policies to the department for approval.

K. For programs longer than one year, the policy outlined in subsections G and H above shall apply separately for each year or portion thereof.

L. All certificated proprietary schools shall comply with the cancellation and settlement policy outlined in this section, including promissory notes or contracts for tuition or fees sold to third parties. When notes, contracts or enrollment agreements are sold to third parties, the school continues to have the responsibility to provide the training specified therein.

## § 8.2. Correspondence schools.

In the case of correspondence schools where a specific time limit for completion may not be applicable, the refund policy may be based on the number of lessons completed or other means acceptable to the department. If the program is a combination correspondence/resident program, the refund policy shall apply to each part separately and the policy outlined in either subsection G or H above shall apply to the resident portion depending on the length of the resident portion.

## § 8.3. Home solicitation sales act.

In the case of home-solicited sales, the terms of the "Virginia Home Solicitation Sales Act," § 59.1-21.3, shall supersede the provisions of this section of the regulations.

## § 8.4. Exemption.

Schools which charge or are paid on a "services-rendered" basis may be exempted from the provisions of this part upon written request to the department.

## § 8.5. Exception.

Schools may adopt a policy more liberal or fairer to the student than those outlined in this part upon approval of the department.

## PART IX. ADVERTISING, PUBLICATIONS.

### § 9.1. Advertising and publications.

A. Each school shall use its complete name and address as listed on its Certificate to Operate for all publicity or advertising purposes and in all publications and

promotions.

B. The school may advertise only that it has a "Certificate to Operate from the Virginia Board of Education or Superintendent under authority from the board." No school, by virtue of having been issued a Certificate to Operate, may advertise that it is "supervised," "recommended," "endorsed," "accredited," "certified" or any other similar term, by the board, the department, or the Commonwealth of Virginia.

A school holding a Certificate to Operate issued by the board or Superintendent under authority from the board shall not expressly or by implication indicate by any means that the Certificate to Operate represents an endorsement of any course or program offered by the school.

C. No school, owner, partner, officer, employee, agent, or salesman shall advertise or represent, either orally or in writing, that the school is endorsed by colleges, universities, or other institutions of higher learning, unless it is so endorsed and a copy of such endorsement is filed with the board or department.

D. A guarantee of placement for graduates shall not be promised or implied by a school, owner, partner, officer, employee, agent, or salesman. No school, in its advertising or through its owners, officers, or representatives, shall guarantee employment or imply the guarantee of employment or of any wage or salary before enrollment, while the course is being offered, or after its completion.

E. A school shall not advertise for enrollment in the "help-wanted" or other employment columns of newspapers or other publications. Referral ads placed in these columns are also prohibited.

F. Printed catalogues, bulletins, pamphlets, or promotional literature must be accurate concerning the school's prerequisite training requirements for admission, curricula, subject and course content, graduation requirements, tuition and other fees or charges, and terms for payment of tuition and other fees. Copies of such materials must be filed with the board or department.

G. A school shall not make any fraudulent or misleading statement about any phase of its operation including, but not limited to, the course outline, curriculum, premises, equipment, enrollment, and facilities in advertising, on its stationery, or in bulletins, pamphlets, or other material published or distributed by the school or its representatives.

H. Schools holding a franchise to offer specialized courses shall not advertise such courses in a manner that would impugn the value and scope of courses offered by other schools that do not hold such a franchise. Advertising special courses offered under a franchise shall be limited to the courses covered by the franchise.



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I. Photographs, cuts, engraving, or illustrations in catalogues or sales literature shall not be used by a school in such a manner as to convey a false impression about the size, importance, or location of the school's facilities, or its equipment.

J. Schools shall not use endorsements, commendations, or recommendations by students, except with their consent and without any offer of financial compensation. Such material shall be kept on file by the school.

K. No school may advertise that it is endorsed by manufacturers, business establishments, organizations, or individuals engaged in the line of work for which it provides training, unless written evidence of this fact is presented to the board *or department* and permission to advertise is given by the board *or department*.

L. The accrediting agency must be named if accreditation is used as part of a school's promotional material.

M. No school may use the seal of the Commonwealth in any advertisement, publication or document.

N. Each school shall develop and publish a catalogue conforming to these regulations. The catalogue shall describe the school's programs, policies, etc., and be submitted to the department for review and approval prior to final printing.

## PART X. CORRESPONDENCE SCHOOLS.

### § 10.1. Correspondence schools.

A. The board recognizes that requirements for facilities, equipment, and methods of instruction for correspondence schools are different from those of resident schools. Where applicable, however, the regulations, as outlined, shall apply to correspondence schools.

B. Since the method of instruction provided by correspondence schools is provided primarily through the exchange of printed material and written examinations, the board will place considerable emphasis on the following when reviewing documentation submitted with an application from a correspondence school:

1. The educational objectives shall be clearly defined, simply stated, and of such a nature that they can be achieved through correspondence study.
2. Courses offered are sufficiently comprehensive, accurate, and up-to-date, and educationally sound instructional material and methods are used to achieve the stated objectives.
3. The school provides adequate examination services, maintenance of records, encouragement to students, and attention to individual differences.

C. Correspondence schools that require, as a part of their training program, some type of terminal residence training shall comply with the regulations pertaining to facilities and staff.

## PART XI. SPECIFIC REQUIREMENTS FOR SCHOOLS FOR THE ~~HANDICAPPED CHILDREN WITH DISABILITIES~~.

### § 11.1. Statement of purpose, philosophy, and objectives.

Each school shall be responsible for formulating a written statement setting forth its purpose, philosophy, objectives and admissions policies which shall be used for guidance concerning the character and number of ~~handicapped~~ students *with disabilities* to be served, the instructional program to be offered, the staff to be used, and the services to be provided.

### § 11.2. Administrative personnel.

#### A. Administrators.

1. Each school shall designate a person to be responsible for the administration of the school. This person shall be a graduate of an accredited college or university and shall have sufficient time, training, and ability to carry out effectively the duties involved.

2. The individual responsible for the day-to-day operation of the educational program, no matter how titled, shall hold and maintain a valid teaching certificate issued by the department. This individual shall hold an endorsement in at least one appropriate area of ~~exceptionality~~ *disability* served by the school. The individual serving in this capacity could be the same person functioning as the administrator identified in subdivision 1 above provided certification requirements are met.

3. The department may make exception to the above requirements for good cause upon application by the school.

### § 11.3. Teachers.

A. Teachers of academic courses shall hold a valid teaching certificate, issued by the department, with endorsement in at least one of the specific areas of ~~exceptionality~~ *disability* served by the school, or otherwise comply with board regulations. "Otherwise comply" means: a teacher without endorsement in a specific area of ~~exceptionality~~ *disability* must secure a waiver from the department and agree in writing to earn credit at the rate of six semester hours per year toward full endorsement beginning in the next semester. Requirements for a teaching certificate and the procedure for securing a certificate are outlined in the current edition of the department's bulletin Certification Regulations for Teachers.

B. Teachers of specialized subjects such as music, art, and vocational education must hold a valid teaching certificate with an endorsement in the teaching area of responsibility and agree to complete coursework or inservice training in working with *the types of students of exceptionalities* served by the school.

C. The board may make exception to the above requirements for good cause.

## § 11.4. Ancillary personnel.

A. A therapist employed by a school shall be professionally trained in the area or areas of therapy in which he practices. The areas of therapy would include physical and occupational therapy. If the school employs a physical therapist, this person shall be licensed by the appropriate state authority. It is preferred that occupational therapists be registered with the American Occupational Therapy Association.

B. Audiologists or speech therapists employed by the school shall be licensed by the appropriate state authority or meet the requirements for certification as outlined in Certification Regulations for Teachers.

C. Psychologists employed by the school shall be licensed by the appropriate state authority, or meet the requirements for school psychologists, or both, as outlined in Certification Regulations for Teachers.

D. Teacher aides employed by the school shall be, at a minimum, a high school graduate or the equivalent and have inservice training or experience in working with the type of student served by the school.

E. All support personnel such as librarians, guidance counselors, social workers, etc., shall have earned a bachelor's degree from an accredited institution and hold a valid certificate, where applicable, issued by the department or be licensed by the appropriate state authority.

F. All medical personnel, including but not limited to nurses and physicians, shall hold all licenses required by the Commonwealth of Virginia to practice in this Commonwealth.

G. All volunteers and interns, or students who are receiving professional training shall be properly supervised.

H. The department may make exception to the above for good cause upon application by the school.

## § 11.5. Personnel files.

Personnel files for staff shall be maintained and shall include the following documentation:

1. Academic preparation and past experience;

2. Attendance records;

3. Copies of contract(s) indicating dates and term(s) of employment; and

4. Results of a current X-ray or tuberculin test and preemployment physical examination reports or other health records required by § 22.1-300 of the Code and applicable regulations of the Virginia Department of Health.

## § 11.6. Educational program.

A. The educational program of each school shall reflect the written philosophy of the school by implementing the stated objectives through methods, procedures, and practices which reflect an understanding of and meet the applicable academic, vocational, therapeutic, recreational, and socialization needs of the students served. Educational programs for ~~handicapped~~ students *with disabilities* shall be conducted in accordance with appropriate regulations governing the education of ~~the handicapped children with disabilities~~ approved and issued by the board.

B. Programs for ~~the handicapped students with disabilities~~ shall also comply with the following requirements:

1. Each student identified by an LEA (Local Education Agency) as eligible for special education and related services shall have an individualized education program on file with the school in accordance with regulations of the board governing the education of ~~handicapped~~ children *with disabilities*. Students not identified as such shall have an individualized program plan;

2. Records of students shall be kept in accordance with regulations of the board. Guidelines for recordkeeping are outlined in the current edition of the publication, Management of the Students Scholastic Record in the Public Schools of Virginia;

3. The school uses testing and evaluation materials that are not racially or culturally discriminatory and do take into consideration the student's ~~handicapping~~ *disabling* condition(s), racial and cultural background;

4. Records of triennial evaluations of eligible ~~handicapped~~ students *with disabilities* conducted in accordance with board regulations shall be on file;

5. A planned program for personnel development shall be provided;

6. There will be a plan for and documentation of contact with parents, guardians, and local school division personnel;

7. All procedural safeguards required by regulations governing the education of ~~the handicapped students~~

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with disabilities shall apply for eligible handicapped students;

8. Instructional/training schedules shall be conducted in accordance with board regulations; and

9. The school shall maintain pupil-teacher ratios in accordance with department regulations.

## § 11.7. Behavior management programs.

If a school has a program for behavior management or modification, the school shall develop and have on file written policies and procedures conforming to the provisions of this section approved by the governing body of the school. All interested parties shall be informed of the policies through written information contained in the institution's catalogue, brochure, enrollment contract or other publications.

### 1. Definitions:

For the purposes of this section, the following words and terms shall have the following meaning unless the context clearly indicates otherwise:

"Aversive stimuli" means physical forces (e.g., sound, electricity, heat, cold, light, water or noise) or substances (e.g., hot pepper or pepper sauce on the tongue) measurable in duration and intensity which when applied to a student are noxious or painful to the student, but in no case shall the term "aversive stimuli" include striking or hitting the student with any part of the body or with an implement or pinching, pulling, or shaking the student.

"Behavior management" means planned, individualized, and systematic use of various techniques selected according to group and individual differences of the students and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior. (The term is consistently generic and is not confined to those techniques which derive specifically from behavior therapy, operant conditioning, etc.)

"Intrusive aversive therapy" means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior. The term shall not include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia or psychotropic medications which are used for purposes other than intrusive aversive therapy.

2. The following actions are prohibited:

a. 1. Deprivation of drinking water or food necessary to meet a student's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the student's file. Denial of use of toilet facilities is also prohibited;

b. 2. Any action which is humiliating, degrading, or abusive;

c. 3. Corporal punishment except as permitted in a public school or a school maintained by the Commonwealth pursuant to § 22.1-280 of the Code of Virginia;

d. 4. Deprivation of health care including counseling;

e. 5. Intrusive aversive therapy except as permitted by other applicable regulations; and

f. 6. Application of aversive stimuli except as part of an intrusive aversive therapy plan approved pursuant to other applicable regulations.

## § 11.8. Equipment and instructional materials.

A. Equipment and materials for instruction shall be provided in sufficient variety, quantity, and design to implement the educational program to meet the needs of the handicapped students with disabilities as identified in the IEP (Individual Education Program) as appropriate.

B. There shall be a library adequately equipped or resource materials available on site to meet the needs of the students according to the types of training or educational programs offered by the school, if applicable. Depending upon the age and needs of the handicapped students with disabilities, reference materials should be available to the preacademic, the academic, and the career education levels, if applicable.

## § 11.9. The school plant.

In the case of new construction, schools shall comply with § 2.1-109 of the Code of Virginia with reference to architectural barriers.

## § 11.10. Provisions for health.

A. A report of physical examination by a physician and an immunization record shall be on file for each student. Said reports shall not be more than three years old.

B. A student suffering with contagious or infectious disease shall be excluded from school while in that condition unless attendance is approved by a physician.

C. An adequate first-aid outfit shall be provided for use in the case of accidents.

D. In schools where meals are served on a daily basis, the school shall have the services of either a full-time or

part-time dietitian or nutritionist, or consultative assistance to ensure that a well-balanced nutritious daily menu is provided. Records of menus for all meals served will be kept on file for six months.

## § 11.11. Transportation.

A. All drivers of vehicles transporting students shall comply with the requirements of the applicable laws of Virginia. Appropriate safety measures which take into consideration the age range and ~~handicapping~~ *disabling* conditions of students served at the school shall be taken by staff members or other adults who may transport students to and from school.

B. Evidence of liability insurance to protect those students transported to and from the school shall be submitted.

C. All schools shall have on file evidence that school owned vehicles used for the purpose of transporting students to and from school and school-related activities meet federal and state standards and are maintained in accordance with applicable state and federal laws.

## § 11.12. Intradepartmental cooperation.

Staff from the ~~Division of Special Education Programs for the Handicapped and the Special Education Compliance Service~~ of the Department of Education will be available for consultation on educational programming.

## PART XII. CERTIFICATE GENERALLY, RESTRICTIONS.

### § 12.1. Certificate to Operate.

A. A Certificate to Operate is not transferable. New owners of a school shall make an application for an original Certificate to Operate. A change of ownership occurs when control of a school changes from one person to another.

B. If there is a change in ownership of a school, the current owner shall notify the board or department at least 30 days prior to the proposed date of sale and provide a copy of the agreement of sale. An application for an original Certificate to Operate, including all attachments listed in § 3.1 of these regulations shall be submitted to the board or department by the new owner within 30 days following the effective date of the change. The school may be operated on a temporary basis under the new ownership until an original Certificate to Operate has been issued by the board.

C. A school may be operated as a branch under the certificate issued to the main campus provided application is made to the department on forms provided and the school has complied with all applicable regulations.

D. The Certificate to Operate issued by the board shall

be returned immediately by registered mail to the department upon:

1. Revocation;
2. Change of location;
3. Change of ownership;
4. Change of name;
5. Voluntary closure of institution;
6. Termination of surety bond or failure to comply with the guaranty provisions of Part XIII of these regulations; and
7. Any other cause deemed sufficient by the board.

### § 12.2. Display of Certificate to Operate.

A Certificate to Operate issued hereunder shall be prominently displayed on the premises of the school where it may be inspected by students, visitors, the board, its representatives, or any interested person during regular school hours.

### § 12.3. Restrictions.

A. Certificate to Operate shall be restricted to the programs or courses specifically indicated and no other program(s) or course(s) shall be offered by a school.

B. No school offering franchised courses shall be issued a Certificate to Operate, nor shall any franchised course be approved without prior inspection and approval of the franchise agreement by the department. Such agreement shall contain a provision that the franchise shall not be terminated unless a satisfactory arrangement has been made to assure completion of instruction of the students in the school.

C. Authority is granted to the department to *suspend enrollment in or withdraw approval of programs or courses of holders of Certificates to Operate that do not continue to meet the requirements of these regulations.* A school that has had *enrollment suspended or approval withdrawn* shall be notified by certified mail and shall not enroll new students in such programs.

## PART XIII. STUDENT GUARANTY PROVISIONS.

### § 13.1. Protection of contractual rights of students.

As required by § 22.1-321 of the Code of Virginia each school applying for or maintaining a Certificate to Operate shall provide a certain guaranty to protect the contractual rights of students. Either or both of the following provisions shall apply as determined by the department.

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A. § 13.2. Student Tuition Guaranty Fund (Career schools only).

1. For purpose of this regulation, the following terms have the meanings indicated:

a. "Assessment year" means the calendar year (January 1 through December 31) to which the term "gross tuition collected" is applicable, as specified in these regulations.

b. "Fund" means Student Tuition Guaranty Fund.

e. "Gross tuition collected" means all fees received a cash or accrual accounting method basis for all instructional programs or courses, except for nonrefundable registration and application fees and charges for materials, supplies, and books which have been purchased by, and are the property of, the student.

d. "Regulations" means this document in its entirety.

2 A . The board hereby creates and provides for a Student Tuition Guaranty Fund.

3 B . The purpose of the fund is to reimburse tuition and fees due students at institutions approved under these regulations when the institution ceases to operate.

4 C . The initial minimum operating balance of the fund shall be set at \$250,000.

5 D . Each institution approved to operate by the board granted a Certificate to Operate shall pay into the fund the amount required by this regulation. Except as otherwise provided, each institution participating in the fund need not maintain or acquire surety bonds, irrevocable letters of credit, or other financial guaranties to protect student tuition as a condition to continued operation after the adoption of these regulations unless notified by the department.

6 E . If the department determines that deficiencies exist in the operating circumstances of any institution authorized to operate, the institution may be required to post a surety bond guaranty instrument in accordance with the provisions of these regulations. If so required, the institution shall maintain the bond guaranty instrument and comply with these provisions until notified otherwise.

7 F . Each institution shall make payment into the fund on the following basis:

a. 1. Payment into the fund for an institution approved to operate on or before the adoption of these regulations shall be in accordance with the schedule set forth in subdivision 7 e below F 3 , and shall be based upon gross tuition collected in the assessment year beginning January 1 of the preceding year. The payment shall be made not later than 60 days after

notification or January 1, whichever is earliest.

b. 2. Payment into the fund for an institution operating for less than one assessment year on the effective date of this regulation or for an institution approved to operate on or after the effective date of this regulation shall be \$150.

e. 3. An assessment shall then be made after an institution has been operating one assessment year and it shall then make payment into the fund in accordance with the schedule set forth below based on the previous assessment year's operation. All payments into the fund shall be made within 30 days of the close of the assessment year or notification, whichever is sooner:

Gross Tuition Collected During Assessment Year	Payment Into the Fund
\$ ± 0 to \$ 25,000	\$ 200
25,000 to 50,000	250
50,000 to 100,000	300
100,000 to 200,000	400
200,000 to 300,000	500
300,000 to 400,000	600
400,000 to 500,000	700
500,000 to 750,000	1,000
750,000 to 1,000,000	1,250
1,000,000 to 1,500,000	1,500
1,500,000 to 2,000,000	2,000
Over 2,000,000	2,000 plus 1/10 of 1% of all gross tuition over \$2,000,000

d. 4. New schools shall meet the bonding guaranty requirements of § 13.2 13.3 for the first three years of operation and pay an initial fee of \$150 upon receipt of its Certificate to Operate. Thereafter, the institution shall pay into the fund in a pattern equal to payments made by other schools upon notification by the department. After this initial period and upon satisfactory performance by the school, the bonding guaranty requirement may be waived by the department.

8 G . If, after the effective date of this regulation, the board authorizes the operation of an institution upon the determination that there has been a change in ownership, the institution shall make a payment into the fund, without regard to payments, if any, previously made by the institution or its predecessor under the following conditions:

a. 1. If the institution has been operating for at least one assessment year, the institution, under its new ownership, shall pay into the fund in accordance with the schedule in subdivision 7 e F 3 of this section for the last assessment year of operation and the payment shall be due before approval to operate under new

ownership; or

b. 2. If an institution has been operating for less than one assessment year, the institution, under its new ownership, shall pay into the fund in accordance with the provisions of subdivision 7 b F 2 of this section .

H. *In the event the school fails to pay its student guaranty fund assessment within the time set forth in subsection G of this section, the Certificate to Operate will automatically expire. The department may grant one 60-day extension if the school submits a written request citing hardship and submits a current financial statement.*

9. I. Advisory committee.

a. 1. The board shall appoint a five-member advisory committee to make recommendations to it respecting the fund.

b. 2. The five-member advisory committee shall be appointed and have terms as follows:

(1) a. Three members shall be school owners or operators;

(2) b. Two members shall be persons other than school owners or operators;

(3) c. All members shall be appointed for a three-year term except that the first appointment shall be for terms as follows:

(a) (1) The terms for each of the three school owners or operators shall be one for three years, one for two years, and one for one year, respectively.

(b) (2) The terms for each of the two persons who are other than school owners or operators shall be one to a two-year and one to a one-year term, respectively.

(c) (3) Advisory committee members are eligible for reappointment.

(d) (4) The advisory committee shall establish the time and place for its meetings and rules of procedures for its meetings.

(e) (5) On July 31 of each year the advisory committee shall file an advisory report on the fund with the board which shall include such recommendations concerning the operations or changes in operation or minimum balance of the fund as it may deem appropriate.

(f) (6) The advisory committee shall recommend to the superintendent the amount of money which it concludes is the minimum operating level of the fund necessary for the fund to function effectively.

10. J. The superintendent may appoint a director of the fund from his staff who shall serve at his pleasure and be responsible to the superintendent for the administration of the fund.

11. K. The director of the fund, after consulting with the advisory committee, shall have the authority to determine whether a claim merits reimbursement from the fund, and if so, the:

a. 1. Amount of the reimbursement;

b. 2. Time, place, and manner of its payment;

c. 3. Conditions upon which payment shall be made; and

d. 4. Order in which payments shall be made.

12. L. A claimant or other person does not have any right in the fund as beneficiary or otherwise.

13. M. Claims against the fund may be paid in whole or in part, based upon the extent to which program objectives were met for each claimant, and taking into consideration the:

a. 1. Amounts available and likely to become available to the fund for payments of claims;

b. 2. Total amount and number of claims presented or reasonably likely to be presented in the future;

c. 3. Total amount and number of claims caused by the cessation of operation of an institution;

d. 4. Amounts paid out from the fund on claims in the past;

e. 5. Availability to the claimant of a transfer ("teach-out") program;

f. 6. The total amount of moneys paid to the school by identified or prospective claimants; and

g. 7. The balance maintained in the fund after payment of duly authorized claims may not drop below \$35,000.

14. N. A claim shall be made against the fund only if it arises out of the cessation of operation by an institution on or after the effective date of these regulations. If the institution holds a surety bond or other guaranty instrument as required by § 13-2 § 13.3 of these regulations, the first priority shall be to file a claim against the ~~bond~~ guaranty instrument . Claims shall be filed with the Director of the fund on forms prescribed by the department within three years after cessation of operation by the institution. Claims filed after that are not considered. Within a reasonable time after receipt of a claim, the director shall give the institution or its owners,

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or both, notice of the claim and an opportunity to show cause, within 30 days, why the claim should not be reimbursed in whole or part. The director may cause to be made other investigation of the claim as he deems appropriate or may base his determination, without further investigation, upon information contained in the records of the board.

16. O. The director's determination shall be in writing and shall be mailed to the claimant and the institution or its owners, or both, and shall become final 30 days after the receipt of the determination unless either the claimant or the institution, or its owners, within the 30-day period, files with the director a written request for a hearing. Upon request, a hearing shall be held and, subject to the authority of the director to exclude irrelevant or other inappropriate evidence, the claimant and the institution or its owners may present such information as they deem pertinent.

16. P. The superintendent shall administer the fund upon the following basis:

a. 1. The assets of the fund may not be expended for any purpose other than to pay bona fide claims made against the fund;

b. 2. All payments into the fund shall be maintained by the State Comptroller who shall deposit and invest the assets of the fund in any savings accounts or funds which are federally or state insured, and all interests or other return on the fund shall be credited to the fund;

e. 3. Payment into the fund shall be made in the form of a company or cashier's check or money order made payable to the "Student Tuition Guaranty Fund";

17. Q. When a claim is allowed by the director, the superintendent, as agent for the fund, shall be subrogated in writing to the amount of the claim and the superintendent is authorized to take all steps necessary to perfect the subrogation rights before payment of the claim. Refunds will be made, first, to the lender issuing student financial aid or the guarantor of the loan, and second, to the student. In the event there was no financial aid involved, refunds will be made to the student. If payment of an institution's obligation is made from the fund, the superintendent shall seek repayment of the sums from the institution or such other persons or entities as may be responsible for the institution's obligations. This provision shall be enforced through the office of the Attorney General.

18. R. If the moneys in the fund are insufficient to satisfy duly authorized claims, there shall be a reassessment based on the formula specified in subdivision 7 e above F 3 of this section. If there are three reassessments, the superintendent and the advisory committee shall conduct a review of the operating circumstances of the fund and make recommendations to

the board. These recommendations shall include, but not be limited to, recommendations as to whether the fund should remain in force or whether the minimum balance is sufficient. During the course of this review, the superintendent shall solicit advice from the schools and members of the public respecting the fund.

## § 13.2. § 13.3. ~~Bonding~~ Guaranty instrument requirements.

A. All initial applicants for a certificate to operate shall provide a bond, *irrevocable letter of credit or certificate of deposit* as required by this section and maintain said ~~bond guaranty instrument~~ for the first three years of operation. *After that time the school may petition the guaranty fund advisory committee for release from its obligation of the guaranty instrument.* In addition, schools for ~~the handicapped students with disabilities~~ shall maintain a ~~bond guaranty instrument~~ as required by this section as a condition of continued certification.

B. If it is determined that a ~~surety bond guaranty instrument~~ is required for a career school in accordance with the provisions of § 13.1 & 13.2 E, a ~~surety bond guaranty instrument~~, payable to the Commonwealth of Virginia, on forms provided by the ~~Board~~ Department of Education to protect the contractual rights of the students shall be filed with the application for a Certificate to Operate.

C. The amount of the ~~bond guaranty instrument~~ shall be based on the total maximum enrollments as follows:

Maximum Student Enrollment	Minimum
Bond Guaranty	
0-50	\$5,000
51-100	10,000
101-150	15,000
151-200	20,000
201-250	25,000
251-300	30,000
301-350	35,000
351-400	40,000
401-450	45,000
451 and over	50,000

E. D. The ~~bonding~~ *guaranty* requirements for schools for ~~the handicapped students with disabilities~~ may be reduced, at the discretion of the department, if the school shows that it collects no advance tuition other than equal monthly installments or is paid after services have been rendered. The minimum ~~bond guaranty~~ for any school shall be \$1,000. Schools that feel they may qualify for a reduced ~~bond guaranty~~ may apply, on forms provided for that purpose, to the proprietary school service for authority to submit less ~~bond guaranty~~ than the law requires.

E. E. For ~~bonding~~ *guaranty instrument* purposes, the school shall count its total current enrollment as of the date of the application, or its largest enrollment as of the

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date of the application, or its largest enrollment in the preceding 12 months, whichever is greater. A school being organized shall use the maximum projected enrollment which will be subject to revision based on the enrollment 60 days following the date classes start.

E. F. In the event the a surety bond is terminated, the Certificate to Operate will automatically expire if a replacement bond is not provided.

## PART XIV. FEES.

### § 14.1. Fees, generally.

A. The following fees shall be charged and shall apply toward the cost of investigation and issuance of the Certificate to Operate to Career Schools :

1. Original Certificate to Operate - ~~\$150~~ \$300
2. Renewal of Certificate to Operate - ~~\$ 75~~ \$150 plus 0.1% of gross tuition receipts for the prior assessment year.
3. Reissuance of Certificate to Operate for:
  - a. Change of Location - ~~\$ 25~~ \$100
  - b. Addition of Program(s) - ~~\$ 25~~ \$100
  - c. Program Deletions - \$ 50
  - d. Addition of Branch Campus - \$100
4. Review of Out-of-State School for Issuing of Agent Permits (Annual) - ~~\$ 50~~ \$100
5. Original Agent Permit - ~~\$ 5~~ \$ 5
6. Renewal of Agent Permit - ~~\$ 1~~ \$ 25
7. Revised program review and approval/program name change - \$ 50
8. Extension Classroom/Additional Space Approval - \$ 50
9. Requested Catalog Review - \$ 50
7. 10. Penalty for failure to meet the deadline for submission of renewal applications or complete the initial application timelines - \$100
11. Search and issuance of student transcript - \$ 5

B. The following fees shall be charged and shall apply toward the cost of investigation and issuance of the Certificate to Operate to Schools for Students with Disabilities:

1. Original Certificate to Operate - \$150
2. Renewal of Certificate to Operate - \$ 75
3. Reissuance of Certificate to Operate for:
  - a. Change of Location - \$ 25
  - b. Addition of Program(s) - \$ 25
4. Review of Out-of-State School for Issuing of Agent Permits (Annual) - \$ 50
5. Original Agent Permit - \$ 5
6. Renewal of Agent Permit - \$ 1
7. Penalty for failure to meet the deadline for submission of renewal applications - \$100

B. C. All fees shall be submitted at the time of application and are nonrefundable.

E. D. All fees shall be paid by school or company check or money order made payable to the "Treasurer of Virginia." Personal checks are not acceptable.

## PART XV. CERTIFICATE RENEWAL.

### § 15.1. Renewal of certificate to operate.

A. Every school that continues to operate as such shall submit annually, ~~on or before~~ ~~May 1~~ at least 45 days prior to the expiration date of its Certificate to Operate , an application, on forms provided by the ~~board~~ department and pay the required fee for certificate renewal. The application for renewal shall include in addition to other information, a current financial statement, a current fire inspection report, and a current schedule of tuition and other fees. Schools which do not submit complete applications and documents required for renewal within the renewal period designated by the department, including a grace period of five business days after the deadline, shall be subject to the penalty fee described in subdivision A 7 of § 14.1 of these regulations.

B. Every Certificate to Operate which has not been renewed by the board on or before ~~June 30~~ of each year the annual certificate renewal anniversary date shall expire and the school shall cease operation immediately. A new Certificate to Operate shall be obtained from the board before such school may resume operations. All of the requirements of Part III of these regulations shall be met.

C. Any school not complying with the provisions of this section shall be deemed to be in violation of these regulations and shall be reported to the Office of the Attorney General for appropriate action.



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## PART XVI. DENIAL, REVOCATION, SUSPENSION OR REFUSAL TO RENEW A CERTIFICATE, GROUNDS.

### § 16.1. *Board actions.*

The Certificate to Operate shall not be denied, revoked or suspended or a request for renewal refused except upon the action of the board which shall be reported in writing. Records of the board's findings, recommendations and actions shall be preserved in writing.

### § 16.2. *Refusal, denial, revocation or suspension.*

The board may refuse to renew or may deny, revoke or suspend the Certificate to Operate of a school for any one or combination of the following causes:

1. Violation of any provision of the act or any regulation made by the board;
2. Furnishing false, misleading, or incomplete information to the board or department or failure to furnish information requested by the board or department;
3. Violation of any commitment made in an application for a Certificate to Operate;
4. Presenting to prospective students information which is false, misleading, or fraudulent regarding employment opportunities, starting salaries or the possibility of receiving academic credit from any institution of higher learning;
5. Failure to provide or maintain the premises or equipment in a safe and sanitary condition as required by law or by state regulations or local ordinances;
6. Making false promises through solicitors or by advertising or by using some other method to influence, persuade, or induce enrollment;
7. Paying a commission or providing other compensation for service performed in violation of the act;
8. Failing to maintain adequate financial resources to conduct satisfactorily the courses of instruction offered or to retain an adequate, qualified instructional staff;
9. Conducting instruction in a course or program which has not been approved by the board or department;
10. Demonstrating unworthiness or incompetency to conduct a school in any matter not calculated to safeguard the interests of the public;
11. Failing within a reasonable time to provide information requested by the board or department as

a result of a formal or informal complaint or as supplement to an application;

12. Attempting to use or employ enrolled students in any commercial activity whereby the school receives compensation without reasonable remuneration to the students unless activities are essential to their training and are permitted and authorized by the board or department as a part of the program or course;

13. Engaging in or authorizing other conduct which constitutes fraudulent or dishonest action;

14. Attempt to confer any degree on any student in violation of § 23-272 D of the Code of Virginia;

15. Violation of or failure to adhere to the student guaranty provisions set forth in Part XIII of these regulations;

16. Failure to comply with all applicable laws promulgated by a state outside Virginia in which the school is soliciting students; and,

17. Failing, within a reasonable time, to make refunds due and payable.

### § 16.3. *Board investigation.*

The board or department may, upon its own motion, and shall upon the written complaint of any individual setting forth facts which, if proved, would constitute grounds for denial, refusal, suspension, or revocation of a Certificate to Operate, investigate the actions of any applicant or any persons holding or claiming to hold such certificate.

### § 16.4. *Department investigation procedures.*

Authority is granted to the department staff to investigate complaints from individuals and other sources concerning alleged violations of the Act or the regulations either by a school or by an agent. *The department may use the services of a five-member arbitration committee to resolve the matter.* Where the finding(s) of the department is in favor of the complainant, the school shall abide by any recommendation(s) made. If the school disagrees with the recommendation(s), the department shall hold an informal hearing to determine whether further action (i.e., revocation, suspension or refusal to renew a certificate) is warranted. The superintendent or his designee shall chair the hearing.

### § 16.5. *Corrective actions.*

Before proceeding to a hearing, as provided for in the Act, on the question of whether a Certificate to Operate or permit shall be denied, refused, suspended, or revoked for any cause, the board may grant to the holder of, or applicant for, a Certificate to Operate a reasonable period of time to correct any unsatisfactory condition. If within such time, the condition is corrected to the board's

satisfaction, no further action leading to denial, refusal, suspension, or revocation shall be taken by the board.

## § 16.6. *Procedure for taking actions.*

All actions taken under the provisions of this section in regard to denials, revocations, suspensions, or refusals to renew shall be taken in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).

## § 16.7. *Revocation or denial consequences.*

Any owner of a school which has had a certificate revoked, has been denied a certificate, or has been refused renewal of a certificate shall not be allowed to apply for another certificate before at least 12 months have passed since the date the formal action was taken. In addition, this policy shall apply to any owner who fails to comply with the provisions of Part XIX of these regulations when closing a school.

## PART XVII. LISTING OF SCHOOLS.

### § 17.1. *School listing.*

The department shall maintain a list of schools holding valid Certificates to Operate under the provisions of the Act which shall be available for the information of the public.

## PART XVIII. AGENT PERMITS.

### § 18.1. Agent's permits: general provisions.

A. Every agent or solicitor representing any school for the purpose of recruiting or enrolling students off the premises of the school, whether the school is located in the Commonwealth or outside the Commonwealth, shall apply to the department in writing upon forms prepared and furnished by it. Every such agent shall not function as such until he has been issued a permit by the department. Representatives of a school participating in high school career or college-day programs to explain their school's program of study and for that purpose only are exempted from securing an agent's permit.

B. Any individual representing a school who in any way comes into contact with prospective students off the premises of the school for the purpose of gaining information or soliciting enrollment shall be regarded as an agent of the school subject to all permit licensing requirements of the Commonwealth.

C. Each school shall be responsible and liable for the acts of its agent(s) acting within the scope of his authority and must familiarize such agent(s) with the provisions of Chapter 16 (§§ 22.1-319 through 22.1-335) of Title 22 of the Code of Virginia and regulations adopted by the board.

D. After an application for a permit has been filed with the department and is complete and acceptable, the department shall prepare and deliver to the applicant a card which among other things, shall contain the name, address, and picture of the agent, and the name of the employing school, and shall certify that the person whose name appears thereon is an authorized agent of the school named thereon. The year for which a permit is issued shall be prominently displayed on the card. The permit shall be valid for not more than one year and shall expire on December 31 following the date of issue.

E. Each agent shall display or produce the agent's permit when requested to do so by any student(s), prospective student(s), parent(s), guardian(s), school official(s) or by a member of the department or its representative(s).

F. If agents are authorized to prepare or publish advertising, or to use promotional materials, the school accepts full responsibility for the advertising and the contents of the materials used.

G. Where agents are authorized to collect money from an applicant for enrollment, they shall give the applicant a receipt for the money collected and a copy of the enrollment agreement.

H. No agent is permitted to use a title which misrepresents his duties and responsibilities.

I. No agent shall violate any of the standards set by the board governing advertising and promotional material.

J. Each agent or solicitor shall submit annually on or before November 15 an application to renew his permit on forms provided by the department and pay a renewal fee as prescribed in Part XIV of these regulations. Every permit which has not been renewed by the department on or before December 31 of each year shall expire. Schools which do not submit complete applications and documents required for renewal within the renewal period designated by the department, including a grace period of five business days after the deadline shall be subject to the penalty fee described in subdivision A 7 of § 14.1 of these regulations.

### § 18.2. Application for permit.

A. Each applicant for an agent's permit shall furnish all information required by the department. The department may make such reasonable investigation of any applicant as it deems necessary. The application shall include, among other things:

1. Recommendations of three reputable persons certifying that the applicant is truthful, honest, and of good reputation and that they recommend that a permit be issued to the applicant. The recommendations shall include at least one from a former employer and one other professional relation.

# Proposed Regulations

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2. Each application for an agent's permit shall be accompanied by a fee as prescribed in Part XIV of these regulations. Payment shall be made by company or school check or money order payable to the "Treasurer of Virginia." The fee submitted with the agent's application shall not be refunded if the agent's permit is denied. Personal checks are not acceptable.

## B. Agents representing out-of-state schools.

Out-of-state schools desiring to employ agents to solicit students in the Commonwealth shall submit the information prescribed in Part III of these regulations or as requested by the department in the case of renewal of permits and pay fees as listed in Part XIV of these regulations. All catalogs, applications, enrollment agreements, advertising, or other similar items shall be in compliance with applicable sections of these regulations.

## § 18.3. Revoking and suspending an agent's permit.

A. The department may deny issuance of or suspend or revoke a permit issued to any agent for a school for the following causes:

1. Violation of any provision of the Act or any regulation of the board;
2. Presenting or giving to a prospective student or his parent or guardian, information which is false, misleading, or fraudulent or which makes false or misleading representations concerning employment opportunities, or the possibility of receiving credit for courses offered by the school at any institution of higher learning;
3. Failing to display a valid permit when requested by a prospective student, his parent, or guardian, or by any members of the board or representative of the department;
4. Failing to provide information requested by the department as a result of a formal or informal complaint to the department; or
5. Failing to comply with laws promulgated by any state outside Virginia in which the agent is soliciting students.

*B. The department may temporarily suspend a permit held by an agent employed by any school if action is being taken against the school by its state approving authority or accrediting agency pending resolution of the action if it is determined that such action may cause closure of the school.*

~~B. C. No permit shall be revoked ; suspended, or not renewed by the department until it has held a hearing. Such hearings and appeals therefrom shall be conducted in the same manner as those relating to revoking, suspending, refusing to renew or denying a Certificate to Operate~~

described in Part XVI of these regulations.

~~C. D. At the option of the student or his parent or guardian, all contracts entered into by any student, his parent or guardian, solicited or given them by any agent or solicitor who does not possess a current and valid permit, and any nonnegotiable promissory note or other nonnegotiable evidence of indebtedness taken in lieu of cash by such agent or solicitor may be declared invalid by the department and moneys paid recovered from the school he represents.~~

~~D. E. Any agent having a permit revoked shall be prohibited from soliciting students for any school governed by these regulations for a period of one year following the date of formal action of the revocation.~~

## PART XIX. SCHOOL CLOSINGS.

### § 19.1. School closing procedures.

A. A school which is closing shall notify its students of the closing in writing and make arrangements to assure that they are able to complete their program of study or provide for refunds to students. In the event such arrangements cannot be made, the department shall be available to assist in making special arrangements for students to complete their programs or students will be advised of their rights in regard to filing claims against the Student Tuition Guaranty Fund.

B. Each school which is closing shall notify the ~~board~~ department in writing in advance of the anticipated closing date and provide the following information relative to the students currently enrolled:

1. A directory listing as described in § 7.1 B of these regulations.
2. A copy of each student's academic attendance and financial payment records and a copy of the enrollment agreement.

C. At the time of notification, the school shall submit a written plan detailing the process of closure which provides for the following:

1. The cessation of all recruitment activities and student enrollments as of the date of the notice;
2. A description of the provisions made for the students to complete their program of study;
3. Copies of all notices of the closing given to students, the general public and other interested parties such as accrediting agencies, the U.S. Department of Education, loan guarantee agencies, etc.;
4. Provisions for the transfer of all student records to

# Proposed Regulations

the ~~board~~ *department* within 30 days of the close and notification to all students of the location of their records; and

5. Provisions for notifying students in writing of their financial obligations.

D. Records for students transmitted to the ~~board~~ *department* shall be the originals or certified true copies which include, at a minimum, the following components;

1. Academic records showing the basis for admission, transfer credits, courses completed, and grades for those courses;

2. Up-to-date attendance and financial payment records and, where applicable, a completed financial aid transcript;

3. Evidence of refunds made to students where applicable; and

4. Any enrollment agreement(s) executed between the student and the school.

E. The cost of transferring the records to the ~~board~~ *department* shall be borne by the school.

F. In the event a school files a bankruptcy petition, a complete, certified true copy shall be filed with the ~~board~~ *department*. If students are unable to complete their program of study, they shall be given the highest creditor status allowed by statute for refunds in the full amount of moneys paid into the school.

G. Records for students in schools for the ~~handicapped~~ *children with disabilities* shall be returned to the student's home school division.

H. The board or department may request any additional information which is reasonable and necessary to carry out its responsibility.

## PART XX.

### TRANSMITTAL OF DOCUMENTS AND MATERIALS.

§ 20.1. Transmitting documents and other materials.

A. The mailing of applications, forms, letters, or other papers shall not constitute receipt of the same by the department unless sent by registered mail, certified mail, express mail, or courier with return receipt requested.

B. All materials should be addressed to the Proprietary School Service, Department of Education, Box 6-Q 2120, Richmond, VA ~~23216~~ 23216-2120 or Proprietary School Service, James Monroe Building, 19th Floor, 101 North 14th Street, Richmond, VA 23219.

C. Material submitted by electronic means (e.g., facsimile machine, computer, etc.) will be accepted

contingent upon receipt of original documents sent in accordance with subsection A of this section.

## PART XXI. AMENDMENTS.

§ 21.1. *Regulatory changes.*

Substantive amendments to these regulations shall be made in accordance with the provisions of § 9-6.14:1 et seq. of the Code of Virginia, formally known as the Virginia Administrative Process Act.

V.A.R. Doc. No. R93-794; Filed September 1, 1993, 10:53 a.m.

OL014-B 12/92

REGISTRAR OF REGULATIONS

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF EDUCATION  
PROPRIETARY SCHOOLS

93 SEP -1 AM 10: 53

APPLICATION FOR APPROVAL OF PROGRAM NAME CHANGE

School Name \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_

Telephone \_\_\_\_\_

Old Program Name: \_\_\_\_\_

New Program Name: \_\_\_\_\_

Rationale for change: \_\_\_\_\_

This application must be accompanied by a company, certified or cashier's check or money order in the amount of \$50.00 made payable to the 'Treasurer of Virginia'. The fee is nonrefundable, personal checks are not acceptable.

OL021 12/92

COMMONWEALTH OF VIRGINIA  
BOARD OF EDUCATION  
RICHMOND, VIRGINIA 23216-2060

REGISTRAR OF REGULATIONS

APPLICATION FOR APPROVAL OF CHANGE OF LOCATION  
93 SEP -1 AM 10: 53

I. CURRENT INFORMATION

School Name \_\_\_\_\_ Phone No. \_\_\_\_\_

Address \_\_\_\_\_ City & Zip Code \_\_\_\_\_

Contact Person \_\_\_\_\_ Title \_\_\_\_\_

II. NEW LOCATION INFORMATION

Address \_\_\_\_\_ City & Zip Code \_\_\_\_\_

New Phone No. (if applicable) \_\_\_\_\_

Reason for Change \_\_\_\_\_

Effective Date of the Change \_\_\_\_\_

III. ATTACHMENTS

1. A company, certified or cashier's check or money order in the amount of \$100.00 made payable to the 'Treasurer of Virginia'. This fee is nonrefundable.
2. A new surety bond showing the new address or a Change of Address Rider for the existing bond.
3. A Certificate of Occupancy for the new location or individual building code, fire safety, and sanitation inspection reports from the appropriate government agency. (If a new Certificate of Occupancy is not required and the existing one is more than six (6) months old, a current fire inspection report must be submitted.)
4. A copy of the deed, lease or other legal instrument authorizing the school to occupy the new location.
5. A scale drawing of the floor plan of the new location.

IV. CERTIFICATION

I certify that the foregoing statements and the information attached are complete and correct to the best of my knowledge and belief.

Print Name of Authorized School Official \_\_\_\_\_ Title \_\_\_\_\_

Signature of Authorized School Official \_\_\_\_\_ Date \_\_\_\_\_

FOR OFFICE USE ONLY

Date Application Received/Reviewed \_\_\_\_\_ Date of On-Site Visit \_\_\_\_\_

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COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF EDUCATION  
PROPRIETARY SCHOOLS

REGISTRAR OF REGULATIONS  
93 SEP -1 AM 10: 53

APPLICATION FOR APPROVAL OF A NEW OR REVISED PROGRAM

School name \_\_\_\_\_

School location \_\_\_\_\_

Telephone \_\_\_\_\_

Contact person \_\_\_\_\_ Title \_\_\_\_\_

New program \_\_\_\_\_ Revised program \_\_\_\_\_

Program title \_\_\_\_\_

If revised, old title \_\_\_\_\_

Length of program: clock hours \_\_\_\_\_ quarter hours \_\_\_\_\_ semester hours \_\_\_\_\_

other (describe) \_\_\_\_\_

If revised, indicate length of old program:

clock hours \_\_\_\_\_ quarter hours \_\_\_\_\_ semester hours \_\_\_\_\_

other (describe) \_\_\_\_\_

Proposed starting date \_\_\_\_\_

Tuition \_\_\_\_\_ Registration fee \_\_\_\_\_

Additional charges and fees (please specify) \_\_\_\_\_

Will graduates be awarded a certificate or diploma \_\_\_\_\_

If seeking approval for more than one campus, list all locations where program will be offered

ATTACHMENTS

The following documents/information must accompany this application:

FOR EACH REVISED PROGRAM, PROVIDE THE FOLLOWING INFORMATION:

1. A cashier's or company check or money order in the amount of \$50.00 made payable to the 'Treasurer of Virginia'. Fees are nonrefundable and personal checks are not acceptable.

QL014

2. A cross-reference between the two programs which show old and new course numbers, titles, credit, etc. for each course in the program.
3. The rationale for the revision and any applicable notes or comments regarding the program.
4. A description of the requirements for graduation from the program?
5. A list of new equipment needed as result of revisions. If not yet purchased, cite commitment to acquire (purchase orders, invoices, etc.)

FOR EACH NEW PROGRAM, PROVIDE THE FOLLOWING INFORMATION:

1. A cashier's or company check or money order in the amount of \$100.00 made payable to the 'Treasurer of Virginia'. The fee is nonrefundable and personal checks are not acceptable.
2. Objective of the program.
3. Vocational competencies expected to be attained by a graduate.
4. List, as identified by the Dictionary of Occupational Titles, the potential job opportunities for which training will prepare.
5. Evidence of market demand. Describe the rationale upon which you predicated the need for this program. Describe the extent to which individual employers or an industry advisory committee assisted in the formulation of the proposed program.
6. If an entrance test will be used, enclose copy of the test and indicate what score is required for entry. Explain how this score was determined and on what basis you determined it would assist in assessing the potential success of the student. If the test is nationally normed, submit a copy of the publisher's normative data relative to the test.
7. State the maximum number of students who will be enrolled in any one session of the program for whom you have space and equipment?
8. State the maximum instructor:student ratio?
9. Completed and signed Personnel Qualifications Records for all new instructors.
10. A list of all equipment/instructional supplies to be used in the program that are currently on-site at the school. Include copies of invoices, purchase orders, or leasing agreements for each item of equipment which is not currently on-site.
11. Describe the requirements for graduation from the program.

REGISTRAR OF REGULATIONS  
93 SEP -1 AM 10: 53

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF EDUCATION  
P. O. BOX 2120  
RICHMOND, VIRGINIA 23216-2120

ANNUAL RENEWAL FEE ASSESSMENT CERTIFICATION

\*ASSESSMENT YEAR: \_\_\_\_\_

SCHOOL NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

FINANCIAL INFORMATION

TOTAL RECEIPTS FOR INSTRUCTIONAL PROGRAMS/COURSES \$ \_\_\_\_\_

LESS: NONREFUNDABLE REGISTRATION & APPLICATION FEES \_\_\_\_\_

RECEIPTS FOR BOOKS, SUPPLIES & MATERIALS PURCHASED BY AND CONSIDERED THE PROPERTY OF THE STUDENTS \_\_\_\_\_

GROSS TUITION COLLECTED \$ \_\_\_\_\_

I certify, that the information contained in this document is true and correct to the best of my knowledge and that furnishing incomplete or incorrect information may lead to the denial revocation or suspension of any Certificate to Operate issued to this institution.

Date \_\_\_\_\_ Signature of Official \_\_\_\_\_

\*Assessment year is defined as the prior Certificate year. Use estimated figures for April, May and June.

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12. Curriculum design submissions must include the following information for each course or subject area with the program:

- A. Individual course objectives.
- B. The total hours for theory instruction and the total hours for laboratory or practical instruction.
- C. A detailed course outline.
- D. A list of the textbook(s) to be used in the course, including the titles, editions, publishers and dates of publication.
- E. A college catalog type narrative description of each course.
- F. A description of the methods proposed to be used to teach the course (e.g. lecture, class discussion, video presentations, field trips, student demonstrations, small group activities, etc.).
- H. A description of how the student's assimilation of the material will be assessed (e.g. short answer tests, essay questions, standardized tests, practical application problems, demonstrations, projects, etc.). Include the intervals at which these assessment tools will be utilized.
- I. Samples of quizzes, tests, exams and daily lesson plans.

13. If an externship experience is included, please provide the following:

- A. Describe the externship content and length, include a description of the relationship between the classroom and the externship experiences (i.e., how the externship provides reinforcement of the classroom instruction).
- B. Describe the process to be used to evaluate student performance during the externship and provide copies of the instruments.
- C. Describe how and by whom students will be supervised during the externship.
- D. Indicate the maximum number of students who will be at each site at anyone time.
- E. Submit a list of the names, addresses and contact persons for each externship site. Submit copy of sample agreement between the school and sites.



REGISTRAR OF REGULATIONS  
93 SEP -1 AM 10: 53

COMMONWEALTH of VIRGINIA

DEPARTMENT OF EDUCATION  
P.O. BOX 2120  
RICHMOND 23216-2120

June 8, 1993

MEMORANDUM

TO:

FROM: Proprietary Schools Staff

RE: 1993-94 Certificate to Operate Renewal Assessment

- 1. GROSS TUITION REPORTED PER FORM QL.012B: \$ \_\_\_\_\_
- 2. ASSESSMENT (0.1% OF ABOVE FIGURE) \$ \_\_\_\_\_

Amount on line 2 must be paid within ten (10) days of your receipt of this bill. Please submit a company, certified or cashier's check or money order made payable to the "Treasurer of Virginia" in the stipulated amount.

If you have any questions or comments, please feel free to contact this office at 804/225-2100.

QL001B 12/92

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF EDUCATION  
RICHMOND, VIRGINIA 23216-2060

REGISTRAR OF REGULATIONS  
93 SEP -1 AM 10: 53

APPLICATION FOR APPROVAL OF A BRANCH CAMPUS  
(Please type or print legibly in ink)

School Name \_\_\_\_\_

Branch Address \_\_\_\_\_

Branch City & Zip Code \_\_\_\_\_ Telephone \_\_\_\_\_

Branch Campus Contact Person \_\_\_\_\_ Title \_\_\_\_\_

Main Campus Location \_\_\_\_\_

City & Zip Code \_\_\_\_\_ Telephone \_\_\_\_\_

Contact Person \_\_\_\_\_ Title \_\_\_\_\_

Anticipated Opening Date \_\_\_\_\_

GENERAL INFORMATION

Will the ownership and control of the branch be the same as that of the main campus?

\_\_\_\_\_ Yes \_\_\_\_\_ No

(If no, attach a detailed explanation of the difference and evidence of compliance with requirements of the State Corporation Commission as required by Section 3.1 (A) of the regulations.)

Anticipated enrollment at the branch for the upcoming year \_\_\_\_\_

Will the programs offered at the branch be identical to those offered at the main campus?

\_\_\_\_\_ Yes \_\_\_\_\_ No

(If no, attach a detailed explanation.)

Will the branch campus be financially independent of the main campus? Yes No

(If yes, attach an explanation of the relationship to the main campus (if applicable) and a financial statement for the branch which conforms to the requirements of Section 3.1 (I) of the regulations.)

Will all policies, tuition and fees currently in effect at the main campus be applicable to the branch campus?

\_\_\_\_\_ Yes \_\_\_\_\_ No

(If no, attach a detailed explanation.)



ATTACHMENTS

The information listed below shall be submitted with the completed application (if applicable):

1. A cashier's or company check or money order in the amount of \$100.00 made payable to the "Treasurer of Virginia". Personal checks are not acceptable.
2. A copy of the institution's financial statement in the format described in Section 3.1 (f) of the regulations clearly showing costs for establishing the branch. An updated budget showing allowances for the branch shall also be submitted.
3. A copy of the institution's catalog with branch information highlighted.
4. A copy of the deed, lease or other legal instrument authorizing the institution to utilize the facility in which the branch is housed.
5. A Certificate of Occupancy for the branch location or individual inspection reports as required by Part III, Section 3.1 (4) of the regulations.
6. Evidence of compliance with the student guaranty provisions of Part XII of the regulations. This evidence may be a new surety bond or payment of assessment as required by the Department resulting from the establishment of the branch.
7. Forms QL13-Proprietary School Personnel Qualification Record for all staff employed at the branch as required by Part III, Section 3.1 (8) of the regulations.

If there are revisions to any of the following items, new copies must also be submitted:

1. Student record forms as required by Part VII of the regulations.
2. Advertising currently being used or proposed for the future use.

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COMMONWEALTH OF VIRGINIA  
 DEPARTMENT OF EDUCATION  
 PROPRIETARY SCHOOLS  
 APPLICATION FOR APPROVAL OF EXTENSION  
 CLASSROOM/ADDITIONAL SPACE

REGISTRAR OF REGULATIONS  
 93 SEP -1 AM 10: 53

I. GENERAL INFORMATION

School Name: \_\_\_\_\_

Extension Classroom/Additional Space Address: \_\_\_\_\_

\_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone: \_\_\_\_\_

Main Campus Address: \_\_\_\_\_

\_\_\_\_\_

Anticipated Enrollment at Extension: \_\_\_\_\_

What student services, if any, will be available at extension? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Is this space temporary? If so, anticipated length of time to occupy? \_\_\_\_\_

Projected operating date \_\_\_\_\_

(over)

**PART II - ATTACHMENTS**

1. A company, certified, cashier's check or money order in the of amount of \$50.00. Made payable to the "Treasurer of Virginia". This fee is nonrefundable, personal checks are not acceptable.
2. A copy of deed, lease or other legal instrument authorizing the school to occupy the new location.
3. A scale drawing of the floor plan of the new location.
4. Verification from bonding company that bond covers this location.
5. A certificate of occupancy for the new location or individual building code, fire safety and sanitation inspection reports from the appropriate government agency. If a new certificate of occupancy is not required and the existing one is more than six (6) months old, a current fire inspection report must be submitted.

# Proposed Regulations

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## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: VR 394-01-200. Virginia Private Activity Bond Regulations.

Statutory Authority: § 15.1-1399.15 of the Code of Virginia.

Public Hearing Date: October 12, 1993 - 10 a.m.

Written comments may be submitted through November 19, 1993.

(See Calendar of Events section for additional information)

Basis: Section 15.1-1399.15 of the Code of Virginia provides that the Board of Housing and Community Development shall by regulation establish the specific administrative policies and procedures of the Private Activity Bond Program.

Purpose: The purpose of the amendments to the regulation is to change the year-end carryforward allocation priorities to give issuers of student loan bonds first priority to meet the increased demand for student financial assistance.

Substance: This amendment to the Private Activity Bond Regulations will give student loan bond issuers first priority in receiving year-end carryforward allocation up to \$25 million. These issuers would have priority over exempt facility projects and the Virginia Housing Development Authority.

Issues: The proposed amendment will provide better access to student loan bond issuers to meet the needs of Virginians seeking financial assistance for education. Two factors associated with recently enacted federal legislation are anticipated to create an increased demand for tax-exempt capital for student loans.

First, Congress made the student loan programs more difficult to administer by adding a new layer of procedures on top of an already complicated program. Lenders seeking relief from these burdensome requirements are looking to the Virginia Education Loan Authority (VELA) to purchase and service these loans. Second, Congress increased individual loan limits and created a new loan program for middle class students. The result is that needy students will be demanding larger loans and middle income students will enter the student loan market.

Estimated Impact: The proposed amendment will not require any additional regulatory compliance or create any additional regulatory burden. This amendment merely reallocates financial resources to meet a growing need for capital for student loans. There will be no additional cost to the public associated with this amendment.

### Summary:

*The proposed amendment will change the priority of*

*year-end carryforward allocation.*

VR 394-01-200. Virginia Private Activity Bond Regulations.

## PART I. DEFINITIONS.

### § 1.1. Definitions.

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

*"Allocation" or "award"* means the notice given by the Commonwealth to provide a project with a specified amount from the state ceiling for a specific issue of bonds.

*"Carryforward purpose"* means certain projects that are eligible to receive an allocation during a calendar year and issue the bonds from the allocation in a later year pursuant to § 146 of the Code.

*"Code"* means the Internal Revenue Code of 1986, as amended, together with the regulations and rulings issued pursuant thereto.

*"Department"* means the Virginia Department of Housing and Community Development.

*"Exempt project"* means a project requiring allocation from the state ceiling for financing of any of the following:

1. Sewage, solid waste, and qualified hazardous waste disposal facilities; and facilities for the local furnishing of electric energy or gas;
2. Facilities for the furnishing of water (including irrigation systems);
3. Mass commuting facilities; and
4. Local district heating and cooling facilities.

*"Governing body"* means the board of supervisors of each county and the council of each city and of each town.

*"Housing bonds"* means multifamily housing bonds and single family housing bonds requiring allocation from the state ceiling.

*"Industrial development bond"* means any obligation requiring allocation from the state ceiling for financing any of the following:

1. Manufacturing facility,
2. Exempt project.

*"Issued"* means that the private activity bonds have

been issued within the meaning of § 103 of the Code.

*"Issuing authority"* means any political subdivision, governmental unit, authority, or other entity of the Commonwealth which is empowered to issue private activity bonds.

*"Local housing authority"* means any issuer of multifamily housing bonds or single family housing bonds, created and existing under the laws of the Commonwealth, excluding the Virginia Housing Development Authority.

*"Locality"* or *"localities"* means the individual and collective cities, towns and counties of the Commonwealth.

*"Manufacturing facility"* means any facility which is used in the manufacturing or production of tangible personal property, including the processing resulting in a change of condition of such property.

*"Multifamily housing bond"* means any obligation which constitutes an exempt facility bond under federal law for the financing of a qualified residential rental project within the meaning of § 142 of the Code.

*"Population"* means the most recent estimate of resident population for Virginia and the counties, cities, and towns published by the United States Bureau of the Census or the Center for Public Service of the University of Virginia before January 1 of each calendar year.

*"Private activity bond"* means a part or all of any bond (or other instrument) required to obtain an allocation from the Commonwealth's volume cap pursuant to § 146 of the Code in order to be tax exempt, including but not limited to the following:

1. Exempt project bonds;
2. Manufacturing facility bonds;
3. Industrial development bonds;
4. Multifamily housing bonds;
5. Single family housing bonds;
6. Student loan bonds; and
7. Any other bond eligible for a tax exemption as a private activity bond pursuant to § 141 of the Code.

*"Project"* means the facility (as described in the application) proposed to be financed, in whole or in part, by an issue of bonds.

*"Qualified mortgage bond"* means any obligation described as a qualified mortgage bond in § 143 of the Code.

*"Qualified redevelopment bond"* means any bond

requiring an allocation from the state ceiling to be used for one or more redevelopment purposes in any designated blighted area in accordance with § 144(c) of the Code.

*"State allocation"* means the portion of the state ceiling set aside for projects of state issuing authorities and for projects of state or regional interest as determined by the Governor.

*"State ceiling"* means the amount of private activity bonds that the Commonwealth may issue in any calendar year under the provisions of the Code.

*"Student loan bond"* means an issue to finance student loans as defined in § 144(b) of the Code.

## PART II. ADMINISTRATION.

### § 2.1. Department of Housing and Community Development.

The department shall administer the private activity bond program in the Commonwealth. In administering the program, the department's activities shall include, but are not limited to, the following:

A. To determine the state ceiling on private activity bonds each year based on the federal per capita limitation on private activity bonds and the population.

B. To set aside the proper amount of the state ceiling on private activity bonds for each project type as specified in state legislation, Chapter 33.2 (§§ 15.1-1399.10 through 15.1-1399.17) of Title 15.1 of the Code of Virginia.

C. To receive and review project applications for private activity bond authority to be awarded from the portion of the state ceiling not distributed to the state allocation, the Virginia Housing Development Authority or the Virginia Education Loan Authority.

D. To allocate private activity bond authority to projects requesting bond authority from the portion of the state ceiling not distributed to the state allocation, the Virginia Housing Development Authority or the Virginia Education Loan Authority.

### § 2.2. State allocation.

Pursuant to Title 15.1, Chapter 33.2, of the Code of Virginia, a portion of the annual state ceiling on private activity bonds will be reserved for allocations to projects of state issuing authorities and projects of state or regional interest as determined by the Governor. Requests for private activity bond authority from the state allocation may be made through direct correspondence with the Governor's office. The Governor may transfer any portion of the state allocation to the department for allocation in accordance with the provisions of these regulations.

# Proposed Regulations

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## § 2.3. Virginia Housing Development Authority.

A portion of the annual state ceiling on private activity bonds shall be allocated to the Virginia Housing Development Authority to be used to finance multifamily or single family residential projects, or both, pursuant to the restrictions provided by federal law. The Virginia Housing Development Authority shall develop project allocation criteria and housing bond authority carryforward procedures that will assure compliance with federal regulations.

## § 2.4. Program dates.

The following is a listing of important application and allocation dates and deadlines concerning the portion of the state ceiling administered by the department:

January 1 - December 15

Specified amounts of the state ceiling are reserved for different project types in the Commonwealth by either state law or Governor's Executive Order in each calendar year. Allocations of private activity bond authority will be awarded - by the department - to projects in accordance with state law or Governor's Executive Order and these regulations. The set-aside for specified project types ends on December 15 of each calendar year; however, no allocation of private activity bond authority awarded for single family housing purposes or for multifamily housing purposes may be used after November 15.

November 15

Last day for the issuance of private activity bonds by a local housing authority for single family housing and multifamily housing.

November 1 - December 15

The \$10 million limitation on allocations from the state ceiling for exempt projects will be removed during this period of time to allow financing these projects in the calendar year the allocation is made.

December 1

Last day applications will be accepted for year-end carryforward purposes.

December 15

Last day for the issuance of private activity bonds for projects that received allocations from the state ceiling prior to this date; except for single family housing and multifamily housing projects, as provided above.

December 20 - 31

Allocations shall be made to year-end carryforward purposes in accordance with the priority system established by these regulations.

## § 2.5. Weekend and holiday deadline dates.

If any deadline dates specified are on a weekend or a holiday, the deadline shall be moved to the next following regular state working day ; except where federal law precludes such extension.

## § 2.6. State regulations to change as federal law determines eligibility.

If federal law terminates the eligibility or terminates and reauthorizes the eligibility for private activity bond financing for any "private activity bond" as defined in § 1.1 of these regulations, the effect shall be to exclude or include, as the case may be, that portion of the "private activity bond" from these regulations.

### PART III. ALLOCATIONS TO INDIVIDUALS BY THE DEPARTMENT.

## § 3.1. State private activity bond legislation.

Chapter 33.2 (§§ 15.1-1399.10 through 15.1-1399.17) of Title 15.1 of the Code of Virginia sets aside specified amounts of the Commonwealth's limited private activity bond issuing authority for different types of projects.

A portion of the private activity bond state ceiling is reserved each calendar year pursuant to §§ 15.1-1399.12 through 15.1-1399.14 of the Code of Virginia for the issuance of tax-exempt housing bonds. The primary purpose of providing a set-aside of private activity bond authority for these bonds is to increase the availability and affordability of housing opportunities in Virginia. Private activity housing bonds will be issued by local housing authorities and by the Virginia Housing Development Authority.

A portion of the private activity bond state ceiling is also reserved by state legislation to provide economic development in the Commonwealth and to provide facilities needed in the Commonwealth to improve public health, safety, and convenience. A separate amount of the state ceiling is reserved each year pursuant to §§ 15.1-1399.12 through 15.1-1399.14 of the Code of Virginia for manufacturing and exempt facility projects.

A portion of the private activity bond state ceiling is reserved for the issuance of student loan bonds by the Virginia Education Loan Authority.

## § 3.2. Order in which allocations shall be awarded.

Bond allocations shall be made by the department in chronological order of receipt of complete applications (including documentation specified in § 5.3 of these

regulations) until the bond authority reserved for the project type is completely allocated. Applications of projects that do not receive allocations will be maintained by the department during the year and allocations will be made to the projects in chronological order of receipt of applications as bond authority is returned to the department from projects that received allocation awards but were unable to issue bonds.

### § 3.3. Limitation on size of allocations.

All industrial development bond allocations awarded by the department prior to November 1 of each year shall be limited to \$10 million per project. There shall be no limitation on the size of allocations awarded for housing bond projects during a calendar year. If federal law terminates the eligibility of manufacturing facilities for private activity bond financing, exempt facility projects may receive allocations in excess of \$10 million prior to November 1 of each calendar year upon approval by the Board of Housing and Community Development.

### § 3.4. Effective period of allocations.

An allocation for each project, other than single family housing and multifamily housing projects, shall be effective 90 days after the allocation award date or until December 15, whichever is earlier. An allocation of private activity bond authority for single family housing and multifamily housing shall be effective for 90 days after the allocation award date or until November 15, whichever is earlier.

### § 3.5. Reapplying for a second allocation for the same project.

A project that receives an allocation and is unable to issue bonds within the effective period of the award may reapply for another allocation upon the expiration or return of the original allocation. The reapplication will be dated by the department as received on the date the reapplication request is submitted and no portion of the original allocation is outstanding. Each project shall be limited to two allocations during any calendar year. An exempt project that receives an allocation in excess of \$10 million prior to December 15 shall not be eligible to receive a carryforward purpose allocation at the end of the calendar year.

## PART IV. YEAR-END ALLOCATIONS TO CARRYFORWARD PURPOSES.

### § 4.1. Local housing authorities.

In order to allow the Commonwealth to effectively utilize all of its annual private activity bond capacity, any bond issuing authority remaining in the portion of the state ceiling reserved for local housing authorities after November 15 shall be transferred to the Virginia Housing Development Authority upon their written request after notification by the department on the amount of bond

authority available. Any bond authority that remains with the department shall be allocated to other carryforward purposes.

### § 4.2. Virginia Housing Development Authority.

Any portion of the state ceiling reserved for the Virginia Housing Development Authority during the year that has not been issued by December 15 shall be retained by the Virginia Housing Development Authority to carryforward pursuant to the Code, or shall be transferred by the Virginia Housing Development Authority on December 15 to the department to be allocated to other carryforward purposes.

#### § 4.2.1. Virginia Education Loan Authority.

Any portion of the state ceiling reserved for the Virginia Education Loan Authority during the year that has not been issued by December 15 may be retained by the Virginia Education Loan Authority for student loan bond carryforward purposes or transferred by the Virginia Education Loan Authority to the department to be allocated to other carryforward purposes.

### § 4.3. Department of Housing and Community Development.

Any bond issuing authority remaining after December 15 will be awarded beginning December 20 to applications (including all documentation specified in § 5.3 of this regulation) on file with the department before December 1 in the following priority order:

*1. Virginia Education Loan Authority up to \$25 million.*

*A. 2. Local government projects for the following exempt facilities:*

*1. a. Sewage, solid waste and qualified hazardous waste disposal facilities; and facilities for the local furnishing of electric energy or gas;*

*2. b. Facilities for the furnishing of water, including irrigation facilities.*

*B. 3. Governmental bond projects in which the private use portion of the issue exceeds \$15 million.*

*C. 4. Public utility projects for the following facilities:*

*1. a. Sewage, solid waste, and qualified hazardous waste disposal facilities; and facilities for the local furnishing of electric energy or gas;*

*2. b. Facilities for the furnishing of water, including irrigation facilities.*

*D. 5. Private sector projects for the following facilities:*

# Proposed Regulations

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1. *a.* Sewage, solid waste, and qualified hazardous waste disposal facilities; and facilities for the local furnishing of electric energy or gas.

2. *b.* Facilities for the furnishing of water, including irrigation facilities.

E. 6. All other eligible exempt projects, and qualified redevelopment bonds.

F. Student loan bonds.

G. 7. Virginia Housing Development Authority bonds.

## PART V. APPLICATION PROCEDURE.

### § 5.1. Project approval.

All projects must be approved by the governing body of the locality in which the project is to be located prior to submitting an application to the department for bond authority. Any local housing authority, after the approval of the local governing body, may file an application with the department to request an allocation of housing bond authority. A city or town manager or county administrator, after the approval of the local governing body, may file an application for bond authority with the department for any private activity bond project to be located within the jurisdiction of the requesting locality. Any state issuing authority, after the approval of the Governor, may file an application with the department for an industrial development bond project prior to December 15 or for a year-end carryforward purpose allocation prior to December 1.

### § 5.2. Where to apply.

Projects of state issuing authorities and projects of state or regional interest may request private activity bond authority from the state allocation through direct correspondence with the Governor's office. Housing projects to be financed by the Virginia Housing Development Authority shall request private activity bond authority from the state ceiling through direct correspondence with the Virginia Housing Development Authority. All other project allocations shall be submitted to the department.

### § 5.3. Application forms.

A. All projects seeking an allocation of private activity bond authority from the department must file an application. Application forms are available from the Department of Housing and Community Development, Community Financial Assistance Office, 206 501 North Fourth Street, Richmond, Virginia 23219.

B. The application forms to be used are as follows:

1. Local housing authorities seeking an allocation of

bond authority for housing projects shall file Form HB.

2. Manufacturing and exempt facility projects, allocation requests for the private use portion of a governmental bond in excess of \$15 million, student loan bonds, and qualified redevelopment bonds shall file Form IDB.

B. C. All applications and requests for private activity bond authority from the department shall be accompanied by the following documentation for each project:

1. Inducement resolutions or other preliminary approvals;

2. Documentation of the appropriate elected body's or official's approval of such projects;

3. Written opinion of bond counsel that the project is eligible to utilize private activity bonds pursuant to the Code and that an allocation of bond issuing authority from the state ceiling is required;

4. A definite and binding financial commitment agreement from a buyer of the bonds or a firm commitment from a financial institution to provide a letter of credit for the project.

### § 5.4. When to apply.

Project applications may be submitted to the department during each calendar year at any time prior to December 15 of each year, except for single family housing and multifamily housing as provided in § 2.4 of these regulations. Applications for year-end allocations to carryforward purposes will be accepted by the department through December 1 of each calendar year.

## PART VI. REPORTING REQUIREMENTS FOR ALLOCATIONS BY DEPARTMENT.

### § 6.1. Reporting bond issuance.

For all private activity bonds issued in the Commonwealth from the portion of the state ceiling not allocated to the state allocation, the Virginia Housing Development Authority or the Virginia Education Loan Authority during any calendar year, a copy of the federal Internal Revenue Service (IRS) Form 8038 must be received by the department by 5 p.m. on the expiration date of the allocation award. Bond authority that has not been documented as having been issued by the filing of IRS Form 8038 with the department by this deadline will revert to the department for reallocation to other projects.

### § 6.2. When to file IRS Form 8038.

IRS 8038 forms shall not be filed with the department prior to the date of issuance of the bonds.

Department of Housing and Community Development Page 20 of 25  
VR 394-01-200 Virginia Private Activity Bond Regulations

FORM IDB  
Page One

PROJECT INFORMATION SHEET  
REQUEST FOR INDUSTRIAL DEVELOPMENT BOND ALLOCATION

1. GENERAL INFORMATION

- A. Issuing Authority \_\_\_\_\_
- B. Name of Project \_\_\_\_\_
- C. Use of Bond Proceeds
  - Manufacturing
  - Exempt Facility
  - Private use portion of Governmental Bond  
over \$15 million threshold
  - Student loan bond
  - Qualified redevelopment bond

2. DESCRIPTION OF THE PROJECT

- A. General Description of the Project.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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FORM IDB  
Page Two

- B. Location of Project (City, County or Town)
- C. Name, address, phone number and tax ID number of each  
proposed borrower and developer.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- D. Name, address and phone number of bond counsel.  
\_\_\_\_\_  
\_\_\_\_\_
- E. Bond allocation requested \$ \_\_\_\_\_
- F. Projected closing date for issuance  
of the bonds \_\_\_\_\_

3. PROJECT INFORMATION

Number of jobs to be created (net) or retained \_\_\_\_\_

4. ATTACHMENTS

ALL FOUR ATTACHMENTS MUST BE SUBMITTED WITH THIS FORM.  
ALLOCATIONS CANNOT BE AWARDED UNTIL ALL ATTACHMENTS HAVE  
BEEN RECEIVED.

- A. Copy of inducement resolution or other preliminary  
approval.
- B. Copy of Governing Body's formal approval of the  
project.



FORM HB  
Page One

FORM IDB  
Page Three

PROJECT INFORMATION SHEET  
REQUEST FOR HOUSING BOND ALLOCATION

- C. Written opinion of bond counsel that the project is eligible to utilize private activity bonds pursuant to the Internal Revenue Code of 1986, as amended, and that an allocation of bond issuing authority from the state ceiling on private activity bonds is required.
- D. A definite and binding financial commitment agreement from a bond purchaser(s) agreeing to purchase the bond(s), or a firm commitment from a financial institution to issue a letter of credit. The purchase agreement or letter of credit shall be for an amount equal to or greater than the amount of bond authority requested by this application.

1. GENERAL INFORMATION

- A. Issuing Authority \_\_\_\_\_
- B. Name of Project \_\_\_\_\_
- C. Type of Project
  - Single Family                       Multifamily
  - \_\_\_\_\_ Number of Units                      \_\_\_\_\_ Number of Units

2. DESCRIPTION OF THE PROJECT

- A. General Description of the Project
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_

5. CERTIFICATION

I hereby certify that the information filed herewith is accurate to the best of my knowledge.

Please check the appropriate response for the low income set aside requirement if the project is a multifamily rental project.

- 40 % of the units will be occupied by persons having incomes of 60% of area median income or less.
- 30% of the units will be occupied by persons having incomes of 50% of area median income or less.

Signature of City Manager, Town Manager or  
County Administrator \_\_\_\_\_

Date \_\_\_\_\_

FORM HB  
Page Two

B. Location of Project (City, County or Town) \_\_\_\_\_

C. Name, address, phone number and tax ID number of each proposed borrower and developer.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D. Name, address and phone number of bond counsel.

\_\_\_\_\_  
\_\_\_\_\_

E. Housing Bond allocation requested \$ \_\_\_\_\_

F. Projected closing date for issuance of the housing bonds \_\_\_\_\_

3. ATTACHMENTS

ALL FOUR ATTACHMENTS MUST BE SUBMITTED WITH THIS FORM.  
ALLOCATIONS CANNOT BE AWARDED UNTIL ALL ATTACHMENTS HAVE BEEN RECEIVED.

A. Copy of inducement resolution or other preliminary approval.

FORM HB  
Page Three

B. Copy of Governing Body's formal approval of the project.

C. Written opinion of bond counsel that the project is eligible to utilize private activity bonds pursuant to the Internal Revenue Code of 1986, as amended, and that an allocation of bond issuing authority from the state ceiling on private activity bonds is required.

D. A definite and binding financial commitment agreement from a bond purchaser(s) agreeing to purchase the bond(s), or a firm commitment from a financial institution to issue a letter of credit for the project. The purchase agreement or letter of credit should be for an amount equal to or greater than the amount of bond authority requested by this application.

4. CERTIFICATION

I hereby certify that the information filed herewith is accurate to the best of my knowledge.

Signature of Chairman or Director of Issuing Authority

\_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

# Proposed Regulations

## MANUFACTURED HOUSING BOARD

**Title of Regulation:** VR 449-01-01. Public Participation Guidelines.

**Statutory Authority:** §§ 9-6.14:7.1 and 36-85.18 of the Code of Virginia.

**Public Hearing Date:** October 12, 1993 - 9 a.m.

Written comments may be submitted through November 19, 1993.

(See Calendar of Events section for additional information)

**Basis:** Section 9-6.14:7.1 of the Code of Virginia requires agencies to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of their regulations.

**Purpose:** The purpose of the amendments to the regulation is to comply with statutory changes by establishing procedures for soliciting input of interested parties in the formation and development of regulations.

**Substance:** The amendments set out a general policy for the use of advisory panels and address the circumstances in which the Virginia Manufactured Housing Board considers such panels appropriate and intends to make use of such panels.

**Issues:** The proposed amendments to this regulation will assist the public in providing greater input into the Virginia Manufactured Housing Board's regulatory process by better meeting the public's need for knowledge regarding the process.

**Estimated Impact:** The projected number of persons affected by the amended regulatory language are all parties interested in providing input to the regulatory process. The projected cost is not anticipated to increase for implementation and compliance required by the Public Participation Guidelines.

### Summary:

*The proposed amendments provide for public petition of the Virginia Manufactured Housing Board to develop or amend a regulation and clarify under what conditions the board believes the use of advisory committees to be appropriate.*

VR 449-01-01. Public Participation Guidelines.

### 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:

"Board" means Manufactured Housing Board.

"Department" means Department of Housing and Community Development.

"Guidelines" means the regulations adopted by the Manufactured Housing Board for public participation in the formulation, promulgation and adoption of regulations.

"Staff" means employees of the Department of Housing and Community Development or Manufactured Housing Board.

#### § 1.2. Application.

These guidelines apply to all regulations adopted by the board. They will be used whenever regulations are hereafter adopted, amended or deleted.

#### § 1.3. Periodic review.

It is the intent of the board to conduct a periodic review of all regulations that have been adopted under state law. Such reviews will be undertaken at appropriate intervals as needed to keep the regulations up-to-date. These guidelines will be used in the review process.

### PART II. PUBLIC PARTICIPATION.

#### § 2.1. Mailing lists.

The department will maintain lists of individuals, businesses, associations, agencies, and public interest groups which have expressed an interest, or which could reasonably be expected to have an interest, in the board's regulations. The lists will be updated and expanded as new interested parties are identified. Deletions will be made when lack of interest is determined.

#### § 2.2. Notification.

The lists will be used to notify and solicit input to the regulatory revision process from interested parties. Selected mailings will be made independently of notices in The Virginia Register of Regulations and of notices in newspapers, advertising in department newsletters, in trade and professional publications, and in public interest group publications will be used when appropriate.

#### § 2.3. Solicitation of input.

The staff of the department will continually receive, retain and compile all suggestions for changes and improvements to the regulations. Any person may petition the board to request the board to develop a new regulation or amend an existing regulation. The board shall receive, consider, and respond to the petition within 180 days. In addition, a notice of intent to adopt or amend regulations intended regulatory action will be published in The Virginia Register of Regulations to solicit public input

# Proposed Regulations

before drafting the proposals.

## § 2.4. Regulatory review workshops.

Before adoption or revision of the regulations, the board may conduct one or more meetings for the general public to explain the review process and to solicit proposals for needed changes. At least thirty ~~day's~~ *days* notice of such meetings will be published in The Virginia Register of Regulations and in a newspaper of general circulation published in the region in which the meeting is to be held, and in a newspaper of general circulation published in Richmond, Virginia. Press releases and other media will be used as needed. Selected interested persons and groups will be notified by mail.

## § 2.5. Preparation of preliminary draft.

The board will prepare a preliminary draft of proposed amendments to the regulations based on public input received and on the results of its own study of the regulations.

## § 2.6. Ad hoc committee review.

The board ~~may intends to establish an~~ *intends to establish a* ~~standing or ad hoc advisory committee committees~~ consisting of invited representatives of all groups believed to be affected by the regulations ~~and the proposed amendments or individuals registering interest in working with the board.~~ *The board believes the use of standing or ad hoc committees to be appropriate when the subject matter is of an unusual technical nature or when the regulation has significant impact on a regulated community.* The board will give consideration to recommendations received from the committee ~~or committees~~, and will make appropriate revisions to the draft.

## § 2.7. Public hearings.

Prior to completion of a final draft, the board will convene at least one public hearing in accordance with the procedures required by the Administrative Process Act and the Virginia Register Act, *except for those regulations which may be adopted without public comment pursuant to § 9-6.14.4.1 of the Code of Virginia.*

### PART III. ACTION ON COMMENTS OF GOVERNOR AND LEGISLATURE.

## § 3.1. When Governor suspends process.

If the Governor suspends the regulatory process to require solicitation of additional public comment, the board will do so in the manner prescribed by the Governor. If no specific method is required, the board will employ one or more of the following procedures, as deemed necessary:

1. Consult with affected persons and groups.

2. Reconvene the ad hoc review committee for further consultation.

3. Advertise and conduct an additional public hearing under the procedures prescribed by the Administrative Process Act and the Virginia Register Act.

## § 3.2. Other legislative and executive comments.

If the Governor does not require solicitation of additional public comment, but does provide suggestions, or if further suggestions are received from the required legislative review during the thirty day final adoption period, the board will determine whether solicitation of additional public comments should be undertaken. If needed, one or more of the procedures described above may be used.

VA.R. Doc. No. R93-795; Filed August 31, 1993, 4 p.m.

\* \* \* \* \*

**Title of Regulation:** VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

**Statutory Authority:** §§ 36-85.18 and 36-85.36 of the Code of Virginia.

**Public Hearing Date:** October 12, 1993 - 9 a.m.

Written comments may be submitted through November 19, 1993.

(See Calendar of Events section for additional information)

**Basis:** Section 36-85.18 of the Code of Virginia requires the Virginia Manufactured Housing Board to promulgate regulations as necessary to implement the Manufactured Home Licensing, Warranty and Transaction Recovery Fund provisions.

**Purpose:** The purpose of the regulations is to provide increased consumer protection for buyers and users of manufactured homes through mandatory licensing and regulation of manufactured home manufacturers, dealers, brokers and salespeople, statutorily mandated warranties, and a Transaction Recovery Fund.

**Substance:** In accordance with statutory mandates, the regulations require licenses for all manufactured home manufacturers, dealers, brokers, and salespeople to (i) establish administrative procedures for issuing, denying, suspending or revoking licenses; (ii) set the fees for the licenses; (iii) establish mandatory warranty provisions; and (iv) provide for the establishment and administration of a Transaction Recovery Fund including provisions for filing claims, investigation of claims, payments from the fund and the rights for conferences or hearings on claims or disciplinary actions.

**Issues:** The licenses, warranty requirements and Transaction Recovery Fund will provide increased

# Proposed Regulations

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consumer protection for buyers and users of manufactured homes. The transfer of some licensing requirements from the Department of Motor Vehicles to the Department of Housing and Community Development will consolidate licensing requirements for this industry under one agency and eliminate some duplication of regulatory requirements on the industry by multiple state agencies.

**Estimated Impact:** The proposed regulations will transfer licensing requirements of approximately 200 dealers and brokers and 500 salespeople from the Department of Motor Vehicles to the Department of Housing and Community Development. The new requirement for manufacturer's licenses will require an estimated 60 to 70 manufacturers to be licensed. Licensing fees of \$600 per manufacturer, \$500 for each dealer and each broker and \$50 for each salesperson are proposed as part of the regulation, generating \$161,000 to \$167,000 in revenue to administer this program. No general fund allocations are involved in this nongeneral fund program. All buyers and users of manufactured homes will benefit from the additional consumer protection provided by this program. Approximately 5,000 new manufactured homes are sold annually in addition to resales of 10,000 to 12,000 homes each year. Educational programs on manufactured homes can be paid for by interest earned on the Transaction Recovery Fund.

## Summary:

*The proposed regulations provide for the licensing of manufactured housing dealers, brokers and salespeople being transferred to the Department of Housing and Community Development from the Department of Motor Vehicles and the additional requirement for licensing of manufacturers of the home. The regulations also include warranty requirements and provide additional consumer protection through the Transaction Recovery Fund being established.*

VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

## *PART I. GENERAL.*

### *§ 1.1. Definitions.*

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

*"Board" means the Virginia Manufactured Housing Board.*

*"Buyer" means the person who purchases at retail from a dealer or manufacturer a manufactured home for personal use as a residence or other related use.*

*"Claimant" means any person who has filed a verified claim under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of*

*the Code of Virginia.*

*"Code" means the appropriate standards of the Virginia Uniform Statewide Building Code and the Industrialized Building and Manufactured Home Safety Regulations adopted by the Board of Housing and Community Development and administered by the Department of Housing and Community Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 for manufactured homes.*

*"Dealer/manufacturer sales agreement" means a written contract or agreement between a manufactured housing manufacturer and a manufactured housing dealer whereby the dealer is granted the right to engage in the business of offering, selling, and servicing new manufactured homes of a particular line or make of the stated manufacturer of such line or make. The term shall include any severable part or parts of such sales agreement which separately provides for selling or servicing different lines or makes of the manufacturer.*

*"Defect" means any deficiency in or damage to materials or workmanship occurring in a manufactured home which has been reasonably maintained and cared for in normal use. The term also means any failure of any structural element, utility system or the inclusion of a component part of the manufactured home which fails to comply with the Code.*

*"Department" means the Department of Housing and Community Development.*

*"Director" means the Director of the Department of Housing and Community Development, or his designee.*

*"Fund" or "recovery fund" means the Virginia Manufactured Housing Transaction Recovery Fund.*

*"HUD" means the United States Department of Housing and Urban Development.*

*"Licensed" means the regulant has met all applicable requirements of these regulations, paid all required fees, and been authorized by the board to manufacture or offer for sale or sell manufactured homes in accordance with these regulations.*

*"Manufactured home" means a structure constructed to federal standards, transportable in one or more sections, which, in the traveling mode is eight feet or more in width and is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.*

*"Manufactured home broker" or "broker" means any person, partnership, association or corporation who, for*

# Proposed Regulations

compensation or valuable consideration, sells or offers for sale, buys or offers to buy, negotiates the purchase or sale or exchange, or leases or offers to lease used manufactured homes that are owned by a party other than the broker.

"Manufactured home dealer" or "dealer" means any person engaged in the business of buying, selling or dealing in manufactured homes or offering or displaying manufactured homes for sale in Virginia. Any person who buys, sells, or deals in three or more manufactured homes in any 12-month period shall be presumed to be a manufactured home dealer. The terms "selling" and "sale" include lease-purchase transactions. The term "manufactured home dealer" does not include banks and finance companies that acquire manufactured homes as an incident to their regular business.

"Manufactured home manufacturer" or "manufacturer" means any persons, resident or nonresident, who manufacture or assemble manufactured homes for sale in Virginia.

"Manufactured home salesperson" or "salesperson" means any person who for compensation or valuable consideration is employed either directly or indirectly by, or affiliated as an independent contractor with, a manufactured home dealer to sell or offer to sell; or to buy or offer to buy; or to negotiate the purchase, sale or exchange; or to lease or offer to lease new or used manufactured homes.

"New manufactured home" means any manufactured home which (i) has not been previously sold except in good faith for the purpose of resale, (ii) has not been previously occupied as a place of habitation, (iii) has not been previously used for commercial purposes such as offices or storage, and (iv) has not been titled by the Virginia Department of Motor Vehicles.

"Person" means any individual, natural person, firm, partnership, association, corporation, legal representative, or other recognized legal entity.

"Regulant" means any person, firm, corporation, association, partnership, joint venture, or any other legal entity required by Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia to be licensed by the board.

"Regulations" or "these regulations" means the Virginia Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

"Relevant market area" means the geographical area established in the dealer/manufacturer sales agreement and agreed to by both the dealer and the manufacturer in the agreement.

"Responsible party" means a manufacturer, dealer, or supplier of manufactured homes.

"Set-up" means the operations performed at the occupancy site which render a manufactured home fit for habitation. Such operations include, but are not limited to, transportation, positioning, blocking, leveling, supporting, anchoring, connecting utility systems, making minor adjustments, or assembling multiple or expandable units. Such operations do not include lawful transportation services performed by public utilities operating under certificates or permits issued by the State Corporation Commission.

"Standards" means the Federal Manufactured Home Construction and Safety Standards adopted by the U. S. Department of Housing and Urban Development.

"Statement of Compliance" means the statement that the regulant licensed by the board will comply with the Manufactured Housing Licensing and Transaction Recovery Fund Law, the regulations and the orders of the board.

"Supplier" means the original producers of completed components, including refrigerators, stoves, water heaters, dishwashers, cabinets, air conditioners, heating units, and similar components, and materials such as floor coverings, panelling, siding, trusses, and similar materials, which are furnished to a manufacturer or a dealer for installation in the manufactured home prior to sale to a buyer.

"Used manufactured home" means any manufactured home other than a new home as defined in this section.

"Warranty" means any written assurance of the manufacturer, dealer or supplier or any promise made by a regulant in connection with the sale of a manufactured home that becomes part of the basis of the sale. The term "warranty" pertains to the obligations of the regulant in relation to materials, workmanship, and fitness of a manufactured home for ordinary and reasonable use of the home for the term of the promise or assurance.

## PART II. LICENSES.

### Article 1. Manufacturers.

#### § 2.1. License required; annual renewal.

A. Each manufacturer located in or outside of the Commonwealth delivering in or shipping into the Commonwealth manufactured homes for sale, shall apply to the board for a license. The license shall be displayed at the place of business. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed manufacturer shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

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C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for the new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal fee and any penalty by a manufacturer, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a manufacturer in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under these regulations.

D. For licensing purposes, a manufacturer operating more than one manufacturing facility shall have each location treated as a separate entity and shall adhere to all requirements for manufacturer licensing at each location.

## § 2.2. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by § 7.1 A 1.
2. Licensing fee required by § 2.19 A 1.
3. Copy of the manufacturer's homeowner and installation manual(s).
4. Statement of Compliance.

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by § 2.19 A 2.
2. If revised, a copy of the revised homeowner and installation manual(s).
3. Statement of Compliance.

## § 2.3. Statement of Compliance.

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit his firm to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

## Article 2.

### Dealers.

## § 2.4. License required; annual renewal.

A. Any person buying or selling or offering or displaying manufactured homes for sale in Virginia and meeting the definition of a dealer in § 1.1 shall apply to the board for a license. The license shall be displayed to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed dealer shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal fee and any penalty by a dealer, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a dealer in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under these regulations.

D. For licensing purposes, a dealer operating more than one retail location shall have each location treated as a separate entity and shall adhere to all requirements for dealer licensing at each location.

E. Each dealer licensed under these regulations shall also obtain a certificate of dealer registration from the Virginia Department of Motor Vehicles. The certificate of registration shall be renewed annually and shall be

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*maintained in effect with the Department of Motor Vehicles as long as the dealer is licensed under these regulations.*

## *§ 2.5. Application for licensing; renewal.*

*A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.*

*B. Each application for original licensure shall be accompanied by the following:*

- 1. Deposit in the Transaction Recovery Fund required by § 7.1 A 2.*
- 2. Licensing fee required by § 2.19 A 3.*
- 3. Statement of Compliance.*
- 4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.*
- 5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm.*
- 6. List of salespeople employed with the following biographical information for each:*

*Date of Birth*

*Sex*

*Weight*

*Height*

*Eye/hair color*

- 7. Name of the owner, principal, manager, agent or other person designated as the holder of the dealer's license for the specific location and the names of other partners or principals in the dealership.*

*Photographs of the front of the business office and required sign may be considered as verification required by this subsection.*

*C. Each application for renewal shall be accompanied by the following:*

- 1. Licensing fee required by § 2.19 A 4.*
- 2. Statement of Compliance.*
- 3. Notification of any significant changes to the office or the business sign.*
- 4. Updated list of salespeople employed.*

*5. Any changes of officers or directors of the company or corporation.*

*6. A copy of the dealer's current certificate of registration from the Department of Motor Vehicles.*

*D. Any change in the form of ownership of the dealer or any changes (deletions or additions) in the partners or principals of the dealer shall be submitted to the board with an application and fee for a new license. If the new owner(s) assume the liabilities of the previous owner(s), then a new recovery fund assessment is not required. New recovery fund assessments shall be required when the new owner(s) do not assume the liabilities of the previous owner(s).*

*The board shall be notified immediately by the dealer of any change in the operating name of the dealer. The director shall endorse the change on the license without requiring an additional fee.*

*The board shall be notified immediately by the dealer of any change in the location of the dealer. The dealer shall pay a fee of \$50 for the change of location on the license, but shall not be required to pay an additional assessment to the recovery fund for the change of location only.*

## *§ 2.6. Statement of Compliance.*

*The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit the dealer to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.*

## *§ 2.7. Dealer responsibility for inspections; other items.*

*A. The dealer shall inspect every new manufactured home unit upon delivery from a manufacturer. If a dealer becomes aware of a noncompliance or an imminent safety hazard, as defined in Section 1200.2 of the Industrialized Building and Manufactured Home Safety Regulations, in a manufactured home, the dealer shall contact the manufacturer, provide full information concerning the problem, and request appropriate action by the manufacturer. No dealer shall sell a new manufactured home if he becomes aware that it contains a noncompliance or an imminent safety hazard.*

*B. The dealer shall inspect every new manufactured home unit prior to selling to determine that all items of furniture, appliances, fixtures and devices are not damaged and are in place and operable.*

*C. A dealer shall not alter or cause to be altered any manufactured home to which a HUD label has been affixed if such alteration or conversion causes the manufactured home to be in violation of the standards.*

*D. If the dealer provides for the installation of any manufactured home he sells, the dealer shall be*



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responsible for making sure the installation of the home meets the manufacturer's installation requirements and the Code.

E. On each home sold by the dealer, the dealer shall collect the applicable title fees and title tax for the manufactured home and forward such fees and taxes to the Virginia Department of Motor Vehicles.

## Article 3. Brokers.

### § 2.8. License required; annual renewal.

A. Any person buying or selling, negotiating the purchase or sale or exchange of, or leasing used manufactured homes and meeting the definition of broker in § 1.1 shall apply to the board for a license. The license shall be displayed to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed broker shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal fee and any penalty by a broker, the board may review an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a broker in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under the regulations.

D. For licensing purposes, a broker operating more than one business location shall have each location treated as a separate entity and shall adhere to all requirements for broker licensing at each location.

E. Each broker licensed under these regulations shall also obtain a certificate of dealer registration from the

Virginia Department of Motor Vehicles. The certificate of registration shall be renewed annually and shall be maintained in effect with the Department of Motor Vehicles as long as the broker is licensed under these regulations.

### § 2.9. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by § 7.1 A 3.
2. Licensing fee required by § 2.19 A 5.
3. Statement of Compliance.
4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.
5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm.
6. Name of the owner, principal, manager, agent or other person designated as the holder of the broker's license for the specific location and the names of the partners or principals in the broker's firm.

Photographs of the front of the business office and required sign may be considered as verification required by this subsection.

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by § 2.19 A 6.
2. Statement of Compliance.
3. Notification of any significant changes to the office or the business sign.
4. Any changes of officers or directors of the company or corporation.
5. A copy of the broker's current certificate of registration from the Department of Motor Vehicles.

D. Any change in the form of ownership of the broker or any changes (deletions or additions) in the partners or principals of the broker shall be submitted to the board with an application and fee for a new license. If the new owner(s) assume the liabilities of the previous owner(s), then a new recovery fund assessment is not required.

New recovery fund assessments shall be required when the new owner(s) do not assume the liabilities of the previous owner(s).

The board shall be notified immediately by the broker of any change in the operating name of the broker. The director shall endorse the change on the license without requiring an additional fee.

The board shall be notified immediately by the broker of any change in location of the broker. The broker shall pay a fee of \$50 for the change of location on the license, but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

## § 2.10. Statement of Compliance.

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit the broker to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance is ground for suspension of the license.

## § 2.11. Broker responsibility for inspections; other items.

A. The broker shall inspect every used manufactured home unit prior to completion of sale. No broker shall sell a used manufactured home, if he becomes aware that it contains an imminent safety hazard as defined in Section 1200.2 of the Industrialized Building and Manufactured Home Safety Regulations.

Exception: A broker may sell a used manufactured home in which he is aware of an imminent safety hazard if the buyer is advised of the imminent safety hazard in writing by the broker and is further advised that building permits may be required from the local building official for repair of the imminent safety hazard.

B. A broker shall not alter or cause to be altered any manufactured home to which a HUD label has been affixed if such alteration or conversion causes the manufactured home to be in violation of the standards.

C. If the broker provides for the installation of any manufactured home he sells, the broker shall be responsible for making sure the installation of the home meets the manufacturer's installation requirements and the Code.

D. On each home sold by the broker, the broker shall collect the applicable title tax and title fees for the manufactured home and forward such fees and taxes to the Virginia Department of Motor Vehicles.

## Article 4. Salespeople.

## § 2.12. License required; annual renewal.

A. Any person employed by a dealer, buying or selling

or negotiating the purchase, sale or exchange of new or used manufactured homes and meeting the definition of a salesperson in § 1.1 shall apply to the board for a license. The salesperson's license shall be displayed in the dealer's office in public view. The license shall be issued for a term of one year from the date of issuance. A separate salesperson's license shall be required for each dealer location at which the salesperson works. A salesperson shall be allowed to engage in business as a licensed salesperson after applying for a license, but prior to receiving the license back from the board.

B. Each licensed salesperson shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of these regulations were in compliance with the requirements of these regulations. Upon application and payment of the renewal fee and any penalty by a salesperson, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a salesperson in Virginia after expiration of the license and prior to application for renewal or agrees to the conditions imposed by the board, and is otherwise eligible for a license under these regulations.

## § 2.13. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be supplied by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by § 7.1 A 4.
2. Licensing fee required by § 2.19 A 7.
3. Statement of Compliance.

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C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by § 2.19 A 8.
2. Statement of Compliance.

§ 2.14. Termination of employment; notification to department.

Whenever the salesperson's employment with a dealer is terminated, the salesperson shall immediately send his license to the department. The license shall be marked "Employment terminated on Date" with the date given that the salesperson stopped working for the dealer. The dealer also shall notify the department of the salesperson's termination of employment no later than the tenth day of the month following the month of termination.

## Article 5. Special License.

§ 2.15. Special license; applications; fees.

A. The board may approve applications from regulants for special licenses, not to exceed 10 days in duration, for a temporary place of business operated or proposed by the regulant. The temporary location shall not be contiguous to other premises for which a license is issued, except that contiguous locations may be licensed for dealer and manufacturer product shows.

B. The application for special licenses shall be submitted on forms supplied by the department. All information required with the application shall be furnished by the applicant for the board's review. Applications shall be submitted to the board at least 30 days prior to the requested effective date of the special license.

C. The application shall be accompanied by the required fee in § 2.19 B.

## Article 6. Violations and Hearings.

§ 2.16. Prohibited conduct; grounds for denying, suspending or revoking license.

A. The following acts by regulants are prohibited and may be considered by the board as grounds for action against the regulant:

1. Engaging in business as a manufactured home manufacturer, dealer or broker without first obtaining a license from the board.
2. Engaging in business as a manufactured home salesperson without first applying to the board for a license.
3. Making a material misstatement in an application

for license.

4. Failing to pay a required assessment to the Transaction Recovery Fund.

5. Failing to comply with the warranty service obligations and claims procedures required by these regulations.

6. Failing to comply with the set-up and tie-down requirements of the Code.

7. Knowingly failing or refusing to account for or pay over money or other valuables belonging to others which have come into the regulant's possession due to the sale of a manufactured home.

8. Using unfair methods of competition or unfair or deceptive commercial acts or practices.

9. Failing to comply with the advertising provisions in Part IV of these regulations.

10. Defrauding any buyer to the buyer's damage, and any other person in the conduct of the regulant's business.

11. Employing an unlicensed salesperson.

12. Knowingly offering for sale a manufactured home produced by a manufacturer which is not licensed as a manufacturer under these regulations.

13. Knowingly selling a manufactured home to a dealer who is not licensed as a dealer under these regulations.

14. Failing to appear before the board upon due notice.

15. Failing to comply with orders issued by the board pursuant to these regulations.

16. Failing to renew a license and continuing to engage in business as a manufacturer, dealer, broker or salesperson after the expiration of any license.

17. A salesperson selling, exchanging or offering to sell or exchange a manufactured home for any dealer or broker other than the licensed dealer employing the salesperson.

18. A salesperson offering, transferring or assigning any negotiated sale or exchange of a manufactured home to another dealer, broker or salesperson.

19. Failing to comply with the Statement of Compliance.

20. Failing to notify the board of a change of location or address of the business office.

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21. Failing to comply with any provisions of these regulations.

B. The board may deny, suspend, revoke or refuse to renew the license of a regulant because of, but not limited to, one or more of the following grounds:

1. Having had a license previously denied, revoked or suspended under these regulations.
2. Having a license denied, suspended or revoked by a similar licensing entity in another state.
3. Engaging in conduct in another state which would have been a violation of these regulations if the actions were committed in Virginia.
4. Failing to obtain a required certification of registration from the Department of Motor Vehicles, failing to renew the annual certificate of registration, or having the certificate of registration suspended or revoked by the Department of Motor Vehicles.

## § 2.17. Penalties; notice to regulant.

A. The board shall have the power to deny, suspend, revoke or refuse to renew the license of a regulant found to be engaging in prohibited conduct or otherwise failing to comply with these regulations or orders of the board.

B. The board shall have the authority to levy assessments in addition to or instead of denying, suspending, revoking or refusing to renew a regulant's license. Such assessments shall include the following:

1. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a manufacturer.
2. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a dealer or broker.
3. Transaction Recovery Fund assessments of up to \$2,500 for each violation by a salesperson.

C. The board shall notify the regulant, in writing, of any complaint directed against him. The notice shall include the time and place of a conference or hearing on the complaint. No penalties shall be imposed by the board until after the conference or hearing.

## § 2.18. Conference; hearing; service of notice.

A. The board, or department acting on the board's behalf, shall send notice of the conference or hearing to the regulant at least 15 calendar days prior to the date of the conference or hearing. The notice shall be sent by certified mail to the address of the regulant, as shown on the license or other record of information in possession of the board.

B. The conference or hearing shall be conducted by the

board according to the applicable provision of the Administrative Process Act and shall be open to the public. The regulant or applicant shall have the right to be heard in person or by counsel, and to provide evidence and witnesses on his behalf.

C. After the conference or hearing has been completed, if the board determines that the regulant or applicant has engaged in prohibited conduct, or is in violation of these regulations or orders of the board, or otherwise determines that it has grounds to impose any penalties under § 2.17, the board shall immediately notify the regulant or applicant in writing, by certified mail, of the action imposed by the board. The department shall be responsible for carrying out the board's decision. The department shall also notify the Department of Motor Vehicles of the suspension or revocation of any dealer's or broker's license under these regulations.

D. The decision of the board shall be final if no appeal is made. An appeal from the decision of the board may be filed with a court in accordance with the Administrative Process Act.

## Article 7. License Fees.

## § 2.19. Fee schedules.

A. The following fees are set by the board for annual licenses and renewals issued in accordance with these regulations.

1. The manufacturer's original license fee shall be \$600.
2. The manufacturer's renewal license fee shall be \$600.
3. The dealer's original license fee shall be \$500.
4. The dealer's renewal license fee shall be \$500.
5. The broker's original license fee shall be \$500.
6. The broker's renewal license fee shall be \$500.
7. The salesperson's original license fee shall be \$50.
8. The salesperson's renewal license fee shall be \$50.

The license fees listed in this subsection shall be paid by the applicant either in full at the time of application for licensure or one-half of the fee at the time of application and the remaining half of the fee six months after the date of issue of the license.

B. The following fees apply to special licenses issued by the board in accordance with Article 5 of this part of these regulations:

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1. *Manufacturer's special license fee shall be \$25.*
2. *Dealer's special license fee shall be \$25.*
3. *Broker's special license fee shall be \$25.*
4. *Salesperson's special license fee shall be \$10.*

## PART III.

### DEALER/MANUFACTURER SALES AGREEMENTS.

#### § 3.1. *Filing of dealer/manufacture sales agreements; contents.*

A. *Each licensed manufacturer shall file with the board a true copy of each new, amended, modified, or different form of dealer/manufacture sales agreement to be offered to a dealer or prospective dealer in the Commonwealth prior to the date the sales agreement is offered. The department shall review the form for terms inconsistent with the requirements of these regulations. Any forms found to contain inconsistent terms shall be reported to the board for review and notification. The department shall notify the manufacturer of the inconsistent terms and its report to the board.*

B. *The sales agreement between the manufacturer and the dealer shall not include terms that are contrary to, prohibited by, or otherwise inconsistent with the requirements of these regulations.*

C. *The manufacturer shall include in any sales agreement with a dealer the following language or words to that effect:*

*"If any provision herein contravenes the laws or regulations of Virginia, or denies access to the procedures, hearings, or remedies provided by the laws or regulations of Virginia, such provision shall be deemed to be modified to conform to those laws and regulations, and all other terms and provisions of the agreement shall remain in full force."*

#### § 3.2. *Coercion of dealer by manufacturer prohibited.*

A. *A manufacturer shall not coerce or attempt to coerce any dealer or prospective dealer to sell, assign, or transfer any sales contract obtained by the dealer for any manufactured home produced by the manufacturer, to a specified finance company or class of finance companies or to any other specified persons by any of the following:*

1. *By any statement, suggestion, promise or threat that the manufacturer will in any manner benefit or injure the dealer, whether the statement, suggestion, threat, or promise is express or implied or made directly or indirectly.*
2. *By any act that will benefit or injure the dealer.*
3. *By any contract, or any express or implied offer of*

*contract, made directly or indirectly to the dealer, for handling the manufactured home on the condition that the dealer sell, assign, or transfer his sales contract on the manufactured home to a specified finance company or class of finance companies or to any other specified persons.*

4. *By any express or implied statement or representation made directly or indirectly that the dealer is under any obligation to sell, assign, or transfer any of his sales contracts because of any relationship or affiliation between the manufacturer and the finance company or persons.*

B. *A manufacturer shall not coerce or attempt to coerce any dealer to accept delivery of any manufactured home or homes, parts or accessories which have not been ordered by the dealer.*

C. *A manufacturer shall not coerce or attempt to coerce any dealer to enter into an agreement with the manufacturer, or do any other act unfair to the dealer, by threatening to cancel any sales agreement existing between the manufacturer and the dealer.*

D. *A manufacturer shall not coerce or attempt to coerce any dealer to join, contribute to, or affiliate with any advertising association.*

E. *A manufacturer shall not require or otherwise coerce a dealer to underutilize a dealer's facilities.*

#### § 3.3. *Grant, transfer, succession to and cancellation of dealer/manufacture sales agreements: delivery of homes, parts, accessories.*

A. *Prior to granting an additional dealer/manufacture sales agreement for a particular line of manufactured home in a relevant market area in which a dealer or dealers are already located, a manufacturer shall notify, in writing, all other dealers in the line of homes in that relevant market area. Any dealer in the same line of homes in the relevant marketing area may request a conference or hearing before the board within 30 days of receipt of the manufacturer's notice of intention to establish the additional dealer/manufacture sales agreement. The additional sales agreement may be established at the proposed site if, after the conference or hearing, the board determines that there is reasonable evidence that after the grant of the new sales agreement, the market will support all of the dealers in that line of homes in the relevant market area. Establishing a dealer/manufacture sales agreement in a relevant market area to replace a dealer that has ceased operation shall constitute the establishment of a new dealer/manufacture sales agreement subject to the terms of this section.*

#### EXCEPTIONS:

1. *The relocation of an existing dealer within the dealer's relevant market area if the relocation site is*

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to be more than 25 miles from any other dealer in the same line of homes.

2. The relocation of an existing dealer within that dealer's relevant market area if the relocation site will be further away from all other dealers of the same line of homes in that relevant market area than the relocating dealer's current site.

3. The relocation of an existing dealer within two miles of that dealer's current site.

B. A dealer shall give written notice to the manufacturer at least 90 days prior to the sale, assignment, or transfer of the dealer/manufacturer sales agreement. The notice shall include the identity, financial ability, and qualifications of the proposed transferee. The sale or transfer of the sales agreement or business shall not involve a relocation of the sales agreement without the manufacturer's consent. The manufacturer shall not prevent or refuse to approve the sale or transfer of the ownership of a dealer by the sale of the business, stock transfer, or otherwise, or the sale, transfer, or assignment of a dealer/manufacturer sales agreement or a change in the executive management or principal operator of the dealership, unless the manufacturer provides written notice to the dealer of its objections and the reasons therefor at least 30 days prior to the proposed effective date of the sale, transfer, assignment, or change. The dealer shall have 30 days from receipt of the manufacturer's objection to file a written request for a conference or hearing by the board. At the conference or hearing, the manufacturer and the dealer shall be allowed to present their reasons for and objections to the sale or transfer. The board shall determine whether the manufacturer's objection to the sale, assignment, transfer or change of the dealership is reasonable or unreasonable. The sale, transfer, assignment or change of the dealer/manufacturer sales agreement shall be allowed if the board determines the objection is unreasonable.

C. A dealer shall be allowed to designate a member of his family as a successor to the dealer/manufacturer sales agreement in the event of the death or incapacity of the dealer by providing written notice to the manufacturer of the identity, financial ability, and qualifications of the member of the family designated as successor. The manufacturer shall have the right to prevent or refuse to honor the succession to the sales agreement by notifying the family member in writing of its objections and of the person's right to request a conference or hearing on the matter before the board. The dealer shall have 30 days from receipt of the manufacturer's notice to file a written request to the board for a conference or hearing. At the conference or hearing, the dealer and manufacturer shall be allowed to present their reasons for and objections to the succession. The board shall determine if the manufacturer's objection to the succession is reasonable. The designated succession shall be allowed if the board determines the manufacturer's objection is unreasonable.

D. A dealer/manufacturer sales agreement may be cancelled or terminated at any time by mutual consent.

E. A manufacturer may terminate, cancel, or refuse to renew the sales agreement of a dealer with good cause. At least 60 days prior to the effective date of such termination, cancellation, or the expiration date of the sales agreement the manufacturer shall give written notice of his intentions to the dealer and the board, setting forth the specific grounds for the action. Within the 60-day period, the dealer may request, in writing, a conference or hearing before the board to determine if there is good cause for the termination, cancellation, or nonrenewal of the sales agreement. When the dealer has requested a board conference or hearing, the sales agreement in question shall continue in effect until the board issues a finding of good cause for the action.

If a manufacturer neither advises a dealer that it does not intend to renew a sales agreement nor takes any action to renew a sales agreement beyond its expiration date, the sales agreement in question shall continue in effect on the terms last agreed to by the parties.

A manufacturer may provide written notice of termination, cancellation or nonrenewal to a dealer not less than 15 days prior to the effective date of such termination, cancellation or nonrenewal when the grounds for such action are any of the following:

1. Insolvency of the dealer or filing of any petition by or against the dealer, under any bankruptcy or receivership law, leading to liquidation or which is intended to lead to liquidation of the dealer's business.
2. Failure of the dealer to conduct its customary sales and service operations during its established business hours for 10 consecutive business days, except where the failure results from acts of God or circumstances beyond the direct control of the dealer.
3. Revocation of any license which the dealer is required to have to operate a dealership.
4. Conviction of the dealer or any principal of the dealer of a felony, during the term of the sales agreement.

F. The change or discontinuance of a marketing or distribution system of a particular line of manufactured homes by a manufacturer, while the name identification of the home is continued in substantial form by the same or different manufacturer, may be considered to be a sales agreement termination, cancellation, or nonrenewal. A manufacturer shall provide continued parts and service support to a dealer for a discontinued line of homes for at least five years from the date of such discontinuance.

§ 3.4. Dealer/manufacturer sales agreement warranties.

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Any warranty agreements or contracts included in the sales agreement shall comply with the warranty and service requirements of Part V of these regulations.

## § 3.5. Operation of dealership by manufacturer.

A manufacturer shall not own, operate or control a dealership in the Commonwealth except under the following conditions:

1. A manufacturer may operate a dealership for a temporary period, not to exceed one year, during the transition from one owner or operator to another;
2. A manufacturer may own or control a dealership while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or
3. A manufacturer may own, operate, or control a dealership if the board determines, after a conference or hearing at the request of any party, that there is no dealer independent of the manufacturer available in the relevant market area to own and operate the dealer/manufacturer sales agreement in a manner consistent with the public interest.

## § 3.6. Conferences, hearings and other remedies.

A. In every case of a conference or hearing before the board authorized by this part of the regulations, the board shall give reasonable notice of each conference or hearing to all interested parties. The board's decision shall be binding on the parties, subject to the rights of judicial review and appeal.

Conferences or hearings before the board under this part shall commence within 90 days of the request for the conference or hearing. The board's decision shall be rendered within 60 days from the conclusion of the conference or hearing.

B. The board shall initiate investigations, conduct conferences or hearings, and determine the rights of parties under this part whenever they are provided sufficient information indicating a possible violation of this part or these regulations.

C. For purposes of any matter brought to the board under § 3.3 in which the board is to determine whether there is good cause for a proposed action or whether it would be unreasonable under the circumstances, the board shall consider:

1. The volume of the affected dealer's business in the relevant market area;
2. The nature and extent of the dealer's investment in its business;
3. The adequacy of the dealer's service facilities,

equipment, parts, supplies, and personnel;

4. The effect of the proposed action on the community;

5. The extent and quality of the dealer's service under warranties in Part V of these regulations.

6. The dealer's performance under the terms of its dealer/manufacturer sales agreement;

7. Other economic and geographical factors reasonably associated with the proposed action; and

8. The recommendations, if any, of the department personnel requested to investigate the matter.

## PART IV. ADVERTISING.

### § 4.1. Prohibited practices.

For the purposes of this part and these regulations, the following regulated advertising practices by manufacturers, dealers, brokers, or salespersons are prohibited and shall be considered by the board to be unfair methods of competition or unfair or deceptive commercial acts or practices:

1. Advertising a manufactured home as a "new manufactured home" when the home does not meet all of the requirements for the definition of a new manufactured home in § 1.1.

2. Advertising a used manufactured home by misleading or confusing terms rather than "used" or such other term that is clearly understood to mean that the home is used. Once a title has been issued to a purchaser by the Department of Motor Vehicles, the home is considered as a used home and must be advertised as such.

3. Advertising finance charges or other interest rates when there are costs to buy down the charges or rates which are passed on to the buyer, in whole or in part.

4. Advertising terms, conditions and disclosures which are not stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information, but the disclaimer shall not contradict or change the meaning of the advertised statement.

5. Advertising a "sale" when the expiration date is not clearly and conspicuously stated.

6. Advertising "list price" in terms other than the manufacturer's suggested retail price for the new home or the dealer's own usual and customary price for the home, whichever is applicable.

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7. Advertising which uses terms such as "at cost," "below cost," "dollars off cost" and "direct from manufacturer." Terms such as "invoice price" or "dollars over invoice" may be used, provided the invoice referred to is the manufacturer's factory invoice which is available for customer inspection upon request.

8. Advertising specific price or credit terms when the manufactured home is not clearly identified as to year and model.

9. Advertising a policy to match or better a competitor's price when the terms of the offer are not specific, verifiable and reasonable. Any such advertisement shall fully disclose, as a part of the ad, any material or significant conditions which must be met or the evidence the buyer must present to take advantage of the offer.

10. Advertising which includes "dealer rebates" or "manufacturer's rebate."

11. Advertising any "free" or "at no cost" (or other words to that effect) offers of equipment or accessories in a negotiated sale. No equipment or accessory shall be described as "free" or "at cost" if its cost or any part of its cost is included in the price of the home, or if the home can be purchased for a lesser price without accepting the free offer, or if a purchase is required in order to receive the free offer.

12. Advertising which is determined to be "bait advertising" such as advertising homes, equipment, accessories or prices which are not available at the dealer, or advertising homes of a specific price but having available for sale only homes equipped with dealer added cost options which increase the selling price above the advertised price. If any home is available only by order, then that shall be clearly and conspicuously disclosed in the advertisement.

13. Advertising as "repossessed" any manufactured home which has not been previously sold, titled and then taken back from the buyer. Proof of repossession shall be provided by the advertiser upon request.

14. Advertising special dealer arrangements such as "big volume buying power," "manufacturer's outlet," "factory authorized outlet" and "factory wholesale outlet." Any term that gives the buyer the impression the dealer has a special arrangement with the manufacturer compared to similarly situated dealers is misleading and shall be prohibited.

15. Advertising the length of a manufactured home as including the towing assembly or hitch.

16. Advertising in any newspaper, periodical or sign which omits the name of the firm from the

advertisement.

## § 4.2. Records retention.

Advertisers shall maintain a copy of all media advertising for a period of not less than 60 days after the expiration date of the advertisement. For the purposes of this section, the expiration date of the advertisement shall be the last date the advertisement runs or the expiration date of the advertised sale, whichever is later.

## § 4.3. Violations; penalties.

A. The first violation of any regulated advertising practice may, at the discretion of the board, be addressed by a written warning to the regulant, advising the regulant of the prohibited conduct and the possible actions by the board if such conduct is continued or repeated.

B. Any violation of regulated advertising practices in this part may be considered as prohibited conduct under § 2.16 of these regulations and subject to the board's actions contained therein.

## § 4.4. Conferences or hearings.

Conferences or hearings on any complaint or notice of violation of advertising practices contained in this part shall be conducted according to the procedures established in § 2.18 of these regulations.

## PART V. WARRANTY, SERVICE AND ALTERATIONS.

### § 5.1. Warranties; provisions.

A. Each manufacturer located in or outside of the Commonwealth delivering in or shipping into the Commonwealth manufactured homes for sale shall issue with each new home a warranty to the buyer, in writing, setting forth the following terms:

1. That all structural elements; plumbing systems; heating, cooling (if any), and fuel burning systems; electrical systems; and any other components included by the manufacturer are manufactured and installed free from defect.

2. That the manufacturer shall take appropriate corrective action at the site of the manufactured home, except for components which can be removed for service without undue inconvenience to the buyer, in instances of defects which become evident after the date of delivery of the home to the buyer, provided the buyer gives notice of the defects to the manufacturer at the manufacturer's business address.

3. That the manufacturer shall take such actions deemed necessary as ordered by the board under these regulations.



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*B. Each dealer shall issue with each manufactured home a warranty to the buyer, in writing, setting forth the following terms:*

*1. That any modifications or alterations made to the home by the dealer or authorized by the dealer are free from defects. Alterations or modifications made by the dealer, without written permission of the manufacturer, shall relieve the manufacturer of the warranty requirements of subsection A of this section for the item altered or modified and any damage resulting from the alteration or modification.*

*2. That set-up operations performed by the dealer or by persons under contract to the dealer on the manufactured home are completed in compliance with the applicable Code requirements for the installation of manufactured homes.*

*3. That during the course of transportation and set-up operations performed by the dealer or by persons under contract to the dealer, defects do not occur to the manufactured home.*

*4. That the dealer shall take appropriate corrective action at the site of the manufactured home, except for components which can be removed for service without undue inconvenience to the buyer, if such defects become evident after the date of delivery of the home to the buyer, provided the buyer gives notice of the defects to the dealer at the dealer's place of business.*

*5. That the dealer shall take such actions deemed necessary as ordered by the board under these regulations.*

*C. Any warranties generally offered by suppliers in the ordinary sale of their products to consumers shall be extended to buyers of manufactured homes. The warranty by the manufacturer of the home shall remain in effect not withstanding the existence of the suppliers' warranty.*

*D. The regulant's warranty shall be in addition to, and not in detracton of, all other rights and privileges which the buyer may have under any other law or regulation. The regulant shall not require the buyer to waive his rights under this part and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void.*

## *§ 5.2. Duration of warranties.*

*All warranties provided by regulants as required by § 5.1 shall be for a period of not less than 12 months, measured from the date of delivery of the home to the buyer. The date of delivery shall be the date on which all terms or conditions of the sales contract agreed to or required of the regulant have been completed.*

## *§ 5.3. Presenting warranty claims.*

*To invoke a regulant's warranty under § 5.1, the buyer shall notify the regulant within a reasonable time after discovering the defect and not later than 90 days after the expiration of the stated term of the warranty. The regulant shall make a record of the name and address of each claimant and the date, substance, and disposition of each claim about the defect. The regulant may request that a warranty claim be made in writing; however, the regulant shall record any claim received as noted above and shall not delay service pending receipt of the written claim.*

## *§ 5.4. Service agreements; determination of responsible party.*

*A. If a service agreement exists between or among the manufacturer, the dealer, and the supplier to provide warranty services on a manufactured home, the service agreement shall specify which of the regulants shall be the responsible party for remedying defects reported in the home. All service agreements shall be in writing. No service agreement shall relieve a regulant, determined by the board to be the responsible party for remedying the defect, of the responsibility for performing warranty service; however, any regulant accepting the responsibility to perform the warranty service obligations of other regulants under the service agreement shall be responsible to both the buyer and the other regulant to perform adequate warranty service.*

*B. If there is no warranty or service agreement between or among the regulants, the board shall have the authority to designate the responsible party for each defect given in the claim. The board may use reports and recommendations from the department staff investigating consumer complaints under the applicable provisions of the Code or may request staff to make a specific on-site inspection to determine the responsible party for remedying the defect.*

*C. If a warranty claim is made to a regulant that is not the responsible party for remedying the defect, that regulant shall immediately notify the claimant, in writing of that fact, and shall also notify, in writing, the regulant that is the responsible party for the defect, forwarding to the responsible party all available information about the claimant and the substance of the warranty claim.*

*D. If a defect is the responsibility of more than one regulant, each regulant shall be deemed to be a responsible party for the defect. A responsible party shall not fail to remedy defects because other regulants may also have joint responsibility for the defect or defects; however, nothing in these regulations shall prevent a responsible party from obtaining compensation by way of contribution or subrogation from another responsible party in accordance with any other provision of law or contracts between the regulants.*

*E. If a regulant corrects a defect under a warranty claim and the board determines that the regulant is not*

the responsible party, then that regulant shall be entitled to reasonable compensation for the warranty service performed. The compensation shall be from the responsible party for the defect.

F. It shall be a violation of this part for a regulant to coerce or require a nonresponsible party to perform warranty service under these regulations. Any regulant or responsible party may file a complaint to the board if warranty service obligations under these regulations are not being completed or enforced.

#### § 5.5. Warranty service; time limits; rejection of claim.

A. Any defect which is determined to be an imminent safety hazard as defined in Section 1200.2 of the Industrialized Building and Manufactured Home Safety Regulations to life and health shall be remedied within three days of receipt of the written notice of the warranty claim. Defects which may be considered as imminent safety hazards to life and health include, but are not limited to, any of the following:

1. Inadequate heating in freezing weather.
2. Failure of sanitary facilities.
3. Electrical shock hazards.
4. Leaking gas.
5. Major structural failure.

The board may suspend this three-day time period in the event of widespread defects or damage resulting from adverse weather conditions or other natural disasters.

B. All other defects shall be remedied within 45 days of receipt of the written notice of the warranty claim unless a bona fide reason exists for not remedying the defect within the time period. If the responsible party has a bona fide reason for not meeting the 45-day time period, he shall respond to the claimant in writing, with a copy to the board, explaining the reason or reasons and stating what further action is contemplated regarding the warranty service.

C. Department staff handling consumer complaints under the Code shall also review the complaints for warranty service obligations under this part, and shall make initial determinations of defects and imminent safety hazards to life and health as defined by the Code. Any disagreements between department staff and regulants or responsible parties regarding these determinations shall be resolved by the board. If a regulant or responsible party disputes the determination of an imminent safety hazard to life or health by the staff and asks for a ruling by the board, the three-day time period for remedying the hazard shall not be enforced unless the board agrees to the determination. If the board determines that the defect is an imminent safety hazard, it shall immediately notify the

responsible party of the determination. The responsible party shall have three days from receipt of this notice to remedy the hazard.

D. Within the time limits specified in subsections A and B of this section, the responsible party shall either resolve the claim or determine that it is not justified. Whenever a regulant determines that a claim for warranty service is not justified, in whole or in part, he shall immediately notify the claimant in writing that the claim or a part of the claim is rejected. This notice shall explain to the claimant why the claim or specific parts of the claim are rejected and that the claimant is entitled to complain or file an appeal to the board. The notice shall provide the claimant with the complete address of the board.

#### § 5.6. Records; available to board.

The board or the board's representative shall be authorized to inspect the pertinent service records of a manufacturer, dealer, supplier, or broker relating to a written warranty claim or complaint made to the board regarding that manufacturer, dealer, supplier, or broker. Such inspection shall be allowed by the regulant during reasonable business hours. Upon request by the board, every regulant shall send to the board within 10 days a true copy of any and all documents or records pertinent to the claim for service or complaint.

#### § 5.7. Alterations; by dealer; by owner.

A. Unless authorized by these regulations or by the manufacturer, a dealer shall not make any alterations or modifications to a manufactured home after shipment from the manufacturer's facility. If a dealer performs an unauthorized alteration or modification in or to a manufactured home, the dealer then shall bear primary warranty responsibility for the altered or modified item(s). If the manufacturer remedies or is required by the board to remedy any warranty claim on the altered or modified item(s), then that manufacturer shall be entitled to recover damages in the amount of his costs, including attorney's fees, from the dealer responsible for the alteration or modification.

B. Unless authorized by the manufacturer, the owner or person(s) working for the owner shall not make alterations or modifications to a manufactured home after shipment from the manufacturer's facility. Any unauthorized alteration or modification made by the owner or person(s) working for the owner shall relieve the manufacturer of the responsibility to remedy any defects caused by such alteration or modification. All manufacturers shall display clearly and conspicuously on the face of their warranty to the buyer a statement explaining that the owner shall be responsible for remedying any defects caused by unauthorized alterations or modifications done by the owner or person(s) working for the owner. The statement shall also include a warning specifying any alterations or modifications which should be performed only by qualified personnel in order to preserve their warranty protection.

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## § 5.8. Qualifications of personnel performing alterations.

All persons responsible for performing alterations under this part shall be deemed "qualified personnel" only when approved or certified by the manufacturer of the home.

### PART VI. MISCELLANEOUS PROVISIONS.

## § 6.1. Set-up requirements; effect on insurance policies.

A. Manufactured homes shall be set-up in accordance with the Code.

B. In the event that a manufactured home is insured against damage caused by windstorm and subsequently sustains windstorm damage of a nature that indicated the home was not set-up in the manner required by this section, the insurer issuing the home owner's insurance policy on the home shall not be relieved from meeting the obligations specified in the insurance policy with respect to such damage on the basis that the manufactured home was not properly set up.

## § 6.2. Limitation on damages retained by dealer; disclosure to buyer.

A. If a buyer fails to accept delivery of a manufactured home, the dealer may retain actual damages according to the following terms:

1. If the manufactured home is in the dealer's stock and is not specially ordered from the manufacturer for the buyer, the maximum retention shall be \$500.
2. If the manufactured home is a single section unit and is specially ordered from the manufacturer for the buyer, the maximum retention shall be \$1,000.
3. If the manufactured home is a multi-section home (two or more sections) and is specially ordered from the manufacturer for the buyer, the maximum retention shall be \$5,000.

B. A dealer shall provide a written disclosure to the buyer at the time of the sale of a manufactured home alerting the buyer to the actual damages that may be assessed of the buyer by the dealer, as listed in subsection A of this section, for failure to take delivery of the manufactured home as purchased.

## § 6.3. Other remedies not excluded.

Nothing in these regulations, nor any decision by the board, shall limit any right or remedy available to the buyer through common law or under any other statute.

### PART VII. TRANSACTION RECOVERY FUND.

## § 7.1. Recovery fund established; assessments.

A. In accordance with § 36-85.31 of the Code of Virginia, the board shall establish a Manufactured Housing Transaction Recovery Fund. Any manufacturer, dealer, broker or salesperson licensed by the board under these regulations to operate in the Commonwealth of Virginia shall pay an initial assessment fee of the following amount into the fund:

1. Manufacturer - \$4,000 for each separate manufacturing facility payable in one installment or \$4,400 payable at \$2,200 per year with the second payment due one year after initial licensing.
2. Dealer - \$500 per retail location.
3. Broker - \$500 per sales office.
4. Salesperson - \$50 per individual.

B. After the initial assessments have been paid, the board shall review the balance in the fund. In accordance with § 36-85.31 of the Code of Virginia, the minimum balance of the fund shall be \$250,000. If the initial assessments fail to achieve this minimum balance, or if future payments from the fund deplete the fund below this minimum balance, the board shall set and collect reassessment fees to achieve and maintain this minimum balance. Before setting any reassessments, the board shall notify all regulants at least 30 days prior to any meeting to set reassessment fees, advising the regulants of the purpose of the meeting and the regulants' opportunity to provide comments and suggestions prior to and at the meeting. Failure to pay any reassessment fees assessed by the board shall result in suspension of the regulant's license until such time as the regulant pays the reassessment fee.

C. All initial assessments and reassessments collected by the board under these regulations shall be deposited in an interest earning, special fund account by the State Treasurer in accordance with § 36-85.31 of the Code of Virginia. The board shall make appropriations from the fund in accordance with the express purposes set forth in Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia and these regulations. Interest earned on the deposits of the fund shall accrue to the fund or may be used by the board to provide educational programs about manufactured homes to consumers.

## § 7.2. Filing claims; investigations; conference or hearing on claim.

A. Any buyer of a manufactured home who suffers any loss or damage by an act of a regulant that constitutes a violation of this law or these regulations shall have the right to file a claim for recovery from the fund. The department shall provide forms for filing claims. As a minimum, the following information shall be furnished with the claim:

1. The names and addresses of the regulants involved

in the claim.

2. The identification of the home including the serial number, HUD label number(s), and model designations.

3. A complete explanation of the issues or actions which constitute the basis for the claim, along with copies of pertinent documents.

4. The name, address and telephone number of the claimant and the location of the home if different from the claimant's address.

B. Upon receipt of a claim, the board shall review the claim and may conduct, or cause to be conducted, an on-site inspection of the home. All regulants involved in a claim shall be notified of any on-site inspections by the board or the department under these regulations and shall be requested to have a representative present during the inspection. The person(s) conducting the inspection for the board or the department shall prepare a written report of the findings of the inspection, citing any defects or violations of the Code or these regulations with a reference to the specific section of the Code or regulation which serves as the basis for the violation, and identifying the regulant responsible for the defect or violation. Copies of this report shall be provided to the regulants, the claimant, and the board.

C. The board shall hold a conference or hearing on a claim for damages. The board, or the department acting on the board's behalf, shall send written notice of the conference or hearing to all involved regulants, stating the purpose of the conference or hearing and the time and place of the conference or hearing. The notice shall be sent to the regulant(s) at least 15 calendar days prior to the date of the conference or hearing. The notice shall be sent by certified mail to the address of the regulant(s), as shown on the license or other record or information in possession of the board. The conference or hearing shall be conducted by the board according to the applicable provisions of the Administrative Process Act and shall be open to the public. The regulant(s) shall have the right to be heard in person or by counsel, and to provide evidence and witnesses on his behalf.

D. After the conference or hearing, if the board finds that the buyer has suffered a loss or damages due to the acts of a regulant that constitute a violation of these regulations, the board shall determine the amount of damages to be awarded to the claimant. The amount of damages awarded by the board shall be limited to actual compensatory damages and shall not include attorney's fees for representation before the board. The board shall order the responsible manufacturer, dealer, broker, or salesperson to pay the awarded amount to the claimant. The board's written order shall be sent by certified mail to the regulant responsible for paying the awarded amount. Within 30 days of receipt of the board's decision, the responsible regulant shall pay the awarded amount to

the claimant, unless an appeal is pending.

§ 7.3. Appeals of the board's decision.

A. Appeals of the decision of the board shall be to a circuit court with jurisdiction in the Commonwealth. The appeal shall be filed by the regulant within 30 days of the date of the board's order, and shall stay the board's order for payment of the awarded amount. Neither the regulant nor the board shall be required to pay damages to the claimant until such time as the final order of the court is issued. In accordance with § 36-85.35 of the Code of Virginia, the court may award reasonable attorney's fees and court costs to be paid by the recovery fund.

§ 7.4. Payment of damages; limitations; conditions.

A. If a regulant has not paid the awarded amount within 30 days as provided in § 7.2 or filed an appeal to the circuit court as provided in § 7.3, the board shall, upon request of the claimant pay the awarded amount to the claimant from the recovery fund under the following conditions:

1. The maximum claim of one claimant against the fund because of a single violation by one regulant shall be limited to \$20,000;
2. The fund balance is sufficient to pay the awarded amount;
3. The claimant has assigned the board all rights and claims against the regulant; and
4. The claimant agrees to subrogate to the board all rights of the claimant to the extent of payment.

B. The aggregate amount of claims paid from the fund for violations by any one regulant during any license period shall be as follows:

1. For a manufacturer - \$75,000.
2. For a dealer - \$35,000.
3. For a broker - \$35,000.
4. For a salesperson - \$25,000.

If the board has reason to believe there may be additional claims against the fund from other transactions by the same regulant, the board may withhold any payments, involving that regulant, from the fund for a period of not more than one year from the date the board approved the original claimant's award. After this one-year period, if the aggregate of claims against the same regulant exceeds the limitations of this section, the aggregate amount shall be prorated by the board among the claimants and paid from the fund in proportion to the amounts of their awards remaining unpaid.

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## § 7.5. Revocation of license.

Upon payment to a claimant from the fund, the board shall immediately revoke the license of the regulant whose conduct resulted in the payment from the fund. Any regulant whose license is revoked under this section shall not be eligible to apply for a new license or renewal license until he has repaid the fund the full amount of the payments from the fund on his amount, plus interest, calculated at the rate of interest the recovery fund was earning at the time of the payment from the fund.

## § 7.6. Other disciplinary action not voided.

The board may take other disciplinary actions against any regulant for any violation of Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 of the Code of Virginia, or these regulations. Full repayment of the amount paid from the fund for the regulant's actions shall not nullify, modify or prohibit the affect of any disciplinary proceeding by the board against that regulant for any violations.

V.A.R. Doc. No. R93-796; Filed August 31, 1993, 4:03 p.m.

## BOARD OF MEDICINE

**Title of Regulation:** VR 465-11-1. Licensed Acupuncturists.

**Statutory Authority:** §§ 54.1-100 through 54.1-114, 54.1-2400, and 54.1-2956.9 through 54.1-2956.11 of the Code of Virginia.

**Public Hearing Date:** October 22, 1993 - 10 a.m.

Written comments may be submitted until November 24, 1993.

(See Calendar of Events section for additional information)

**Basis:** Sections 54.1-2400 and 54.1-2956.9 through 54.1-2956.11 of the Code of Virginia provide the statutory basis for promulgation of these regulations by the Board of Medicine. Sections 54.1-2956.9 through 54.1-2956.11 state in part:

Unlawful to practice acupuncture without license; unlawful designation as acupuncturist; Board to regulate acupuncturists. - It shall be unlawful for a person to practice or to hold himself out as practicing as an acupuncturist unless he holds a license as such issued by the Board.

In addition, it shall be unlawful for any person who is not licensed under this chapter, whose licensure has been suspended or revoked, or whose licensure has lapsed and has not been renewed to use in conjunction with his name the words "licensed acupuncturist" or to otherwise by letters, words, representations, or insignias assert or imply that he is licensed to practice acupuncture.

The Board of Medicine shall prescribe by regulation the qualifications governing the licensure of acupuncturists. Such regulations shall not restrict the practice of this profession to practitioners regulated by the Board on June 30, 1992, to practice the healing arts. The regulations shall at a minimum require that, prior to performing acupuncture, any acupuncturist who is not licensed to practice medicine, osteopathy or podiatry shall obtain written documentation that the patient had received a diagnostic examination from and had been referred by a

licensed physician with regard to the ailment or condition to be treated. The regulations may include requirements for approved education programs, experience, examinations, periodic review of the diagnosis and treatment progress, and referral and rereferral of patients.

Requisite training and educational achievements of acupuncturists. - The Board shall establish a testing program to determine the training and educational achievements of acupuncturists, or the Board may accept other evidence such as successful completion from a national certification examination, experience, or completion of an approved training program in lieu of testing and shall establish this as a prerequisite for approval of the licensee's application.

Advisory Committee on Acupuncture; composition; appointment. - The Advisory Committee on Acupuncture, hereinafter referred to as the "Advisory Committee," shall assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, licensure, and regulation of acupuncturists.

**Purpose:** The proposed regulations are designed to ensure public protection by establishing standards for examination, licensure and the practice of acupuncturists. Specific criteria addressed in the regulations are: (i) general provisions for acupuncturists and nonrestriction of physician acupuncturists, (ii) requirements for licensure, (iii) scope of practice, (iv) renewal and reinstatement of licensure, and (v) fees.

**Substance:** The proposed regulations contain the following:

### Part I: General Provisions

§ 1.1 establishes definitions of words and terms used in these regulations.

§ 1.2 establishes Public Participation Guidelines to be incorporated by reference in these regulations.

§ 1.3 establishes doctors of medicine, osteopathy or podiatry who are licensed as physician acupuncturists shall not be prohibited or restricted by these regulations.

### Part II: Requirements for Licensure

§ 2.1 establishes general requirements for licensure.

§ 2.1 A establishes that no person shall practice as a licensed acupuncturist in the Commonwealth except as provided in these regulations.

§ 2.1 B establishes that licensure by the board to practice as a licensed acupuncturist shall be by examination as prescribed in these regulations.

§ 2.1 C establishes general application requirements for initial licensure.

§ 2.1 C 1 specifies application requirements for initial licensure must include evidence of 18 years of age.

§ 2.1 C 2 specifies application requirements for initial licensure must include evidence of good moral character.

§ 2.1 C 3 specifies application requirements for initial

licensure must include evidence of meeting the educational requirements as prescribed in §§ 2.2, 2.3, and 2.4 of these regulations.

§ 2.1 C 4 specifies application requirements for initial licensure must include evidence of meeting the examination requirements as prescribed in §§ 2.5 and 2.6 of these regulations.

§ 2.1 C 5 specifies application requirements for initial licensure must include application and credentials submitted to the board along with the prescribed fee in § 5.1 of these regulations.

§ 2.1 D establishes general requirements for evidence of successful completion of an acupuncturist course of study equal to no less than 1,000 hours. The course shall include not less than 700 didactic hours and 300 clinical hours.

§ 2.2 establishes educational requirements for graduates of approved institutions or programs in the United States.

§ 2.2 A establishes undergraduate education requirements in the United States.

§ 2.2 A 1 specifies undergraduate education shall consist of not less than 60 semester or 90 quarter hours at an accredited college or university in the United States recognized by the board.

§ 2.2 A 2 specifies undergraduate education to consist of not less than 18 semester or 24 quarter hours in biological sciences, to include no less than three hours each in anatomy and physiology. Home study or correspondence courses do not meet the requirement of this section.

§ 2.2 B establishes education requirements prior to July 1, 1990, in the United States.

§ 2.2 B specifies applicants shall submit evidence of successful completion of education in a school or college of acupuncture accredited by the National Association Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM) or other accrediting agency approved by the board. Evidence must be submitted that the board approved course provided not less than 1,000 hours in a continuous 18-month period. Studies shall include not less than 700 didactic hours and not less than 250 clinical hours. Part-time study of more than five years or correspondence courses in acupuncture are excluded and do not meet the requirements.

§ 2.2 C establishes education requirements after July 1, 1990, in the United States, and specifies applicants shall submit evidence of successful completion of education in a school or college of acupuncture accredited by the NACSCAOM or other accrediting agency approved by the board. Evidence must be submitted that the board approved course provided not less than a minimum of three academic years in length equivalent to 90 semester or 135 quarter credit hours that consist of full-time study.

The academic year means full-time study completed in three quarters, two semesters or three trimesters. Full-time continuous study shall be a concentrated educational program in acupuncture which requires study in a classroom or clinical setting. This section also specifies that part-time study of more than five years or correspondence courses in acupuncture are excluded and do not meet the above requirements.

§ 2.3 establishes requirements for supplemental training prior to July 1, 1990, when graduates of United States nonapproved educational programs in acupuncture apply for licensure.

§ 2.3 specifies that an applicant who has completed an educational course of study in a school or college that is not approved or accredited by NACSCAOM or any other accrediting agency approved by the board shall submit evidence of successful completion of not less than two years of acupuncture study in a school or college which confers a degree in acupuncture in the United States recognized by the board and that he has practiced five years as a licensed acupuncturist in another state. Part-time study of more than five years or correspondence courses in acupuncture are excluded and do not meet the requirements.

§ 2.4 establishes requirements for graduates of foreign colleges or schools of acupuncture.

§ 2.4 A specifies that all foreign documents submitted by graduates of foreign colleges or schools of acupuncture are to be translated into English and be certified by the embassy of the issuing government.

§§ 2.4 B 1, 2.4 B 2, 2.4 B 3, and 2.4 B 4 specify that graduates of foreign schools or colleges of acupuncture shall submit evidence of completing an approved tutorial or internship program in another state of not less than one year, submit proof of licensure and practice of acupuncture in another state of not less than four years and meet examination requirements as prescribed in §§ 2.5 and 2.6. Part-time study of more than five years or correspondence courses in acupuncture are excluded and do not meet the requirements.

§ 2.5 establishes examination requirements for licensure.

§ 2.5 A specifies passing of the National Commission for the Certification of Acupuncturists (NCCA) comprehensive written examination as a component of licensure.

§ 2.5 B specifies passing of the Practical Examination of Point Location Skills (PEPLS) test as a component of licensure.

§ 2.5 C specifies completion of the Clean Needle Technique (CNT) course as administered by the Council of Colleges of Acupuncture and Oriental Medicine (CCAOM) as a component of licensure.

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§ 2.6 establishes Test of Spoken English requirements.

§§ 2.6 A, 2.6 A 1, and 2.6 A 2 specify an applicant whose native language is not English shall submit evidence of achieving 240 on the Test of Spoken English (TSE) or achieving 560 on the Test of English as a Foreign Language (TOEFL) administered by the Education Testing Services.

## Part III: Scope of Practice

Article 1 establishes general requirements of the scope of practice for licensed acupuncturists.

§ 3.1 A specifies that a request for licensed acupuncturist services shall be by written referral from a physician based on his examination of the patient within the past six months.

§ 3.1 B specifies that treatment provided by the licensed acupuncturist shall be periodically reviewed by the referring physician.

§ 3.1 C specifies that the licensed acupuncturist shall report the patient's condition back to the referring physician after three months or 10 treatments, whichever occurs first.

Article 2 establishes individual requirements for the licensed acupuncturist.

§ 3.2 specifies that a person practicing as a licensed acupuncturist is restricted to the titles "Lic.Ac.," or "L.Ac." and shall not use the terms physician or doctor in his name or practice.

§ 3.3 specifies the practice of acupuncture by a licensed acupuncturist does not include the use of physical therapy, chiropractic, osteopathic manipulation techniques, surgery, nor the use or prescribing of any drugs, medication, herbal preparation, nutritive supplements, serums or vaccines.

§ 3.4 specifies that a licensed acupuncturist shall maintain records of the referral, diagnosis, treatment and patient response to acupuncture and shall submit records to the board upon request.

§ 3.5 specifies that acupuncture needles shall be presterilized, prewrapped, disposable needles, for the prevention of infection and to protect the patient. Needles shall be discarded after each patient treatment.

## Part IV: Renewal and Reinstatement of Licensure

§ 4.1 establishes biennial renewal of certification.

§§ 4.1 A, 4.1 A 1, and 4.1 A 2 specify that a licensed acupuncturist shall renew his certification biennially during his birth month in each odd-numbered year and pay the renewal fee as prescribed in § 5.1. In addition, the

acupuncturist shall provide proof of recertification by the NCCA.

§ 4.1 B specifies that a licensed acupuncturist whose license has not been renewed by the first day of the month following the month renewal is required, shall no longer be licensed.

§ 4.1 C specifies that an additional fee to cover administrative costs for processing a late application shall be imposed by the board as prescribed in § 5.1 in addition to the biennial fee.

§ 4.2 establishes reinstatement of licensure.

§ 4.2 A specifies that an applicant shall provide proof of NCCA recertification and pay a fee as prescribed in § 5.1 for reinstatement after a period of two or more years of inactive practice.

§ 4.2 B specifies that an applicant shall provide proof of NCCA certification, and pay a fee as prescribed in § 5.1 after the practitioner's license has been revoked and reinstated.

## Part V: Fees

§ 5.1 establishes fees for licensed acupuncturists.

§ 5.1 1 specifies a fee for an initial license to practice as an acupuncturist shall be \$200.

§ 5.1 2 specifies a fee for a biennial license renewal due in the practitioner's birth month and odd-numbered year shall be \$85.

§ 5.1 3 specifies reinstatement of a lapsed license shall be \$200.

§ 5.1 4 specifies a late fee for application shall be \$25.

§ 5.1 5 specifies a fee for a letter of good standing verification of a license to another state shall be \$10.

§ 5.1 6 specifies a fee for reinstatement of a revoked license at \$500.

## Issues:

1. Regulations are promulgated to respond to new statutes requiring regulations for licensed acupuncturists. Regulatory words and terms are specified in § 1.1.

2. Regulations are promulgated to respond to new statutes governing licensed acupuncturists that require Public Participation Guidelines. Section 1.2 responds to this issue.

3. Regulations are promulgated to respond to new statutes governing licensed acupuncturists that do not

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prohibit nor restrict physician acupuncturists. Section 1.3 responds to this issue.

4. Regulations are promulgated to respond to new statutes governing licensed acupuncturists and requirements for licensure. Sections 2.1 through 2.6 respond to this issue.

5. Regulations are promulgated to respond to new statutes governing licensed acupuncturists and scope of practice. Sections 3.1 through 3.5 respond to this issue.

6. Regulations are promulgated to respond to new statutes governing licensed acupuncturists and renewal and reinstatement of licensure. Sections 4.1 and 4.2 respond to this issue.

7. Regulations are promulgated to respond to new statutes governing licensed acupuncturists and fees. Section 5.1 responds to this issue.

## Impact:

### A. Impact on the Agency.

1. The board projects a cost of \$15,000 to print new forms, print regulations, and mail a copy to each referring physician, representative organizations, and individuals on the public participation list. The cost includes staff time for preparation and mailing the documents.

2. The board projects a cost of \$12,000 to enforce the regulations for licensed acupuncturists per year. The estimate is based upon costs for investigations, hearings and review by staff.

B. The funds to address all identified fiscal impacts of the Board of Medicine are derived fees paid by licensees, applicants for licensure and certification, and examinations.

### C. Number and types of regulated entities affected.

#### 1. Referring physicians.

- a. 22,535 Medical Doctors
- b. 462 Doctors of Osteopathy

#### 2. 150 Licensed Acupuncturists.

### D. Projected costs to regulated entities for compliance.

1. The cost to the referring physician will be minimal. For example, printing forms for referral will average \$50 per year.

2. The cost to the licensed acupuncturist will be minimal to moderate depending upon number of previous years of practice. Applicants licensed by

endorsement with five years of practice and licensed in another state will pay the initial fee of \$200. Applicants seeking licensure without the NCCA examination, the CNT examination and appropriate scores on the TSE or TOEFL will pay \$989 to \$1025.

- a. NCCA examination: ..... \$650 (Includes PEPLS)
- b. CNT examination: ..... \$100
- c. TSE or TOEFL: ..... \$75 for TSE  
..... \$39 for TOEFL
- d. Licensure application: ..... \$200
- TOTAL: ..... \$989 to \$1025

## Summary:

*The proposed regulations establish requirements governing the practice of acupuncturists. They include general provisions for acupuncture and nonrestriction of physician acupuncturists, requirements for licensure, scope of practice, renewal and reinstatement of licensure, and fees.*

*The proposed regulations respond to the reenactment of §§ 54.1-2956.9 through 54.1-2956.11 of the Code of Virginia by the 1993 General Assembly.*

## VR 465-11-1. Licensed Acupuncturists.

### 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:*

*"Acupuncture" means the practice of stimulating certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body. The practice of acupuncture does not include the use of physical therapy, chiropractic, osteopathic manipulative techniques, surgery, the use or prescribing of any drugs, medications, herbal preparations, nutritional supplements, serums, or vaccines.*

*"Acupuncture training" means training in a school or program accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine which confers a diploma, certificate, or a graduate degree in acupuncture or other board approved credentialing organizations.*

*"Advisory committee" means the Advisory Committee*



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on Acupuncture appointed by the board to assist it in the regulation and licensure of licensed acupuncturists.

"Affidavit" means a sworn statement in writing made under oath before an authorized magistrate or officer.

"Authenticated translation" means a translation prepared by a translation bureau or a language instructor in a university within the United States or a translation whose accuracy is verified by a Consulate Official.

"Board" means the Virginia Board of Medicine.

"Certified copy" means a written statement verifying a document to be a true copy of the original by a legally registered notary public.

"Certification examination" means the national examination of competency in acupuncture theory and practice approved and prescribed by the National Commission for the Certification of Acupuncturists.

"CCAOM" means the Council of Colleges of Acupuncture and Oriental Medicine, and replaces the "NCASC" designation for the National Council of Acupuncture Schools and Colleges.

"COPA" means the Council on Postsecondary Accreditation which recognizes those agencies or commissions responsible for the accreditation of postsecondary educational programs in the United States.

"CNT course" means a Clean Needle Technique Course as administered by the National Council of Acupuncture Schools and Colleges.

"Lic.Ac." or "L.Ac." means the titles approved for use by licensed acupuncturists.

"Licensed acupuncturist" means an individual other than a doctor of medicine, osteopathy or podiatry, who has completed the requirements for licensure and has been approved by the board to practice acupuncture.

"NACSCAOM" means the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

"NCCA" means the National Commission for the Certification of Acupuncturists.

"PEPLS" means the Practical Examination of Point Location Skills which is a required portion of the certification examination.

"Physician" means a person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia.

"Physician acupuncturist" means an individual who is a

doctor of medicine, osteopathy, or podiatry who has met the requirements for licensure in acupuncture.

"Referral" means referral by a physician as that term is defined in this section.

"TOEFL" means the Test of English as a Foreign Language, administered by the Educational Testing Service.

"TSE" means the Test of Spoken English administered by the Educational Testing Service.

## § 1.2. Public participation.

A separate board document, VR 465-01-1, Public Participation Guidelines, which provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine, is incorporated by reference in these regulations.

## § 1.3. Nonrestriction of licensed acupuncturists.

Nothing in these regulations shall be construed to prohibit or restrict the licensure and practice of doctors of medicine, osteopathy, or podiatry who are also licensed as physician acupuncturists.

## PART II. REQUIREMENTS FOR LICENSURE.

### § 2.1. General requirements.

A. No person shall practice as a licensed acupuncturist in the Commonwealth of Virginia except as provided in these regulations.

B. Licensure by the board to practice as a licensed acupuncturist shall be by examination as prescribed in these regulations.

C. Every applicant for initial licensure by the board shall:

1. Submit evidence of being 18 years of age or more.
2. Submit evidence of good moral character.
3. Meet the educational requirements as prescribed in §§ 2.2, 2.3, and 2.4 of these regulations.
4. Meet the examination requirements as prescribed in §§ 2.5 and 2.6 of these regulations.
5. Submit the required application and credentials to the board along with the licensure fee required in subdivision 1 of § 5.1.

D. An applicant for initial licensure by the board shall submit evidence of successful completion of an acupuncture course of study equal to not less than 1,000

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hours of schooling. The course of study shall be equal to not less than 700 didactic hours and 300 clinical hours.

§ 2.2. Educational requirements: graduates of approved institutions or programs in the United States.

A. Undergraduate education requirements are as follows:

1. An applicant applying for licensure to practice as a licensed acupuncturist shall present evidence of successful completion of two full academic years of not less than 60 semester credit hours or 90 quarter accredited hours of undergraduate education at an accredited college or university in the United States that is recognized by the board.

2. An applicant's undergraduate education shall include not less than 18 semester or 24 quarter hours in biological sciences, to include not less than three hours each in anatomy and physiology. Home study courses do not meet the requirements of this section.

B. Acupuncture education prior to July 1, 1990, requirements in the United States are as follows:

1. An applicant applying for licensure to practice as an acupuncturist on the basis of successful completion of education in a school or college of acupuncture accredited by the NACSCAOM or other accrediting agencies approved by the Board of Medicine, which confers a degree in acupuncture in the United States, shall submit evidence of successful completion of an acupuncture course of study in an accredited school or college for acupuncture, providing evidence of not less than 1,000 hours of schooling in not less than a continuous 18-month period.

2. The studies shall include not less than 700 didactic hours and not less than 250 clinical hours. Additional hours may be in either didactic or clinical hours based upon the school or college curriculum.

Part-time study of more than five years or correspondence courses in acupuncture are excluded and do not meet the requirements of this section as acceptable for the acupuncture study curriculum.

C. Acupuncture education after July 1, 1990, requirements in the United States are described in this subsection.

An applicant applying for licensure to practice as a licensed acupuncturist on the basis of successful completion of education in a school or college for acupuncture accredited by NACSCAOM or any other accrediting agency approved by the Board of Medicine, which confers a degree in acupuncture in the United States, shall submit evidence of having a minimum of three academic years in length equivalent to 90 semester credit hours or 135 quarter credit hours that consist of full-time study in an acupuncture program accredited by

NACSCAOM or any other accrediting agency approved by the Board of Medicine.

One academic year means full-time study completed in three quarters, two semesters, or three trimesters. A full-time continuous study program shall be a concentrated educational process in acupuncture which requires individual study with assigned materials in a classroom or clinical setting.

Part-time study of more than five years or correspondence courses in acupuncture are excluded and do not meet the requirements of this section as acceptable for the acupuncture study curriculum.

§ 2.3. Supplemental training prior to July 1, 1990, or study required of certain graduates of nonapproved educational programs in acupuncture in the United States.

An applicant who has completed an educational course of study in a school or college that is not approved or accredited by NACSCAOM or any other board approved accrediting agency shall:

1. Submit evidence of successful completion of not less than two years of acupuncture study in a school or college which confers a degree in acupuncture in the United States recognized by the board.

2. Have not less than five years of practice as a licensed acupuncturist in another state.

Part-time study of more than five years or correspondence courses in acupuncture are excluded and do not meet the requirements of this section as acceptable for the acupuncture study curriculum.

§ 2.4. Graduates of foreign colleges or schools of acupuncture.

A. All foreign documents submitted to the board for consideration must be translated into English and be certified by the embassy of the issuing government.

B. Applicants shall:

1. Submit evidence of completing an approved tutorial or internship program in another state of not less than one year;

2. Submit proof of licensure and practice of acupuncture in another state of not less than four years; and

3. Meet the examination requirements as prescribed in §§ 2.5 and 2.6 of these regulations.

Part-time study of more than five years or correspondence courses in acupuncture are excluded and do not meet the requirements of this section as acceptable for the acupuncture study curriculum.

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## § 2.5. Examination requirements for licensure.

The examination requirements for licensure shall consist of:

1. Passing of the NCCA comprehensive written examination.
2. Passing the Practical Examination of Point Location Skills (PEPLS) test.
3. Completing the CNT course as administered by the CCAOM.

## § 2.6. Test of spoken English requirements.

A. An applicant applying for licensure to practice as an acupuncturist whose native language is not English shall submit:

1. Evidence of having achieved 240 on the Test of Spoken English (TSE); or
2. Evidence of having achieved 560 on the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Services.

### PART III. SCOPE OF PRACTICE.

#### Article 1. General Requirements.

## § 3.1. General requirements.

A. A request for acupuncture services shall be accompanied by a written referral and diagnosis of the ailment or condition to be treated by the licensed acupuncturist from a physician based on his examination of the patient within the past six months.

B. Treatment provided by the acupuncturist shall be periodically reviewed as determined by the referring physician.

C. The licensed acupuncturist shall report the patient's condition back to the referring physician after three months or 10 treatments, whichever occurs first.

#### Article 2. Individual Requirements.

## § 3.2. Limitation of titles.

A person practicing as a licensed acupuncturist is restricted to the use of the titles "Lic.Ac." or "L.Ac." and shall not use the terms "physician" or "doctor" in his name or practice.

## § 3.3. Limitation of practice.

The practice of acupuncture by a licensed acupuncturist does not include the use of physical therapy, chiropractic, osteopathic manipulative techniques, surgery, nor the use or prescribing of any drugs, medications, herbal preparations, nutritional supplements, serums or vaccines.

## § 3.4. Maintenance of patient records.

A licensed acupuncturist shall maintain records of the referral, diagnosis, treatment, and patient response to acupuncture and shall submit records to the board upon request, unless release of subject records is otherwise prohibited by law. Failure to maintain patient records of those patients treated with acupuncture or failure to respond to the board's request for patient records within 30 days shall be grounds for suspension or revocation of a license to practice acupuncture.

## § 3.5. Sterilization practices and infection control.

Acupuncture needles shall be presterilized, prewrapped, disposable needles, for the prevention of infection, to protect the health, safety, and welfare of the patient. Such needles shall be discarded after each patient treatment.

### PART IV. RENEWAL AND REINSTATEMENT OF LICENSURE.

## § 4.1. Biennial renewal of certification.

A. A licensed acupuncturist shall renew his certification biennially during his birth month in each odd-numbered year by:

1. Paying to the board the renewal fee as prescribed in subdivision 2 of § 5.1 of these regulations; and
2. Providing proof of recertification by the NCCA.

B. A licensed acupuncturist whose license has not been renewed by the first day of the month following the month in which renewal is required shall be dropped from registration roll.

C. An additional fee to cover administrative costs for processing a late application shall be imposed by the board as prescribed by subdivision 4 of § 5.1.

## § 4.2. Reinstatement.

A. A licensed acupuncturist who allows his license to lapse for a period of two years or more and chooses to resume his practice shall submit to the board a new application, proof of recertification by the NCCA, and the fee for reinstatement of his license as prescribed in subdivision 3 of § 5.1.

B. A licensed acupuncturist whose license has been revoked by the board and who wishes to be reinstated must make a new application to the board, be recertified.

by the NCCA, and pay the fee for reinstatement of his license as prescribed in subdivision 6 of § 5.1.

## PART V. FEES.

### § 5.1. Fees.

The following fees for licensed acupuncturists have been established by the board:

1. The initial fee for a license to practice as an acupuncturist shall be \$200.
2. The fee for biennial license renewal shall be \$85 and shall be due in the birth month of the licensed acupuncturist in each odd-numbered year.
3. The fee for reinstatement of a lapsed license shall be \$200.
4. The additional fee to cover administrative costs for processing a late application shall be \$25 for each renewal cycle.
5. The fee for a letter of good standing or verification of a license to another state shall be \$10.
6. The fee for reinstatement of a revoked license shall be \$500.

VAR. Doc. No. R93-792; Filed September 1, 1993, 9:30 a.m.

## DEPARTMENT OF STATE POLICE

**Title of Regulation:** VR 545-00-01. Public Participation Policy.

**Statutory Authority:** §§ 9-6.14:7.1, 18.2-295, 18.2-308.2:2, 46.2-1165, 52-8.4, 52-25.1 and 54.1-4009 of the Code of Virginia.

**Public Hearing Date:** N/A – Written comments may be submitted through November 19, 1993.

(See Calendar of Events section for additional information)

**Basis:** Section 9-6.14:7.1 D of the Code of Virginia requires that public participation guidelines for soliciting the input of interested parties in the formation and development of regulations be developed, adopted and utilized by each agency pursuant to the Administrative Process Act.

**Purpose:** The purpose of these amendments is to revise this agency's Public Participation Policy consistent with recent changes to the Administrative Process Act.

**Substance:** The amendments to this agency's public participation guidelines identify specific public participation procedures consistent with recent amendments to the

Administrative Process Act. The policy will now provide for use of ad hoc advisory groups, standing advisory committees or consultation with groups or individuals registering interest in assisting with drafting or formation of regulations, under given circumstances.

**Issues:** The Department of State Police recognizes citizen participation as an essential element of government. Group and individual impact will provide a broad basis of review of issues pertinent to proposed regulatory action. Response and consideration of information from outside the agency will slow the administrative process.

**Estimated Impact:** No additional costs aside from the usual costs associated with preparation and dissemination of this regulation will be realized.

### Summary:

This agency's Public Participation Policy is amended to identify specific public participation procedures consistent with the recent revisions to the Administrative Process Act. The policy will now provide for use of ad hoc advisory groups, standing advisory committees or consultation with interested groups or individuals, under specific circumstances, to assist with drafting or formation of regulations.

VR 545-00-01. Public Participation Policy.

### § 1. Policy.

It is the policy of the Department of State Police to seek public participation when proposing regulation or substantial changes to present regulations.

### § 2. Definitions.

"Agency" means the Department of State Police.

"Superintendent" means the Superintendent of the Department of State Police.

### § 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with these guidelines.

C. Any person may petition the agency for the adoption, amendment, or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of the petitioner;

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2. *Petitioner's mailing address and telephone number;*
3. *Petitioner's interest in the proposed action;*
4. *Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;*
5. *Statement of need and justification for the proposed regulation;*
6. *Statement of impact on petitioner and other affected persons; and*
7. *Supporting documents, as appropriate.*

*D. The Superintendent shall form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals registering interest in working with the agency to assist in the drafting or formation of regulations when:*

1. *The Superintendent, in his sole discretion, determines to form an ad hoc advisory group, utilize a standing committee, or consult with groups or individuals; and*
2. *The agency receives written comments from at least 25 persons during the comment period of the notice of intended regulatory action requesting the Superintendent to form an ad hoc advisory group, utilize a standing committee, or consult with individuals or groups.*

*The decisions as to whether or not to use an ad hoc group, standing advisory committee, or consult with groups and individuals as well as the membership of such groups or committees shall rest with the Superintendent.*

*E. No public hearing shall be held in conjunction with these procedures unless directed by the Superintendent, or required pursuant to § 9-6.14.7.1 C of the Code of Virginia.*

## **§ 2. Guidelines. § 4. General.**

A. When the Department of State Police proposes regulations or substantial changes to present regulations, a notice of intent will be published in The Virginia Register. The notice will request input from interested parties and will contain information as outlined in the Virginia Register Form, Style and Procedure Manual.

B. The Department of State Police will mail a notice of proposed regulatory action to known interested parties and add to the mailing list as groups and individuals express an interest in the agency's regulatory activities.

The notice of proposed regulatory action shall include:

1. Subject of proposed regulation;

2. Purpose of proposed regulation;
3. Request for comments from interested parties;
4. Name, address, and telephone number of contact person; and
5. Date for submission of comments by interested parties.

C. The agency shall file a "Notice of Comment Period" and its proposed regulations with the Registrar of Regulations as required by § 9-6.14.7.1 of the Code of Virginia. Such notice shall establish the last date on which written comments will be accepted from interested parties.

D. Final regulations shall be published in The Virginia Register and shall become effective 30 days after publication.

V.A.R. Doc. No. R93-784; Filed September 1, 1993, 10:58 a.m.

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**REGISTRAR'S NOTICE:** Due to its length, the proposed regulation filed by the Department of State Police is not being published; however, in accordance with § 9-6.14.22 of the Code of Virginia, a summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of State Police.

**Title of Regulation:** VR 545-01-07. Motor Vehicle Safety Inspection Rules and Regulations.

**Statutory Authority:** §§ 46.2-909, 46.2-1002, 46.2-1011, 46.2-1018, 46.2-1022, 46.2-1023, 46.2-1024, 46.2-1025, 46.2-1052, 46.2-1053, 46.2-1056, 46.2-1058, 46.2-1063, 46.2-1065, 46.2-1070, 46.2-1090.1, 46.2-1093, 46.2-1163, 46.2-1164, 46.2-1165 and 46.2-1171 of the Code of Virginia.

**Public Hearing Date:** N/A -- Written comments may be submitted through November 19, 1993.  
(See Calendar of Events section for additional information)

**Basis:** These revisions are promulgated under the authority of Sections 46.2-909, 46.1-1002, 46.2-1052, 46.2-1053, 46.2-1056, 46.2-1058, 46.2-1063, 46.2-1065, 46.2-1070, 46.2-1090.1, 46.2-1093, 46.2-1163, 46.2-1164, 46.2-1165 and 46.2-1171 of the Code of Virginia.

**Purpose:** Safety inspectors continue to serve a major role in Virginia's overall highway safety program. The purpose of these changes is to maintain consistency with state law, federal regulations, accepted automotive standards and practices in the State Police inspection program.

**Substance:** These amendments to the existing Motor Vehicle Safety Inspection Rules and Regulations are promulgated to incorporate recent changes to state law,

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federal regulations, nationally accepted standards and automotive practices. Minor administrative and technical changes are included.

**Issues:** These changes will provide uniform application of statutes, standards, regulations and practices relating to automotive equipment across state and federal levels. Vehicles not in compliance with these revised rules and regulations will not be issued an approval sticker when submitted for safety inspection.

**Estimated Impact:** Only those persons not in compliance with inspection regulations will be adversely affected. Varying costs for repairs to gain compliance will be experienced dependent upon the degree and type of repair needed. The cost associated with preparation and dissemination of these revisions will be borne by the Department of State Police.

## Summary:

*The proposed amendments are explained below:*

*1. The table of contents is completely revised and reformatted.*

*2. Page 5 is identified by number. The mailing address and zip code for the Safety Division is corrected to reflect the change effective April 6, 1992. Two new telephone numbers for inspection supplies are included.*

*3. Page 7, the Guidelines for the Administration of Virginia's Annual Motor Vehicle Inspection Program requires correction of three nonsubstantive errors from previous printings. First, the language (except paragraph 36 and 45b) listed in the first column of Class I offenses should read (except paragraph 37 and 46b). Section 52 should be added to the list of section violations constituting Class I offenses. Section 51 should be deleted from the list of section violations constituting Class II offenses.*

*Page 8, the Guidelines for the Administration of Virginia's Annual Motor Vehicle Inspection Program requires correction of a nonsubstantive error from previous printings. The list of Class III offenses reference to § 16, paragraphs 36 and 45b, should be changed to § 16, paragraphs 37 and 46b.*

*Amend the Guidelines for the Administration of Virginia's Annual Motor Vehicle Inspection Program by defining the active life of Class IV offenses as 24 months from the date of the offense and identifying combination offenses, three Class I offenses, two Class II offenses or one Class III offense, during the active life of any Class IV offense as grounds for suspension of inspection privileges. All other classes of offense provide for enhanced corrective action for designated combinations of offenses within a 24-month period. To assure uniform applications of corrective actions*

*enhanced action is necessary in these specific cases. The active life of 24 months for Class IV violation is commensurate with the active life of all other offenses. This period has traditionally been observed, but is not specifically defined.*

*4. Page numbers 2, 3, and 4 are properly assigned the Governor's Proclamation.*

*5. Page 1, Foreword, spelling error corrected in title. The page number is properly assigned.*

*6. Section 1, paragraph 9 is amended to require posting of the safety inspector's license expiration date with the previously required listing of all employees licensed to perform inspections. This rule is established in an effort to reduce the occurrence of expired safety inspector's licenses. By posting the license expiration dates prominently in the inspection lane there will be a constant reminder to inspectors of the need for license renewal.*

*7. Section 5, paragraph 12 is amended to require submission of inspection sticker receipts in numerical order. Section 5, paragraph 14 is amended to require approval sticker receipts to be filed in numerical order at the inspection station. These administrative rules will greatly improve the efficiency at the Safety Division headquarters by reducing the time and effort expended during complaint investigations. Inspection station management has been encouraged to submit and maintain receipts numerically for many years. This policy will give greater substance to this advice.*

*Section 5 is amended by adding paragraph 15. This amendment provides for replacement of lost or damaged inspection stickers by Safety Division troopers. Section 46.2-1164 of the Code of Virginia is added to the Reference Section at the beginning of § 5.*

*8. Section 6, paragraph 7 is amended to require the duplicate copies of rejection stickers to be forwarded to the Safety Division in numerical order. The copies must be filed in numerical order at the inspection station. This rule will allow for ready location of receipts on file at inspection stations and reduce the effort required by filing clerks at Safety Division headquarters processing these inspection records.*

*9. Amend Section 8, by adding paragraph 31 a. This revision requires rejection of any vehicle if the brake hoses or lines are stretched or extended so as not to allow suspension movement. This revision is consistent with Federal Motor Carrier Safety Regulation 393.45 and Society of Automotive Engineers Standard J1406. Both recommend attachment of brake hoses so as to minimize tension and provide for balance jounce (wheel upward limit) and rebound (wheel downward limit).*

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10. Section 11, paragraph 1 a is amended to identify the fully compressed position as a condition under which shock absorbers do not function properly. The purpose of automotive shock absorbers is to obtain damping of suspension systems. Systems are damped when energy is dissipated by forces opposing vibratory motion. The shock absorber must balance wheel jounce and rebound. The device is totally ineffective to accomplish this task when fixed in the fully extended or compressed position.

Amend Section 11, paragraph 4, by adding subparagraph 4 a to prohibit modifications to vehicles which raise the vehicle's body more than three inches above the manufacturer's attachment points or frame rail. The original manufacturer's spacers, washers or bushings are to be excluded from measurement of the modifications. This rule is established in accordance with the 1992 amendment to § 46.2-1063 of the Code of Virginia.

Amend Section 11, paragraph 23 c by adopting standards for steering lash/travel consistent with the Code of Federal Regulations.

Amend Section 11, paragraph 35 to include the Ball Joint Wear Tables.

Update and reorganize the Ball Joint Wear Tables by integrating the existing standards with the specifications for 1989 through 1992 model vehicles recognized by the Motor Vehicle Manufacturer's Association of the United States, Inc. Reference will be made to the tables by title, rather than the page number the tables are assigned.

11. The amendment to § 12 defines a fifth wheel and upper coupler assembly, which interfaces with a fifth wheel to complete the connection. This distinguishes between fifth wheel type connectors and ball and socket or hitch and coupling connectors which are required to be equipped with emergency chains. These definitions are consistent with Federal Motor Carrier Regulations and Standards of the American Society of Automotive Engineers.

12. Section 14, paragraph 13 a is revised to correct an error from previous printing. The note following this paragraph referenced paragraphs 36 and 45 b of § 16. The reference paragraphs should be 37 and 46 b.

A revision is made to include new Type 1 and 2 headlamps in the location illustration of § 14, page 5. Specific installation locations are designated for 1G1, 2G1, 2H1, 9005 and 9006 replacement sealed beam and replacement bulb headlamps.

13. Section 46.2-1090.1 of the Code of Virginia is added to the list of reference sections for § 16.

Section 16, paragraph 1 is revised to include seven general types of auxiliary lamps. Paragraph 1 a is revised to include Daytime Running Lamps (DRL's).

Section 16 is amended by adding subparagraphs 2 a and 2 b. Paragraph 2 a permits the use of roof-mounted flashing white or amber warning lamps of an approved type on school buses. Paragraph 2 b permits the use of octagonal stop signal arms which meet Federal Motor Vehicle Safety Standard specifications on school buses. Roof-mounted flashing lights were authorized by the 1992 Session of the General Assembly.

Section 16, paragraph 5 is revised by adding vehicles owned by the Department of Corrections to be equipped with blue or blue and red lights as designated by the Director of the Department of Corrections. The language "showing to the front" is struck from the paragraph. School buses should be omitted from paragraph 5, as lights for these type vehicles are covered in paragraph 2. The word "combination" is added to paragraph 5 to clarify that a combination of red and white lights is allowed. Vehicles of the Department of Emergency Services are permitted to be equipped with red or red and white warning lights. Vehicles owned by ambulance drivers employed by privately owned ambulance services are permitted to be equipped with two flashing or steady burning red or red and white lights.

Section 16, paragraph 8 is amended by revising paragraph b and adding paragraph c. These changes provide for the use of amber flashing, blinking or alternating lights on vehicles used by law-enforcement personnel in the enforcement of laws governing motor vehicle parking, government owned law-enforcement vehicles provided the lights are used for giving directional warning and vehicles used to provide escort for funeral processions. An amber flashing, blinking or alternating light may be mounted on the rear of any vehicle used to transport petroleum products. These changes are made consistent with recent changes in the Code of Virginia.

Paragraphs 53 through 59 are added to define DRL's and inspection criteria. The federal Department of Transportation issued a final rule allowing daytime running lamps on all vehicles. This rule became effective February 10, 1993, and preempts state law. These changes in the inspection rules are consistent with the federal rule.

14. Section 18, paragraph 1 is revised to correct an error from a previous printing. The noted reference to § 53 is changed to § 55.

The diagram following § 18, paragraph 12 is corrected by adding an explanation for the use of 180° lights. This explanation was omitted from the July 1, 1991, printing of these regulations.

15. Section 19, paragraph 5 is amended to require a center high mount stop light on all multipurpose passenger vehicles manufactured for 1994 or subsequent model year. Multipurpose passenger vehicles with an overall width of 80 or more inches or a gross vehicle weight rating of 10,000 pounds or more are not required to be equipped with such light. This amendment to the regulations is consistent with Federal Motor Vehicle Safety Standards, final rule effective September 1, 1993.

16. Section 21 is revised to delete the requirement to inspect for and reject if sunshading material is not of a type approved for use by the Superintendent of State Police. The General Assembly amended the Code of Virginia to no longer require approval of this material by the Superintendent.

17. Section 29, paragraph 2 a is revised and paragraph 2 b is added adopting the standards and specifications of the Society of Automotive Engineers, Inc., and Federal Motor Vehicle Safety Standard Number 209 for seat belt anchorage and attachment hardware. Inquiries are directed to the nearest Safety Division office.

18. Section 46.2-909 is added to the Code of Virginia references for § 35. The title of this section is revised to include seats. The section is amended by adding paragraphs 8 and 9. These paragraphs require seats, which are securely fastened, to accommodate motorcycle operators or passengers. Motorcycles with a designated passenger position must be equipped with a foot rest for such passenger. These changes make inspection rules consistent with the Code of Virginia.

19. The proposed revisions to § 44 will delete that portion of the table setting forth minimum specifications for brake adjustment concerning air disc brake push rod limits. These standards were based on manufacturer's specifications which are no longer valid.

20. Section 47, paragraph 2 is amended to require rejection of vehicles over 10,000 pounds equipped with power steering if the power steering belt is missing.

Section 47, paragraph 4 c is amended by adopting standards for steering lash/travel consistent with the Code of Federal Regulations.

Section 47, paragraph 10 a 1 is amended by deleting any reference to vehicles with a gross vehicle weight rating of 10,000 or less.

Paragraph 10 a 2 is added to § 47 to require rejection of excessively worn and improperly adjusted wheel bearings. Any missing or inoperative wheel bearing locking device will also require rejection.

21. The amendment to § 49 defines a fifth wheel and upper coupler assembly, which interfaces with a fifth wheel to complete the connection. This distinguishes between fifth wheel type connectors and ball and socket or hitch and coupling connectors which are required to be equipped with emergency chains. These definitions are consistent with Federal Motor Carrier Regulations and Standards of the American Society of Automotive Engineers.

22. Section 51 is amended by adding an illustration to identify proper headlamp locations for specific headlamps used on vehicles with a gross vehicle weight rating in excess of 10,000 pounds.

23. Section 46.2-1090.1 of the Code of Virginia is added to the list of reference sections for § 53.

Section 53, paragraph 1 is revised to include seven general types of auxiliary lamps. Paragraph 1 a is revised to include daytime running lamps (DRL's.)

Section 53 is amended by adding subparagraphs 1 b (1) and 1 b (2). Paragraph 1 b (1) permits the use of roof-mounted flashing white or amber warning lamps of an approved type on school buses. Paragraph 1 b (2) permits the use of octagonal stop signal arms which meet Federal Motor Vehicle Safety Standard specifications on school buses. Roof-mounted flashing lights were authorized by the 1992 Session of the General Assembly.

Paragraph 4 is amended by including Department of Corrections vehicles designated by the Director of the Department of Corrections to those vehicles permitted to be equipped with blue or blue and red lights. The language "showing to the front" is deleted in line 2. Vehicles of the Department of Emergency Services are permitted to be equipped with red or red and white warning lights. School buses should be omitted from paragraph 4 as lights on these vehicles are covered in paragraph 1 b (2). The word "combination" is added to paragraph 4 to clarify that a combination of red and white lights is allowed. Ambulance drivers employed by privately owned ambulance services may equip their vehicles with two flashing or steady burning red or red and white lights.

Subparagraph c is added to paragraph 7 to permit the use of an amber flashing, blinking or alternating light on the rear of any vehicle used to transport petroleum products.

Paragraphs 52 through 58 are added to define DRL's and inspection criteria. The federal Department of Transportation issued a final rule allowing daytime running lamps on all vehicles. This rule became effective February 10, 1993, and preempts state law. These changes in the inspection rules are consistent with the federal rule.



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24. Section 46.2-1018 of the Code of Virginia is added to the reference section in § 55. Paragraph 10 is revised by substituting "35 ft." for "40 ft." for those vehicles required to be equipped with reflex reflectors in lieu of clearance lights consistent with the Code of Virginia.

25. Section 58 is revised to delete the requirement to inspect for and reject if sunshading material is not of a type approved for use by the Superintendent of State Police. The General Assembly amended the Code of Virginia to no longer require approval of this material by the Superintendent.

26. Section 66, paragraph 2 a is revised and paragraph 2 b is added adopting the standards and specifications of the Society of Automotive Engineers, Inc., and Federal Motor Vehicle Safety Standard Number 209 for seat belt anchorage and attachment hardware. Inquiries are directed to the nearest Safety Division office.

27. The revision to the Approved Equipment Section defines six additional types of safety glass or safety glazing material approved for use in vehicles. The specific uses and locations for installation are provided for the six additional materials and more closely defined for eight existing types of safety glass or safety glazing. These changes are consistent with the standards of the American National Standards Institute, Inc., and Federal Motor Vehicle Safety Standard Number 205.

VA.R. Doc. No. R93-800; Filed September 1, 1993, 10:59 a.m.

\* \* \* \* \*

**Title of Regulation:** VR 545-01-13. Regulations Relating to the Standards and Specifications for regrooved or Regroovable Tires.

**Statutory Authority:** § 46.2-1042 of the Code of Virginia.

**Public Hearing Date:** N/A -- Written comments may be submitted through November 19, 1993.

(See Calendar of Events section for additional information)

**Basis:** Section 46.2-1042 of the Code of Virginia charges the Superintendent of the Department of State Police with the responsibility of establishing standards for regroovable or regrooved tires.

**Purpose:** To establish standards consistent with regulations for interstate commerce and eliminate the use of substandard tires in the Commonwealth.

**Substance:** This regulation sets forth the specifications and standards for regroovable and regrooved tires.

**Issues:** This standard parallels Federal Motor Vehicle

Safety Standard Number 569 which sets forth the conditions under which regrooved and regroovable tires may be sold, offered for sale, or intended for sale or delivered for introduction into interstate commerce. This regulation is promulgated to be consistent with federal requirements and enhance highway safety by establishing uniform standards that do not allow substandard tires to be used or available for use on vehicles in Virginia.

**Estimated Impact:** The standards set forth by this regulation are uniform and observed nationally by those persons performing the service of tire regrooving. No adverse impact or additional costs will be experienced.

VR 545-01-13. Regulations Relating to the Standards and Specifications for Regrooved or Regroovable Tires.

## Summary:

*This regulation establishes specifications which define standards for regroovable or regrooved tires.*

### § 1. Purpose.

*The purpose of this standard is to establish specifications which define standards for regroovable and regrooved tires and identification of regroovable tires.*

### § 2. Definitions.

*"Regroovable tire" means a tire, either original tread or retread, designed and constructed with sufficient tread material to permit renewal of the tread pattern or the generation of a new tread pattern in a manner which conforms to this standard.*

*"Regrooved tire" means a tire, either original tread or retread, on which the tread pattern has been renewed or a new tread has been produced by cutting into the tread of a worn tire to a depth equal to or deeper than the molded original groove depth.*

### § 3. Identification.

*Each tire designed and constructed for regrooving shall be labeled on both side walls with the word "regroovable" molded on or into the tire in raised or recessed letters .025 to .040 inches. The word "regroovable" shall be in letters 0.38 to 0.50 inches in height and not less than four inches and not more than six inches in length. The lettering shall be located in the side wall of the tire between the maximum section width and the bead in an area which will not be obstructed by the rim flange.*

*No tire shall be regrooved or recut unless it is clearly identified as "regroovable" as specified in this section.*

### § 4. Specifications.

*A tire shall not be regrooved by removing rubber from the surface of a worn tire to generate a new tread*

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pattern.

*The tire being regrooved shall be a regroovable tire.*

*After regrooving, cord material below the grooves shall have a protective covering of tread material at least 2/32-inch thick.*

*After regrooving, the new grooves generated into the tread material and any residual original molded tread groove which is at or below the new regrooved groove depth shall have a minimum of 90 linear inches of tread edges per linear foot of the circumference.*

*After regrooving, the new groove width generated into the tread material shall be a minimum of 3/16-inch and a maximum of 5/16-inch.*

*After regrooving, all new grooves cut into the tread shall provide unobstructed fluid escape passages.*

*After regrooving, the tire shall not contain any of the following defects, as determined by visual examination of the tire either mounted on the rim, or dismounted, whichever is applicable:*

1. Cracking which extends to the fabric,
2. Groove cracks or wear extending to the fabric, or
3. Evidence of ply, tread, or side wall separation.

*If the tire is siped by cutting the tread surface without removing rubber, the tire and material shall not be damaged as a result of the siping process, and no sipe shall be deeper than the original or retread groove depth.*

## § 5. Proof of compliance.

*Whenever the Superintendent of State Police deems it necessary, he may require the business, firm or person regrooving tires or the distributor of regrooved tires to furnish proof that the tires being regrooved meet or exceed the requirements of the regulation.*

V.A.R. Doc. No. R93-783; Filed September 1, 1993, 10:58 a.m.

\* \* \* \* \*

**Title of Regulation:** VR 545-01-14. Regulations Relating to Standards and Specifications for Warning Stickers or Decals for All-Terrain Vehicles

**Statutory Authority:** § 46.2-915.1 of the Code of Virginia.

**Public Hearing Date:** N/A – Written Comments may be submitted through November 19, 1993.

(See Calendar of Events section for additional information)

**Basis:** Section 46.2-915.1 of the Code of Virginia requires

all retailers selling any all-terrain vehicle to affix a decal or sticker, approved by the Superintendent of the Department of State Police, which clearly and completely states the prohibitions outlined in the statute.

**Purpose:** This regulation is promulgated to establish the specifications for stickers or decals containing consumer information affixed to all-terrain vehicles.

**Substance:** This regulation establishes standards and specifications for warning stickers or decals required to be placed on all-terrain vehicles sold by retailers in the Commonwealth.

**Issues:** The warning label will alert would be purchasers of the legal responsibilities and restrictions associated with the operation of all-terrain vehicles. Retailers will be required to prepare and install the stickers or decals.

**Estimated Impact:** Retailers must bear the cost for preparation and installation of the stickers or decals.

## Summary:

*This regulation establishes standards and specifications for the warning stickers or decals which are required to be affixed to all-terrain vehicles by retailers selling these vehicles in the Commonwealth.*

VR 545-01-14. Regulations Relating to Standards and Specifications for Warning Stickers or Decals for All-Terrain Vehicles.

## § 1. Purpose.

*The purpose of this standard is to establish specifications which define standards for warning stickers or decals required to be placed on all-terrain vehicles sold by retailers within the Commonwealth.*

## § 2. Definitions.

*“All-terrain vehicle” means a three-wheeled or four-wheeled motor vehicle, generally characterized by large, low-pressure tires, a seat designed to be straddled by the operator, and handlebars for steering, which is intended for off-road use by an individual rider on various types of nonpaved terrain.*

*“Sticker” or “decal” means a device containing consumer information affixed to all-terrain vehicles.*

## § 3. Description and identification.

*The stickers or decals are to be pressure sensitive stickers manufactured to be suitable for exterior application.*

*Each sticker or decal is to be a minimum of four inches by four inches and will contain the following wording:*

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## WARNING

Virginia law prohibits operation of this vehicle:

1. On any public highway, or other public property.
2. By any person under the age of 16 if the vehicle is powered by an engine of more than 90 cubic centimeters, or any person under the age of 12 if the vehicle is powered by an engine of no less than 70 or more than 90 cubic centimeters.
3. By any person not wearing an approved type protective helmet.
4. On another person's property without written consent of property owner.
5. With a passenger at any time.

Engine size.....cubic centimeters

The engine size in cubic centimeters may be contained on a separate sticker or decal of the same type and color as the warning sticker or decal located immediately below or adjacent to the warning sticker.

### § 4. Color.

The sticker or decal shall be white in color with black lettering.

### § 5. Performance requirements.

A. The sticker or decal shall be pressure sensitive, manufactured to be suitable for exterior application.

B. Adhesive shall be formulated adhesive which requires no wetting agent for activation. The adhesive shall be made for exterior use specifically on surfaces of bare or painted metal or vitreous enamel. The adhesive shall be of a permanent type and not affected by extreme heat or cold. When the sticker is properly applied to a suitable surface, the product shall be constructed to withstand temperatures of -60 to 250°F.

C. The sticker or decal shall have a protective liner placed over the adhesive which will serve as a carrier sheet.

D. Printing on the face of the sticker or decal shall be done using sun-resistant inks that will remain legible after application.

After printing, the entire surface of each sticker or decal shall be covered with high gloss transparent clear coating to add sun and weather resistance.

E. The weathering quality of the sticker or decal shall be such that they show no signs of cracking, fading, excessive chalking or other types of surface failure after

completion of exposure tests.

F. The sticker or decal must withstand tests of destructibility after application. Once applied, the sticker must attain a sufficiently tight bond to the surface that it will remain affixed unless it is intentionally removed.

### § 6. Location of sticker or decal.

The sticker or decal is to be placed on a smooth surface in a location where it is visible to and readable by the operator of the all-terrain vehicle. If such a suitable location is not available, then it shall be placed on a smooth and reasonably flat surface on the left side of the all-terrain vehicle in a location visible to a person standing beside the seat of the vehicle.

### § 7. Proof of compliance.

Whenever the Superintendent of State Police deems it necessary, he may require retailers of all-terrain vehicles to furnish proof that the sticker or decal installed on all-terrain vehicles as required in § 46.2-915.1 of the Code of Virginia meets or exceeds the requirements of the regulation.

VA.R. Doc. No. R93-781; Filed September 1, 1993, 10:58 a.m.

\* \* \* \* \*

**Title of Regulation:** VR 545-01-15. Regulations Relating to Standards and Specifications for Back-up Audible Alarm Signals.

**Statutory Authority:** § 46.2-1175.1 of the Code of Virginia.

**Public Hearing Date:** N/A – Written comments may be submitted through November 19, 1993.  
(See Calendar of Events section for additional information)

**Basis:** Section 46.2-1175.1 of the Code of Virginia requires the use of audible back-up alarm signals on garbage and refuse collection and disposal vehicles and certain vehicles used for highway repair and maintenance. This section charges the Superintendent of the Department of State Police with the responsibility of approving devices to be used.

**Purpose:** The purpose of this regulation is to establish specifications for the audible back-up alarms required on certain vehicles. These alarms are designed to alert persons to the backing movement of these large vehicles in an effort to prevent incidents of pedestrian and/or vehicle accidents that may be experienced if the backing maneuver was otherwise undetected.

**Substance:** This regulation establishes specifications of the audible back-up alarm signals required to be used on garbage and refuse collection and disposal vehicles and certain vehicles used primarily for highway repair and

# Proposed Regulations

maintenance. The Standard J994, March 1985 of the Society of Automotive Engineers (SAE) is paralleled.

Issues: The use of the audible alarm signal by those specified vehicles will be an asset to traffic safety. This standard provides the uniform application of equipment by type so as not to subject the public to a proliferation of varying types of audible signals and varying alarm messages. As a disadvantage, owners of such vehicles must bear the expense of equipping their vehicles with the alarm devices.

Estimated Impact: All owners of garbage and refuse collection and disposal vehicles and certain vehicles used for highway repair and maintenance will have to bear the cost of equipping these vehicles.

## Summary:

*This regulation establishes standards and specifications for audible back-up alarm signals required to be used on garbage and refuse collection and disposal vehicles and certain vehicles used for highway repair and maintenance.*

VR 545-01-15. Regulations Relating to Standards and Specifications for the Back-up Audible Alarm Signals.

## § 1. Purpose.

*The purpose of this standard is to establish specifications which define standards and identification of back-up audible alarm signals required on garbage and refuse collection and disposal vehicles and certain vehicles used primarily for highway repair and maintenance.*

## § 2. Definition.

*"Back-up audible alarm signal" means an electric powered device consisting of an alarm, alarm control circuitry and an activating switch required for use on vehicles used for garbage and refuse collection and disposal and on vehicles having a manufacturer's gross vehicle weight rating of 10,001 pounds or more and used primarily for highway maintenance and repair.*

## § 3. Description and identification.

*The alarm will be an electric powered device consisting of an alarm, alarm control circuitry, and an activating switch which meets or exceeds Society of Automotive Engineers (SAE) Standard J994. The alarm shall be activated immediately when the transmission control mechanism is shifted into a reverse position, and shall remain activated until the mechanism is shifted out of the reverse position. The alarm will be identified as meeting SAE Standard J994.*

## § 4. Performance requirements.

*Devices must meet or exceed standards as set forth in*

*SAE J994 which includes the following tests:*

*1. Sound level test*

*2. Vibration test*

*3. Rain test*

*4. Corrosion test*

*5. Steam test*

*6. Dust test*

*7. Life cycle test*

## § 5. Proof of compliance.

*Whenever the Superintendent of State Police deems it necessary, he may require the manufacturer or distributor of back-up audible alarm signal devices to furnish proof that the alarm or any part of the alarm meets or exceeds the requirements of this regulation.*

VA.R. Doc. No. R93-780; Filed September 1, 1993, 10:57 a.m.

\* \* \* \* \*

Title of Regulation: VR 545-01-16. Regulations Relating to Standards and Specifications for Overdimensional Warning Lights.

Statutory Authority: § 46.2-1026 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted through November 19, 1993.

(See Calendar of Events section for additional information)

Basis: Section 46.2-1026 of the Code of Virginia requires the flashing, blinking or alternating amber warning lights used by certain overdimensional vehicles to be approved for use by the Superintendent of the Department of State Police.

Purpose: The regulation is promulgated to establish specifications for flashing, blinking or alternating amber warning lights to be used on vehicles escorting or towing overdimensional loads.

Substance: This regulation establishes standards which define specifications and identification for warning lights used in the escorting or towing of overdimensional material, equipment, boats or manufactured housing units by the authority of a highway permit issued pursuant to § 46.2-1139 of the Code of Virginia. The Society of Automotive Engineers Standards J845 and J595 for warning lights are to be used as the minimum standards for these devices.

Issues: The use of warning lights on these over-dimensional

# Proposed Regulations

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vehicles will provide greater conspicuity to the other users of the highway and alert them to drive more carefully in the presence of these vehicles due to their abnormal size. The burden of equipping and maintaining these lighting devices on overdimensional vehicles will be the responsibility of the vehicle owner and/or operators.

**Estimated Impact:** Those persons engaged in the escorting or towing of overdimensional vehicles will be responsible for bearing the costs of installation and maintenance of the lighting devices. Each unit will cost \$15 to \$30.

## Summary:

*This regulation establishes standards and specifications for the flashing, blinking or alternating amber lights required on vehicles escorting or towing overdimensional loads.*

VR 545-01-16. Regulations Relating to Standards and Specifications for Overdimensional Warning Lights.

### *§ 1. Purpose.*

*The purpose of this standard is to establish specifications which define standards and identification for warning lights used in the escorting or towing of overdimensional materials, equipment, boats, or manufactured housing units by authority of a highway hauling permit issued pursuant to § 46.2-1139 of the Code of Virginia.*

### *§ 2. Definitions.*

*“Overdimensional light” means a flashing or rotating amber warning light required for use on any vehicle which is engaged in either escorting or towing overdimensional materials, equipment, boats or manufactured housing units by authority of a highway hauling permit issued pursuant to § 46.2-1139 of the Code of Virginia.*

### *§ 3. Description and identification.*

*The light will be flashing or rotating amber warning light which meets or exceeds Society of Automotive Engineers (SAE) Standard J845 or Standard J959, for warning lights. The light will be identified with the Code SAE-W, SAE-W1 or SAE-W3-1,2,3 in accordance with SAEJ759, Lighting and Identification Code.*

### *§ 4. Performance requirements.*

*Lights must meet or exceed standards as set forth in SAEJ575, which include the following tests:*

- 1. Vibration test*
- 2. Moisture test*
- 3. Dust test*

### *4. Corrosion test*

### *5. Photometry test*

### *§ 5. Color.*

*The color will be amber (yellow) and will meet or exceed the requirements of SAEJ578, standard for color specification for electrical signal lighting device.*

### *§ 6. Proof of compliance.*

*Whenever the Superintendent of State Police deems it necessary, he may require the manufacturer or distributor of overdimensional warning lights to furnish proof that the light or any part of the light meets or exceeds the requirements of this regulation.*

V.A.R. Doc. No. R93-782; Filed September 1, 1993, 10:57 a.m.

\* \* \* \* \*

**Title of Regulation:** VR 545-01-17. Regulations Relating to Standards and Specifications for the Safety Lights for Farm Tractors in Excess of 108 Inches in Width.

**Statutory Authority:** § 46.2-1102 of the Code of Virginia.

**Public Hearing Date:** N/A – Written comments may be submitted through November 19, 1993.

(See Calendar of Events section for additional information)

**Basis:** Section 46.2-1102 of the Code of Virginia requires that any farm tractor or agricultural multi-purpose drying unit wider than 108 inches, be equipped with a safety light of a type approved by the Superintendent of the Department of State Police when propelled, hauled, transported or moved on the highway.

**Purpose:** The purpose of this regulation is to establish standards and specifications for the safety light required by § 46.2-1102. This light will provide enhanced conspicuity for over-dimensional farm tractors and agricultural multi-purpose drying units and improve the level of highway safety for all users of the highway.

**Substance:** This regulation establishes the specifications for safety lights used on farm tractors and agricultural multi-purpose drying units in excess of 108 inches in width. The standards and specifications of the Society of Automotive Engineers (SAE) are paralleled.

**Issues:** The use of such safety light is necessary to indicate the presence of over-dimensional agricultural equipment which normally travels at speeds below that of other traffic. The disadvantage of this regulation befalls those individuals who must equip their farm tractor with this additional lighting device.

**Estimated Impact:** Each person operating a farm tractor

or agricultural multi-purpose drying unit in excess of 108 inches in width upon the highway will be required to equip the tractor or drying unit with an approved flashing warning light. This light will cost \$15 to \$30 per unit.

## Summary:

*This regulation establishes standards and specifications for lights used on farm tractors and agricultural multi-purpose drying units in excess of 108 inches in width which are hauled, propelled, transported or moved on the highway.*

VR 545-01-17. Regulations Relating to Standards and Specifications for the Safety Lights for Farm Tractors in Excess of 108 Inches in Width.

### *§ 1. Purpose.*

*The purpose of this standard is to establish specifications for safety lights used on farm tractors and agricultural multi-purpose drying units in excess of 108 inches in width which are hauled, propelled, transported or moved on the highway.*

### *§ 2. Definitions.*

*"Lighting device" means a flashing warning light to indicate both forward and rearward the presence of agricultural equipment which normally travels at a rate of speed below that of other traffic.*

### *§ 3. Description and identification.*

*This lighting device shall flash at least 60 flashes per minute but not more than 120 flashes per minute when operating. The safety light shall meet the provisions of the Society of Automotive Engineers (SAE) Standard J974 (Flashing Warning Light for Agricultural Equipment.)*

### *§ 4. Determine requirements.*

*The flashing warning light shall be tested in accordance with the following sections of SAE J575:*

*Section B - Samples for Test*

*Section C - Lamp Bulbs*

*Section D - Laboratory Facilities*

*Section E - Vibration Test*

*Section F - Moisture Test*

*Section G - Dust Test*

*Section H - Corrosion Test*

*Section J - Photometric Test*

*Section L - Warpage Test on Devices with Plastic Lenses*

### *§ 5. Color.*

*The color of this warning lamp shall be amber in accordance with SAE J578.*

### *§ 6. Proof of compliance.*

*Safety lights for use on farm tractors must be identified as meeting the provisions of SAE J974 or be approved for use by the Superintendent of the Department of State Police as outlined in § 46.2-1005 of the Code of Virginia.*

VA.R. Doc. No. R93-785; Filed September 1, 1993, 10:54 a.m.

## STATE WATER CONTROL BOARD

### Withdrawal of Proposed Regulations

The State Water Control Board has **WITHDRAWN** the following proposed regulations:

1. VR 680-16-06, Water Quality Management Plan for the Tennessee-Big Sandy River Basins (REPEALING), published 6:15 VA.R. 2261 April 23, 1990.

2. VR 680-16-06:1, Tennessee-Big Sandy River Basin Water Quality Management Plan, published VA.R. 6:15 2261-2264 April 23, 1990.

VA.R. Doc. No. R93-793; Filed August 31, 1993, 3:27 p.m.

# 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 GAME AND INLAND FISHERIES (BOARD OF)

**REGISTRAR'S NOTICE:** The following regulation is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 9-6.14:4.1 of the Code of Virginia, which excludes from this Act the Department of Game and Inland Fisheries when promulgating regulations regarding the management of wildlife. However, the Department is required by § 9-6.14:22 of the Code of Virginia to publish all proposed and final wildlife management regulations, including the length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

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

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

Effective Date: October 20, 1993.

### Summary:

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

VR 325-03.

VR 325-03-2. Trout Fishing.

§ 17. *Special provisions applicable to Urban Fishing Program waters.*

*Waters selected by the director for inclusion into the Urban Fishing Program will be considered designated stocked trout waters only from November 1 through April 30, thus a trout license is not required from May 1 through October 31. In addition, trout may be creeled from these waters year around and the daily trout creel limit shall be four.*

VA.R. Doc. No. R93-797; Filed September 1, 1993, 9:17 a.m.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR ~~355-39-01~~ 355-39-100 . Regulations Governing Eligibility Standards and Charges for Medical Health Care Services to Individuals .

Statutory Authority: § 32.1-11 and 32.1-12 of the Code of

Virginia.

Effective Date: December 1, 1993.

### Summary:

*This regulation establishes the basis for the Department of Health's charges and eligibility process. The amendments are being made to (i) change the basis for the department's charges; (ii) bring eligibility guidelines closer to those used for Medicaid determination; (iii) change the waiver process; (iv) clarify the roles of the Board of Health, commissioner, and district directors in determining the scope of services provided by the department; and (v) reflect changes in the Code of Virginia.*

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Dave Burkett, Director, Department of Health, Division of Reimbursement, 1500 East Main Street, Main Street Station, Room 232, Richmond, VA 23219, telephone (804) 371-4089. There may be a charge for copies.

VR 355-39-100. Regulations Governing Eligibility Standards and Charges for Health Care Services to Individuals.

## PART I DEFINITIONS.

§ 1.1. Definitions.

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

"Applicant" means the person requesting medical health care services for themselves himself or on whose behalf of a dependent family member or foster child a request is made .

"Automatic eligibility" means applicants who are recipients of public assistance programs:

Aid to Dependent Children (ADC)

General Relief

Title XIX - MEDICAID

## Food Stamp Benefits

Dental services for children who qualify for the national school lunch program or its equivalent.

Identifying information shall be collected on these persons in order to make the above determinations.

"Board" means the State Board of Health. The Board of Health is the policy board of the state Department of Health.

"Charges for services" means the reasonable charges established by the board for medical care services. In calculating service charges consideration will be given to (i) patient caseloads, (ii) manpower requirements, and (iii) the cost of support services, supplies and equipment. These charges shall be based on the state average cost for providing the services. The charges may be further adjusted when cost changes occur.

"Child" means a any biological or adopted child, and any child placed for adoption or foster care unless otherwise treated as a separate unit by these regulations.

"Commissioner" means the Commissioner of Health. The commissioner is the chief executive officer of the state Department of Health. The commissioner has the authority to act for the Board of Health when it is not in session.

"Department" means the state Department of Health and includes central office, regional offices and health districts, and local health departments.

"Disabled" means any person crippled or otherwise incapacitated from earning a living. Incapacity must be supported by a physician's determination.

Adult disabled children (persons) may or may not be included in the family unit depending on the support received from the parents. If the adult disabled child operates as a separate economic unit, he will be excluded even though he shares the parent's residence.

"Eligibility determination" means the process of obtaining required information regarding family size, income, and other related data in order to establish charges to the applicant.

"Family" or "family unit" means the economic unit which may include the patient, the spouse of the patient, the parent or parents of a patient who is an unemancipated minor, the parents of a patient who has been declared by a physician to be disabled, and any other person actually and properly dependent upon or contributing to the family's income for subsistence the applicant and other such household members who together constitute one economic unit. The economic unit shall include the constellation of persons among whom legal responsibilities of support exist; or an individual, even if

otherwise within such a constellation, if he independently receives subsistence funds in his own right. The economic unit shall count in its income any contributions to the unit from persons not necessarily living with the constellation.

Parent includes a biological, adoptive, or step parent; or a cohabiting partner included in the family unit.

A woman who is pregnant may be counted as a multiple beneficiary when the pregnancy has been verified by a physician or a nurse practitioner working under the supervision of a physician.

A husband and wife who have been separated and are not living together, and who are not dependent on each other for support shall be considered separate family units.

The family unit which is based on cohabitation is considered to be a separate family unit for determining eligibility for services. The cohabiting partners and any children shall be considered a family unit. (§ 63.1-90.1 of the Code of Virginia.)

Eligible Medicaid children shall be considered a separate family unit.

"Flat rate charges" means charges for specified services which are to be charged to all [ patients clients ] regardless of income and with no eligibility determination.

"Free services" means services which the Health Department provides to all persons without charge as mandated by the Code of Virginia (see Part IV).

The department may also provide certain free services to all citizens, i.e., hypertension check-ups, pregnancy testing, etc., which are not necessarily required by the Code of Virginia.

"Gross income" means total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from nonfarm or farm self-employment (e.g., receipts from own business or farm expenses) income, plus any depreciation shown on income tax forms. They include regular payments from public assistance (including Aid to Families with Dependent Children, Supplemental Security Income, emergency assistance money payments and federally funded General Assistance or General Relief money payments); social security or railroad retirement, unemployment and workers' compensation, strike benefits from union funds, veterans' benefits, training stipends, alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; and income from dividends, interest, net rental income, net royalties, or periodic receipts from estates or



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trusts, college or university scholarships, grants, fellowships, assistantships lump sum settlements, and net gambling or lottery winnings.

"Gross income" does not include the value of food stamps, WIC checks, fuel assistance payments, housing assistance, money borrowed, tax refunds, gifts, lump sum settlements, inheritances or one-time insurance payments or compensation for injury, withdrawal of bank deposits from earned income, earnings of minor children, money received from the sale of property, general relief from the Department of Social Services, or college or university scholarships, grants, fellowships, and assistantships.

"Income scales" means scales based on individual or family gross income which shall be established. They shall be based on the official poverty guidelines updated annually by the U.S. Department of Health and Human Services in accordance with §§ 652 and 6763(2) of the Omnibus Reconciliation Act of 1981 (Public Law 97-35). There shall be two income scales: one for Northern Virginia and one for the remainder of the Commonwealth as follows:

Income Level A - [ will be set at those clients with incomes ] up to and including 100% of the poverty income guidelines [ will qualify as Income Level A clients ], except for Northern Virginia where the Income Level A will be set at up to and including 110% of the [ federal ] poverty income guidelines [ will qualify as Income Level A clients ].

Income Level B - will be set at 110% of the poverty income guidelines those clients with incomes above 100% and no more than 110% of the poverty guidelines will qualify as Income Level B clients, except for Northern Virginia where the Income Level B will be set at above 110% and no more than 133.3% of the federal poverty income guidelines.

Income Level C - will be set at 133.3% of the poverty income guidelines those clients with incomes above 110% and no more than 133.3% of the poverty income guidelines will qualify as Income Level C clients, except for Northern Virginia where the Income Level C will be set at above 133.3% and no more than 166.6% of the federal poverty income guidelines.

Income Level D - will be set at 166.6% of the poverty income guidelines those clients with incomes above 133.3% and no more than 166.6% of the poverty income guidelines will qualify as Income Level D clients, except for Northern Virginia where the Income Level D will be set at above 166.6% and no more than 200% of the federal poverty income guidelines.

Income Level E - will be set at 200% of the poverty income guidelines those clients with incomes above 166.6% and less than 200% of the poverty income

guidelines will qualify as Income Level E clients, except for Northern Virginia where the Income Level E will be set at above 200% and less than 233.3% of the federal poverty income guidelines.

Income Level F - will be set at 233.3% of the poverty income guidelines those clients with incomes equal to or above 200% of the poverty level guidelines will qualify as Income Level F clients, except for Northern Virginia where the Income Level F will be set at 266.6% all clients with incomes equal to or above 233.3% of [ the ] federal poverty income guidelines will qualify as Income Level F clients.

"Legally responsible" means the biological or adoptive parent(s), or those parents whose parentage has been admitted by affidavit or by order of the court.

"Medically indigent" means applicants whose individual or family gross income is defined at Income Level A and below.

"Minor" means a person less than 18 years of age whose parents are responsible for his care. A minor will be considered a separate family unit when married; or when 15 years of age and over and [ or ] not living with any relatives relative or deemed an adult.

A minor shall be deemed an adult for the purposes of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious and or contagious disease which the State Board of Health requires to be reported.

2. Medical and health services required [ in ease of for ] birth control, pregnancy, or family planning except for the purposes of sexual sterilization.

"Nonchargeable services" means the health services which the department has determined will be provided without charge and without an eligibility determination to all citizens regardless of income. There is no charge for WIC services, but WIC services do require an eligibility determination.

"Northern Virginia" means the area which includes the cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and the counties of Arlington, Fairfax, Loudoun, and Prince William.

"Students" means individuals, regardless of their residence, who are supported by their parents or others related by birth, marriage, or adoption are considered to be residing with those who support them.

## PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

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Section 32.1-12 of the Code of Virginia establishes the responsibility of the board as follows: "The board may formulate a program of environmental health services, laboratory services and preventive, curative and restorative medical care services, including home and clinic health services described in Titles V, XIII and XIX of the United States Social Security Act and amendments thereto, to be provided by the department on a regional, district or local basis. The board shall define the income limitations within which a person shall be deemed to be medically indigent. Persons so deemed to be medically indigent shall receive the medical care services of the department without charge. The board may also prescribe the charges to be paid for the medical care services of the department by persons who are not deemed to be medically indigent and may, in its discretion and within the limitations of available funds, prescribe and a scale of such charges based upon ability to pay. Funds received in payment of such charges are hereby appropriated to the board for the purpose of carrying out the provisions of this title. The board shall review periodically the program and charges adopted pursuant to this section."

## § 2.2. Purpose of regulations.

The board has promulgated these regulations to: (i) establish financial eligibility criteria to determine if a person is medically indigent and therefore qualified to receive medical health care services of from the department without charge; and (ii) to establish income scales and charges a mechanism for services for medical determining charges for health care provided by the department to individuals who are not medically indigent, based upon their ability to pay ; (iii) establish a mechanism for handling appeals and waivers; and (iv) establish continuity of eligibility among state agencies . The regulations are constructed to assure that eligibility criteria remain appropriate for changing economic conditions.

## § 2.3. Administration of regulations.

These regulations are administered by the following: commissioner.

A. State Board of Health. The Board of Health is the governing body of the State Department of Health. The commissioner shall assure uniformity and consistency by interpreting and implementing the rules [ by of ] the department for health care services.

B. State Health Commissioner. The State Health Commissioner is the chief executive officer of the State Department of Health. The commissioner has the authority to act for the board when it is not in session. The commissioner shall publish specific income levels expressed in dollar amounts for determining eligibility for medical health care services of the department. The income levels shall be based on the official poverty guidelines updated annually by the Department of Health and Human Services in accordance with §§ 652 and 673(2)

of the Omnibus Budget Reconciliation Act of 1981 (P. L. 97-35).

## § 2.4. Recipients of services.

These regulations shall apply to all persons seeking laboratory and preventive, curative and restorative services including medical and dental clinic health care services provided by the department, except where other eligibility criteria are required for programs administered under federal statute.

## § 2.5. Effective date of regulations.

These regulations will be effective July 19, 1989.

## § 2.6. § 2.5. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act govern the adoption of these regulations and any subsequent amendments.

## § 2.7. § 2.6. Powers and procedures of regulations not exclusive.

The board reserves the right to authorize any procedure necessary for the enforcement of the provisions set forth herein under the provisions of § 32.1-12 of the Code of Virginia.

## PART III. CHARGES FOR SERVICES APPLICATION AND CHARGES .

### § 3.1. Income levels Application process .

A. Applicants for medical care services, who are found to be medically indigent as defined by Part I of these regulations shall be provided care at no charge to the applicant. Upon an applicant's request for health services (excepting those services described in § 4.1) the department will require information as to the family size, financial status and other related data as described on the application for health care. The applicant must be informed during the interviewing process of the provisions as described in this section of the regulations.

An application date is established when the applicant completes and signs the application for health care services.

When an applicant is in need of emergency medical services, the district director, or his designee, shall waive this application process for that individual until such time as the individual is able to respond normally to the interviewing process.

It is the applicant's responsibility to furnish the department with the proof of the financial data in order to be appropriately classified according to income level and family size so that eligibility for discounts for health

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care services can be determined.

Any individual who is acting on behalf of an applicant will be responsible for the accuracy of all financial data provided to the department.

## § 3.2. Charges for services.

Charges for services means the reasonable charges established by the board for health care services. The department may prescribe a scale of discounts for certain health services. Charges will be based on current published Medicaid reimbursement levels. In those instances where Medicaid does not reimburse for a service provided by the department, charges shall be based on the costs of providing the services.

## § 3.3. Flat rate fees.

[ Charges for ] certain health services [ ~~(e.g., public health screenings)~~ ] that are not essential for public health protection may be set at a flat rate not subject to discounting. All flat rate fees must be expressly approved by the commissioner.

## § 3.4. Income levels for charges.

The department shall annually publish specific income levels expressed in dollar amounts for determining eligibility for discounts to the charges for health care services.

The charges made to the applicant shall be subject to 100% discounting for those who are found to be medically indigent as defined in Part I.

B. Applicants for medical health care services, including those in Northern Virginia as defined in Part I, whose family income exceeds Income Level A shall be assessed a fee charge as follows:

1. Income Level A - ~~No charge for service~~ 100% discount for the service .
2. Income Level B - ~~10%~~ 90% discount of the established charge for the service.
3. Income Level C - ~~25%~~ 75% discount of the established charge for the service.
4. Income Level D - 50% discount of the established charge for the service.
5. Income Level E - ~~75%~~ 25% discount of the established charge for the service.
6. Income Level F - ~~100%~~ of the established charge for the service No discount will be given .

## § 3.5. Automatic eligibility.

[ Automatic eligibility is given to applicants who currently receive any of the following public assistance programs: Applicants receiving the following public assistance program will receive services as Income Level A patients without additional income verification. ]

## General Relief

### Title XIX - Medicaid

National School Lunch Program for children receiving school meals at no cost. [ ~~For child dental services only~~ Only used for child dental services ] .

## § 3.6. Explanation of charges.

Prior to services being rendered, an explanation of the charges, applicable discounts, and expected payment shall be provided to the applicant.

## § 3.7. Redetermination of eligibility.

Eligibility to receive discounts from established charges must be redetermined at least every 12 months, or when income or family status [ ~~change changes~~ ] , unless otherwise dictated by law or regulation.

## PART IV. FREE NONCHARGEABLE SERVICES.

### § 4.1. Services provided at no charge.

The following services are provided without at no charge and without an eligibility determination to all citizens regardless of income as required by the Code of Virginia .

1. Immunization of children against diphtheria, tetanus, whooping cough, poliomyelitis, measles (~~rubeola~~), german measles (~~rubella~~) and mumps Those immunizations for children as required by § 32.1-46 of the Code of Virginia, and of persons up to the age of 21 when the person lacks evidence of complete and appropriate immunizations for [ ~~these diseases the diseases covered by that section of the Code of Virginia~~ ] .
2. Examination [ ~~and testing~~ ] of persons suspected of having or known to have tuberculosis as required by § 32.1-50 of the Code of Virginia.
3. Examination, testing and treatment of persons for venereal disease sexually transmitted diseases as required by § 32.1-57 of the Code of Virginia.
4. Screening of persons for the disease of sickle cell anemia or the sickle cell trait as required by § 32.1-68 of the Code of Virginia Anonymous testing for human immunodeficiency virus as required by § 32.1-55.1 of the Code of Virginia .
5. Screening for phenylketonuria, hypothyroidism

homocystinuria, galactosemia and Maple Syrup Urine Disease as required by §§ 32.1-65 and 32.1-67 of the Code of Virginia.

## § 4.2. Immunization services.

The department may provide immunization services free of charge to all individuals in the event of an epidemic or when declared necessary by the commissioner to protect the public health of all citizens of the Commonwealth.

## § 4.3. Other health care services.

The department may elect to provide other medical health care services at no charge to all citizens of the Commonwealth when directed by the board or the commissioner.

### PART V. CHARGEABLE SERVICES.

## § 5.1. Chargeable services.

The department may prescribe charges for certain medical services to be paid by persons who are not deemed to be medically indigent and may within the limitations of available funds prescribe a scale of such charges based upon ability to pay.

### PART VI V. EXCEPTIONS.

## § 6.1. § 5.1. Exceptions.

A. A continuing exception to the above standard principles for assessing charges /fees for [ clinic health care ] services will exist for patients determined to be eligible for services provided under the Handicapped Children's Services Program, the Special Supplemental Food Program for Women, Infants and Children (WIC), the Child Development Clinic Network, and to recipients of treatment and medical food products under the Phenylketonuria (PKU) Program. The conditions under which each of these programs is operated constitute unusual circumstances which dictate the following special principles for determining the charges to be made as reimbursement for those programs' services those programs of the department specified in the Code of Virginia or published in separate state plans .

B. The Handicapped Children's Services Program shall charge the annual patient fee for those persons determined to be above Income Level A. Charges shall be imposed in accordance with regulations as stated in the latest State Plan for Provision of Crippled Children's Services approved by the Board of Health.

C. The Phenylketonuria (PKU) Program shall impose no charges for screening, clinic, or laboratory services which are necessary to establish a diagnosis or to recommend treatment of PKU. Charges for specific medical food

products will not be made to families in Income Level A nor will charges for these products be made to persons financially eligible for the services authorized under the Women, Infants and Children (WIC) Program.

D. Specific medical food products which from time to time may be required by recipients of other programs offered by the department, and which may be provided by the department will be supplied in the same manner as provided in subsection C of § 6.1 of these regulations.

E. The Child Development Clinic Network shall impose no charges for services provided children from families in Income Level A.

§ 6.2. § 5.2. When necessary, the health or medical program director can deny certain medical services to full-paying patients (Income Levels F and above). Such denial is appropriate when the following situations exist: The district director or program director can limit the provision of certain health services based on an assessment of public need and available department resources.

1. The demand is great for providing services to lower income patients or when local restrictions apply to giving certain services; and

2. The same services are available in the community by the private sector.

§ 5.3. The district director or program director may establish policies to limit the provision of certain health services provided by the department based on legal residence and visa status except where federal funds are appropriated for the service.

§ 5.4. The district director, with department approval, may establish appropriate charges for services that are provided in the district and for which no statewide charges are identified.

### PART VII. ELIGIBILITY DETERMINATION.

§ 7.1. Upon request for medical services by an individual, the department will require information as to the family size, financial status and other related data as described on the application for health care (CHS-1). The applicant shall be informed during the interviewing process of the provisions as described in this section of the regulations. This process does not apply to services described in § 4.1 of these regulations.

A. An application date is established when the applicant, his authorized representative, or other persons acting in his behalf, completes and signs the application for medical care services.

1. For the Special Supplemental Food Program for Women, Infants and Children (WIC), the application

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date is established when an individual visits the health department during office hours to make an oral or written request for WIC Program benefits.

B. When an applicant is in need of emergency medical care services, the district director, or his designee shall waive this application process for that individual until such time as the individual is able to respond normally to the interviewing process.

C. It is the applicant's responsibility to furnish the department with the correct financial data in order to be appropriately classified according to income level and to determine applicable charges for medical care services. The applicant shall be required to provide written verification of financial income such as check stubs, written letter from an employer, W-2 or W-4 forms, etc., in order to provide documentation for the application.

D. Any individual who is acting on behalf of a minor will be held responsible for the accuracy of all financial data provided the department.

§ 7.2. If the patient's family gross income is such that a partial or full charge for service is determined to be required, an explanation of the charges shall be provided to the patient prior to services being rendered.

§ 7.3. A person's financial eligibility to receive chargeable medical care services shall be redetermined every 12 months, except when the department has reason to believe an applicant's financial or family status has changed sooner or when laws or regulations dictate otherwise.

§ 7.4. The department's policy is to require that a reasonable effort shall be made to collect any fees due for chargeable services.

The department should request payment for a chargeable service at the time the service is given.

When payments are not made at the time of service, the department will present to the patient, guardian or other authorized person, a bill each 30, 60, 90 and 120 calendar days.

If the payment is not made within 120 calendar days of the date of service, additional chargeable services will be discontinued to individuals whose income levels have been determined Income Levels B through F, until arrangements for payment have been made.

A written notice, including the development of a payment plan, on overdue payments, shall be presented to the patient at least 30 days prior to the effective date on which additional chargeable services will be refused because of payment delinquency.

The notice shall describe how a temporary waiver can be obtained in order for the individual to have a fair opportunity to settle on an overdue account.

If a waiver is denied, the department will continue to bill the patient, guardian, or the authorized person according to the above criteria.

§ 7.5. The individual, family unit, or other authorized person, may seek relief from the application of the above provisions by using Parts VIII and IX of these regulations.

## PART VIII VI . WAIVER OF PAYMENTS CHARGES .

§ 8.1. § 6.1. When an unusual family or individual *In instances when patients have unusually serious health problem problems or extraordinary financial hardships* are demonstrated to exist, and there are no other avenues of care, the patient, guardian or other authorized person may request a waiver of payment for chargeable services charges for up to 90 calendar days. A waiver may shall be requested orally or in writing to the program or district Health Department director . A new eligibility determination will be completed on the patient at this time. If the new eligibility determination places the patient in a lower payment plan, the amount of service payments incurred before the new eligibility determination and subsequent to the bona fide change in circumstances will be considered for possible discharge by the department or for payment at a level consistent with the newly determined income level. If complete waiver is allowed, during the waiver period the patient will not be charged for continued medical care. If partial waiver is allowed in the form of reduced payments, during the waiver period the patient will be charged at the reduced rate. Once the waiver period has elapsed, or earlier if the reason for the waiver no longer exists, if the patient's eligibility determination status has returned to its previous status or has improved to a higher payment level, the patient will be required to make payments on future medical care at the original or other appropriate level.

If the new eligibility determination made in response to the waiver request reveals no change in income level status, extraordinary circumstances may be taken into account to allow complete or partial waiver for up to 60 days, at which time the continuation of the extraordinary circumstances will be reassessed and the waiver terminated or extended for an additional period up to 30 days, with a repeat reassessment at the end of that time. Extraordinary circumstances will include but not necessarily be limited to natural disasters, uninsured real or personal property damage or legal liability to another for the same, obligatory and unavoidable expenditures for close relatives outside the family unit. Waivers shall not be accorded in the absence of a finding of hardship.

If the new eligibility determination proves that the patient's income level status has not changed, the department will continue to charge the patient at the appropriate level for medical care. At this time, the department will work with the patient, guardian, or other authorized person to assure that a reasonable payment plan for services received is established as described in

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subsection D of § 7.1. Documentation shall be made in the patient's medical file that proper procedures have been taken to assist the patient.

*If the waiver request is approved, the patient will receive a full discount for all services charged to him while covered by the waiver. If the waiver request is denied, the charges will continue as before.*

§ 8.2. § 6.2. The Commissioner of Health is designated to act for the Board of Health to grant or deny requested waivers and may delegate the authority to the program or district directors who may then designate the authority to individuals under their supervision to grant or deny the waiver .

§ 8.3. At his discretion, the commissioner may delegate the authority to grant or deny waivers to medical directors in the central, regional and district offices.

§ 8.4. Medical directors may designate other individuals within their supervision to grant or deny waivers of patient payments in accordance with § 8.1.

§ 8.5. § 6.3. In the event of an adverse decision, the patient, guardian or other authorized person will be advised of their rights to appeal under Part IX VII .

§ 8.6. At the time of request in a waiver, the applicant should provide information regarding the length of time he anticipates the waiver may be in force, with a justification for that estimate. The medical director or his designee will then determine and specify a reasonable time period based on the facts and circumstances of the particular case. The time specified should serve only as a guide; in operation the waiver should apply only for the duration of the change in the applicant's circumstances. Prior to the expiration date of the waivers, each case will be reviewed by the medical director or his designee for further determination. A waiver may be requested orally or in writing to the Health Department. No waiver can be extended beyond a six-month period without review.

After the waiver period has elapsed, a new eligibility determination will be performed to determine the patient's new income level status, or whether another waiver needs to be extended for continued care.

Services to patients shall continue pending a final decision on a request for a waiver.

§ 6.4. Waivers will not be continued past 90 days. Additional waivers can be granted, but the applicant will have to reapply at least every 90 days.

§ 6.5. No person believed to be eligible for Medicaid and having failed to complete a Medicaid application will be eligible for a waiver.

## PART IX VII . APPEAL PROCESS.

§ 9.1. § 7.1. If applicant for or recipient of medical health care services as defined in these regulations is denied such services, has services terminated, wishes to contest the determined income level, or is denied a waiver as defined in Part VIII VI of these regulations, the applicant/recipient is entitled to appeal that action as set forth under this part. There are no further rights of appeal except as set forth in this part.

A. The applicant/recipient has the right to be informed in writing of the appeal process, including time limits ; , and the right to receive a written statement of the reasons for denial. If a person already receiving services is denied those services, a written notice of termination shall be given 30 days in advance of discontinuing services. The person has the right to confront any witnesses who may have testified against him.

B. An individual or his representative may make a written or oral appeal to the district health director or program medical director within 30 days of the denial of service.

C. Upon receipt of the appeal, the district health director shall review and make written recommendations to the regional medical operations director and commissioner within 15 days. The regional medical operations director shall submit his recommendations to the commissioner within 15 days of the receipt of the local health district director's recommendations. Within 45 days following the date on which an appeal is filed, the commissioner shall make a final decision.

D. Upon receipt of the appeal, the program medical director shall review and make written recommendations to the [ division director deputy commissioner ] and the commissioner within 15 days. The [ division director deputy commissioner ] shall submit his recommendations to the commissioner within 15 days of the receipt of the [ division program ] director's recommendation. Within 45 days following the date on which an appeal is filed, the commissioner shall make a final decision.

E. Services to applicants/recipients shall continue during an the appeal process.

## PART X VIII . FRAUD.

§ 10.1. § 8.1. If the district health director [ or program director ] finds a pattern of abuse of services such as willful misrepresentation, identifies a patient willfully misrepresenting himself, or withholding or falsification of falsifying information in an attempt to obtain medical health services free or at a reduced rate, he the director may discontinue services to the affected person 30 days after notification to the person of the intended discontinuation notifying the person that services will be discontinued . Such recipient is entitled to the appeal process set forth in Part IX VII of these regulations.

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V.A.R. Doc. No. R93-798; Filed September 1, 1993, 10:04 a.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

### Reprint

**REGISTRAR'S NOTICE:** The following regulation filed by the Department of Medical Assistance Services was previously published in 9:25 V.A.R. 5043-5046 September 6, 1993, with an effective date of October 19, 1993, which was mandated by federal requirements. Subsequent to publishing this regulation, the mandated effective date was changed. The federal mandate now requires an effective date of April 19, 1994, as identified in the August 23, 1993, Federal Register. The regulation is being reprinted in its entirety indicating the amended effective date.

The regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 460-10-2500. Medicaid Financial Eligibility Requirements - Families and Children.

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

**Effective Date:** April 19, 1994.

#### Summary:

The purpose of this action is to promulgate state regulations which describe the methods and procedures to be used in setting standards and determining eligibility for Aid to Families With Dependent Children-related medical assistance. Such regulations are mandated in federal regulations published on January 19, 1993.

These regulations revise the methodologies for determining income and resource eligibility under Medicaid, including financial responsibility of relatives, and for determining how the income and resources of members of families are to be considered in determining eligibility for Medicaid. These regulations require the state to establish a Medicaid budgetary unit (called in these regulations, the Medicaid Assistance Unit) consisting of certain individuals living in the home. Individual members of the budgetary unit will then have their income and resource eligibility determined using separate standards. However, the standards used will be calculated based on proration of existing standards. For example, if a

low-income (poverty level-related) standard for a budgetary unit of four would normally be used, that standard would be divided by four to arrive at individual standards for the various members of the unit. Parents' countable income and resources will be prorated equally among their dependents living in the home including non-SSI dependents who may not be members of the budgetary unit. The proration will take into account the needs of the parents as well.

Implementation of this new method of calculating income and resources requires that the regulations describe how certain types of income will be counted and how certain disregards will be calculated. The regulations also describe the method of allocating income of a caretaker to a dependent who is not part of the Medicaid budgetary unit. Such dependents are included in the proration of a financially responsible relative's income and resources. For example, if a parent had three dependents living in the home, but only two could be eligible, the parents's income would be divided by four rather than three.

VR 460-10-2500. Medicaid Financial Eligibility Requirements - Families and Children.

### PART I DEFINITIONS.

#### § 1.1. Definitions.

"Deduction" means that part of a countable resource or source of income that is subtracted from the total value of the assets before calculations are made to determine eligibility.

"Disregard" means a noncountable resource or source of income, a source that is excluded from all eligibility determination calculations.

"Income standard or income limit" means the maximum amount of income allowed for the purposes of determining eligibility.

"Lump sum payment" means the receipt of a nonrecurring lump sum payment, such as the accumulation of benefits for a prior period, including Social Security and Workmen's Compensation benefits; inheritances or lottery winnings; personal injury awards; life insurance settlements when the policy is owned by someone other than a member of the Medicaid Assistance Unit; loans for current living expenses; child support identified as payments paid in excess of public assistance; or income from any other nonrecurring source.

"Resource limit or resource standard" means the maximum value of resources allowed for the purposes of determining eligibility.

### PART II THE MEDICAID ASSISTANCE UNIT.

§ 2.1. Establishing the Families and Children Medicaid Assistance Unit (MAU).

The Medicaid Assistance Unit (MAU) shall include the following individuals who are living in the home and who do not receive SSI. These individuals may or may not be eligible for Medicaid, but must be included in the Medicaid Assistance Unit for computation purposes.

1. Children under 18 years of age if they are living in the home, who are not married and living with their spouse, or children under the age of 19 if in a secondary school and expected to graduate before turning 19 if they are living in the home, who are not married and living with their spouse.

2. Children who receive AFDC, IV-E Foster Care or Adoption Assistance. Payments made from these sources shall be disregarded.

3. Children 19 to 21 if they receive Non-IV-E Foster Care or Adoption Assistance payments. Non-IV-E Foster care or Adoption Assistance payments shall be disregarded.

4. Parents of children described above and the spouses of the parents.

5. Pregnant women and unborn children they are expected to deliver.

6. Nonlegally responsible relatives of specified degree who request assistance or would be eligible as categorically needy nonmoney payment in a families-and-children category.

a. Relatives of specified degree are: brother, sister, uncle, aunt, nephew, niece, first cousin and first cousin once removed. It also includes step-mother, step-father, step-brother and step-sister and those relatives of preceding generations as denoted by prefixes of grand, great, great-great, or great-great-great. This includes both natural and adoptive relatives and the spouse of any relative listed, even if the marriage has been terminated by death or divorce.

b. Eligibility for nonlegally responsible relatives may exist only if there is a dependent child in the Medicaid Assistance Unit. These relatives have the option not to be included in the Medicaid Assistance Unit.

c. If the nonlegally responsible relative does request assistance, his or her spouse, if in the home, must also be included in the Medicaid Assistance Unit.

7. Aged, blind and disabled individuals, except SSI recipients, shall remain a part of the Families and Children MAU for determination of financial eligibility for other MAU members but that member will have

his eligibility determined for medical assistance as an aged, blind or disabled individual.

§ 2.2. Resource disregards and deductions.

A. When disregard of a resource is limited to only one disregard per family, and more than one member of the MAU owns that item, the family may decide who will claim the disregard.

B. When deductions are based on a specified dollar amount and apply to more than one member of the MAU, the dollar amount value of the deduction shall be divided by the appropriate number of individuals in the MAU.

§ 2.3. Determination of individual resource limits for members of the MAU.

To determine the resource limit for each member of the MAU, the appropriate resource limit defined for the MAU size shall be divided by the number of persons in the MAU. Each member's pro-rata share of the total is his individual resource limit.

§ 2.4. Determination of individual resources.

A. The countable resources of each parent or spouse shall be totaled to compute the individual resources of members of the MAU.

B. The total countable resources of the parent or spouse shall be prorated by the number of persons in the home including the parent and spouse and all individuals under the age of 18 (or 21 if receiving Non-IV-E Foster Care or Adoption Assistance) for whom he is legally responsible.

C. The MAU member's pro-rata share of the parent or spouse's resources shall be added to their own countable resources and the total shall be compared to their individual resource limit.

D. When determining eligibility of married couples, the individual resource limits shall be combined and the countable resources of each spouse shall be combined. If the couple's total resources are equal to or less than the combined resource limit, the couple shall be resource eligible.

E. Resources of MAU members applying in a Medically Indigent category shall be disregarded because no resource limit is imposed for those categories.

F. When a minor who is living in the home of her parents applies as a parent of a child rather than as a dependent child and her parent is not applying for assistance, the minor parent's pro-rata share of her parent's resources and any other resources she may have shall be used to determine her eligibility. If the parents of the minor caretaker wish to apply for her as an eligible child and she also wishes to apply for her child, none of her pro-rata share of her parent's resources shall be



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prorated to her child. Only resources owned solely by the minor caretaker shall be prorated to her child.

G. The resources of nonlegally responsible relatives who apply for assistance for a child are not counted in determining the child's eligibility for Medicaid.

1. If the nonlegally responsible relative wishes to apply for Medicaid for himself or herself as caretaker, his resources must be counted only toward his or her resource limit.

2. If the spouse of the nonlegally responsible relative is living in the home, the standards for the spouses shall be combined when computing the caretaker/relative's resources.

H. If the caretaker/relative has children of his own in the home, all children under the age limit, regardless of legal responsibility, shall be included in the MAU. The resources of the nonlegally responsible relative shall be deemed only to his own children.

## § 2.5. Income disregards and deductions.

A. Income disregards and deductions which are specific to an individual's income shall be applied to his income before proration of the income to dependents.

B. When deductions or disregards are limited to only one item per family and more than one member of the MAU owns that item, the family may decide to whose income the deduction or disregard will be applied.

C. When income deductions or disregards which are based on a specified dollar amount apply to more than one member of the MAU because more than one member owns that item, the dollar amount of the deduction or disregard shall be divided by the appropriate number of individuals in the MAU.

D. The income standard for married couples in the Medicaid Assistance Unit shall be the standard for two people in the appropriate locality grouping for the category.

E. For a pregnant woman, a pro-rata share of the income standard for her unborn child or children shall be added to her standard. If she has other living children, the standard for determining the eligibility of the other children shall be computed without an allowance for the unborn children.

F. When a minor caretaker's eligibility is being determined as a parent (not a child), the minor parent's pro-rata share of her parent's income shall be added to her own income to determine her eligibility. Her pro-rata share of her parent's income shall not be used to determine her child's eligibility.

## § 2.6. Determining individual countable income.

A. The countable income of each parent or spouse in the MAU shall be added together.

B. The parent's or spouse's countable income shall be prorated by the number of persons in the MAU living in the home for whom they are legally responsible, including the parent or spouse, and all other dependents under the age of 21 for whom the parents are legally responsible.

C. If the parent is paying support for a child who lives outside the home, the amount of support paid from the parent's countable income shall be deducted.

D. The income of nonlegally responsible relatives who apply for assistance for a child shall not be counted.

1. If the nonlegally responsible relative wishes to apply for Medicaid for himself as caretaker, his income must be counted only toward his income limit.

2. If the nonlegally responsible relative is married and the spouse is living in the home, the standards for the spouses shall be combined when computing the caretaker/relative's income.

E. If the caretaker/relative has children of his own in the home for whom assistance is requested, the children shall be included in the caretaker/relative's MAU.

F. Appropriate income deductions and disregards which are specific to each individual's income shall be applied.

G. Each child's prorated share of the parent's income shall be added to his own income.

H. Each parent's share of his spouse's income shall be added to his own income.

I. The income of each member of the MAU shall be compared to his prorated standards. In the case of married couples, their prorated standards shall be combined.

## § 2.7. Computing lump sum payment period.

A. Lump sum payments must be counted as income unless otherwise exempt.

B. A lump sum received prior to the month of application shall be evaluated as a resource.

C. A lump sum received during the month of application, at any time during pending status of the application, or after eligibility has been established, shall be treated as income in the month received and, if appropriate, a period of ineligibility shall be established. The period of ineligibility shall begin with the month of receipt of the lump sum payment.

D. If the total income, including the lump sum, equal or exceeds the AFDC 100% standard of need in the

locality for the number of persons in the MAU for whom the beneficiary is legally responsible, a period of ineligibility shall be established.

E. The total income (net countable income, plus the lump sum payment, minus appropriate directly related expenses) shall be divided by the appropriate AFDC 100% standard of need in the locality for the number of persons in the MAU for whom the beneficiary is legally responsible. This quotient shall be the number of months for which the 100% standard of need amount shall be counted as income to the beneficiary.

F. The recipient shall be advised of the duration of the period of ineligibility.

§ 2.8. \$30 plus 1/3 deduction.

A. Applicants for Medicaid who were AFDC recipients may be entitled to a \$30 plus 1/3 deduction or \$30 deduction of their gross earned income. If the applicant was entitled to either the \$30 plus 1/3 or \$30 deduction as an AFDC recipient and has any balance left on either deduction, the balance of the deduction shall be applied when computing his net countable income.

B. An AFDC recipient is entitled to a \$30 plus 1/3 of the remainder deduction of his gross earned income or profit from self-employment. The disregard shall be given for four consecutive months and is applied after the standard work deduction is applied. If there is an interruption in the four-month period, other than for a one-month suspension in the AFDC grant, the four-month period shall begin again until the deduction is applied for four consecutive months. Once the deduction is given for four consecutive months, it shall never be given again in the case unless the AFDC case is closed for 12 consecutive months.

C. At the end of the four-month period, the recipient shall be entitled to a \$30 deduction of monthly gross earned income or profit from self-employment. The \$30 deduction shall be given for eight months and begins the month following the fourth month of the initial \$30 plus 1/3 deduction. This eight-month period shall be fixed and ends with the eighth consecutive month regardless of whether the \$30 deduction is actually applied to earned income or self-employment. If an individual becomes ineligible for AFDC as a result of the loss of the \$30 plus 1/3 deduction or for any reason after the four months of the \$30 plus 1/3 deduction has been applied, the eight-month period of entitlement to the \$30 deduction continues in the event of reapplication for AFDC.

D. When an individual applies for Medicaid, if there is a balance of either the \$30 plus 1/3 or \$30 deduction, it shall be applied to the individual's gross earned income or profit from self-employment, after appropriate disregards.

VA.R. Doc. No. R93-761; Filed August 13, 1993, 2:44 p.m.

# Final Regulations

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## COMMONWEALTH of VIRGINIA

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION  
General Assembly Building

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

September 9, 1993

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

RE: VR 460-10-2500 - Medicaid Financial Eligibility Requirements -  
Families and Children.

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. However, this determination is premised on the assumption that both the Attorney General's Office and HCFA approve the content as complying with the relevant law.

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith  
Registrar of Regulations

JWS:jbc

# EMERGENCY REGULATIONS

## CHILD DAY-CARE COUNCIL

**Title of Regulation:** VR 175-01-01:1. Public Participation Guidelines.

**Statutory Authority:** § § 9-6.14:7.1 and 63.1-202 of the Code of Virginia.

**Effective Dates:** July 1, 1993, through June 30, 1994.

### Preamble:

An emergency regulation for public participation guidelines for the Child Day-Care Council is required for the council to comply with the provisions of Chapter 898 of the 1993 Virginia Acts of Assembly. The adoption of these guidelines will allow the Child Day-Care Council and the department to carry out their statutory responsibilities in conformance with the specifications of the Act.

### Summary:

This regulation describes the way the Child Day-Care Council will obtain public input when developing regulations. The regulation covers the following topics: petitions from interested parties, solicitation of input, public hearings, withdrawal of regulations, and transition.

VR 175-01-01:1. Public Participation Guidelines.

### 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:

"Administrative Process Act (APA)" means Chapter 1:1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means Department of Social Services.

"Approving authority" means Child Day-Care Council.

"Commissioner" means the Commissioner of the Department of Social Services or his designee.

"Council" means Child Day-Care Council.

"Department" means Department of Social Services.

"Division" means organizational entity within the Department, designated by the commissioner, which develops regulations subject to the Administrative Process Act.

"Governor's Executive Order" means any policy or

procedure issued by the Governor under § 2.1-41.1 or § 9-6.14:9.1 A of the Code of Virginia establishing the administrative policy and procedures for gubernatorial review and regulatory actions governed by the Administrative Process Act.

"Person" means an individual, corporation, partnership, association, governmental body, municipal corporation, or other legal entity.

#### § 1.2. Application.

These guidelines apply to all regulations adopted by the council.

### PART II. PUBLIC PARTICIPATION.

#### § 2.1. General.

A. The procedures in § 2.3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1).

B. The department shall follow the policies and procedures established by the Administrative Process Act and the Governor's Executive Order in promulgating emergency, proposed and final adoption, amendment or repeal of regulations.

C. At the discretion of the approving authority or the agency, the public participation procedures in § 2.3 may be supplemented to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulations otherwise adopted in accordance with this regulation.

#### § 2.2. Petitions from interested parties.

Any person may petition the agency to develop a new regulation or to adopt, amend or repeal a regulation. The petition, at a minimum, shall contain the following information:

A. Name of petitioner;

B. Petitioner's mailing address and telephone number;

C. Petitioner's interest in the proposed action;

D. Recommended new regulation or addition, deletion, or amendment to a specific regulation or regulations;

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E. Statement of need and justification for the proposed action;

F. Statement of impact on the petitioner and other affected persons; and

G. Supporting documents, as applicable.

The agency shall provide a written response to such petition.

## § 2.3. Solicitation of input.

A. Each division of the agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations under its administration, management or supervision. Persons may request the addition of their name and address to the list at any time. The lists will be updated as additional interested parties are identified. Deletions will be made when lack of interest is determined by the division as a result of periodic contact initiated by the division.

B. The department may form an ad hoc advisory group or utilize a standing advisory committee to assist in the drafting, formation or review of a proposal when expertise is necessary to address a specific regulatory interest or issue, or when persons register an interest in the subject of the regulation and in working with the agency.

C. Whenever a division identifies a need for the adoption, amendment or repeal of regulations under its administration, management or supervision, it may commence the regulation adoption process according to these procedures.

D. The agency shall issue a Notice of Intended Regulatory Action (NOIRA) which describes the subject matter and intent of the planned regulation for all regulatory proposals in accordance with the Administrative Process Act. The NOIRA shall state whether the agency intends to hold a public hearing.

E. The commissioner shall disseminate the NOIRA to the public by:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register, and
2. Distribution by mail to parties on the list established under subsection A of this section.

F. The agency shall consider public comment in drafting proposed regulations.

G. Upon approval by the council of the proposed regulations prepared by the department, the department shall solicit public comment through:

1. Distribution to the Registrar of Regulations for

publication in the Virginia Register,

2. Publication of a Notice of Comment Period in a newspaper of general circulation published at the state capital and such other newspapers as the department may deem appropriate, and

3. Distribution of a notice of comment by mail to persons on the list(s) established under subsection A of this section.

## § 2.4. Public hearings.

A. The council shall permit public comment concerning the adoption, amendment, or repeal of a regulation submitted for its approval by the agency during the council's regularly scheduled public comment period of its authorized meetings in conformity with the established rules of the council. The council may allow public comment about a proposed regulation at a committee meeting when the proposed regulation is under consideration by the committee.

B. When the NOIRA states that the agency does not plan to hold a hearing on the proposed regulation, the agency shall schedule a hearing when it determines that there is sufficient public interest in a proposed regulation through receipt of requests for a hearing from 25 people or more. The hearing(s) may be held at any time during the public comment period and at such times and locations as the department decides will best facilitate input from interested persons.

## § 2.5. Withdrawal of regulations.

If the agency determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the approving authority, the agency shall present a recommendation and rationale for the withdrawal of the proposed regulation to the approving authority.

## § 2.6. Transition.

A. All regulatory actions for which a Notice of Intended Regulatory Action has been published in the Virginia Register prior to July 1, 1993 shall be processed in accordance with the Public Participation Guidelines specified in Chapter 656 of the Acts of Assembly of 1989.

B. All regulatory actions for which a Notice of Intended Regulatory Action has not been published in the Virginia Register prior to July 1, 1993 shall be processed in accordance with this regulation.

I certify that this regulation is full, true and correctly dated.

/s/ Larry D. Jackson  
Commissioner  
Date: June 23, 1993

# Emergency Regulations

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 25, 1993

/s/ Joan W. Smith  
Registrar of Regulations  
Date: June 30, 1993

VA.R. Doc No. R93-678; Filed June 30, 1993, 11:46 a.m.

## DEPARTMENT FOR THE DEAF AND HARD OF HEARING

**Title of Regulation:** VR 245-01-01:01. Public Participation Guidelines.

**Statutory Authority:** §§ 9-6.14:7.1 and 63.1-85.4 of the Code of Virginia.

**Effective Dates:** June 29, 1993, through June 28, 1994.

**Request:** The Virginia Department for the Deaf and Hard of Hearing (VDDHH) is requesting emergency approval to adopt revised Public Participation Guidelines to conform with the amendment to the Administrative Process Act.

**Recommendation:** The Secretary of Health and Human Resources recommends that the request for emergency approval be approved by the Governor.

### Concurrences:

/s/ Kathy E. Vesley  
Acting Director  
Virginia Department for the Deaf and Hard of Hearing  
Date: June 22, 1993

/s/ Howard M. Cullum  
Secretary of Health and Human Resources  
Date: June 24, 1993

### Authorization:

/s/ Lawrence Douglas Wilder  
Governor of the Commonwealth  
Date: June 24, 1993

### Preamble:

*The Department for the Deaf and Hard of Hearing is seeking approval of emergency regulations to implement new Public Participation Guidelines. This emergency action is necessary for the Department to be in compliance with new requirements for public participation in the regulatory process which will become effective July 1, 1993.*

VR 245-01-01:01. Public Participation Guidelines.

### Part I.

### Statement of Purpose.

The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations of the Department for the Deaf and Hard of Hearing. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

### Part II. Mailing List.

#### § 2.1. Composition of the mailing list.

A. The Director shall maintain a list of persons or entities who have requested to be notified of the formation and promulgation of regulations.

B. Any person or entity may request to be placed on the mailing list by indicating so in writing to the Director. The Director may add to the list any persons or entity he believes will serve the purpose of enhancing participation in the regulatory process.

C. The Director may maintain additional mailing lists for persons or entities who have requested to be informed of specific regulatory issues, proposals, or actions.

D. The Director shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals or organizations shall be deleted from the list.

#### § 2.2. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the mailing list described in § 2.1 shall be mailed the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the Department.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

### Part III. Public Participation Procedure.

#### § 3.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the Director to develop a new regulation or amend an existing regulation.

# Emergency Regulations

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B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. A description of the regulatory problem or need to be addressed.
4. A recommended addition, deletion, or amendment to the regulation.

C. The Director shall receive, consider and respond to a petition within 180 days.

D. Nothing herein shall prohibit the Director from receiving information from the public and proceeding on his own motion for rulemaking.

## § 3.2. Notice of Intended Regulatory Action.

A. The Notice shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The Notice shall indicate whether the Department intends to hold a public hearing on the proposed regulation after it is published. If the Department does not intend to hold a public hearing, it shall state the reason in the Notice.

C. The Notice shall state that a public hearing will be scheduled, if, during the 30-day comment period, the Department receives requests for a hearing from at least twenty-five persons.

## § 3.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulation are available from the Department and may be requested in writing from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

The Department shall conduct a public hearing during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation, unless, at a noticed meeting, the Director determines that a hearing is not required.

## § 3.4. Biennial Review of Regulations.

A. At least once each biennium, the Director shall

conduct an informational proceeding to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such proceeding may be conducted separately or in conjunction with other informational proceedings or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar for inclusion in the Virginia Register and shall be sent to the mailing list identified in § 2.1.

## Part IV. Advisory Committees.

### § 4.1. Appointment of committees.

A. The Director may appoint an ad hoc advisory committee whose responsibility shall be to assist in the review and development of regulations for the Department.

B. The Director may appoint an ad hoc advisory committee to provide professional specialization or technical assistance when the Director determines that such expertise is necessary to address a specific regulatory issue or need or when groups or individuals register an interest in working with the agency.

### § 4.2. Limitation of service.

A. An advisory committee which has been appointed by the Director may be dissolved by the Director when:

1. There is no response to the Notice of Intended Regulatory Action, or
2. The Director determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Director determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.
2. At the end of that extended term, the Director shall evaluate the continued need and may continue the committee for additional six month terms.

V.A.R. Doc. No. R93-639; Filed June 29, 1993, 2:07 p.m.

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

**Title of Regulation:** VR 270-00-0001:1. Public Participation Guidelines for Soliciting the Input of Interested Parties in the Formation and Development of Regulations.

# Emergency Regulations

Statutory Authority: §§ 9-6.14:7.1 and 22.1-16 of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

VR 270-00-0001:1. Public Participation Guidelines for Soliciting the Input of Interested Parties in the Formation and Development of Regulations.

## § 1. Introduction.

Effective July 1, 1993, amendments to the Administrative Process Act will go into effect. The amendments include required changes to each agency's public participation guidelines for regulatory development.

The public participation guidelines require soliciting of input from interested parties in the formation and development of regulations. The guidelines must not only be used prior to the formation and drafting of the proposed regulation, but must also be utilized during the entire formation, promulgation, and final adoption process. Additionally, the guidelines must set out specific means of seeking input from interested parties or groups. The guidelines must set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest with the Board of Education or the Department of Education in a particular regulatory proposal. The policy shall address the circumstances in which the agency considers such panels or consultation appropriate and intends to make use of such panels or consultation.

The guidelines support a continuation of the efforts of the Board of Education and the Department of Education to provide for and encourage public involvement in the regulatory process. These guidelines are applicable to the formulation of all regulations as defined by § 9-6.14:4 (F) of the Code of Virginia whenever not exempted under the Administrative Process Act as amended.

§ 2. General policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals.

Where standing or ad hoc advisory panels exist related to a particular subject matter of an intended regulation, in addition to requesting written comments prior to the development of a draft regulation for first review by the Board of Education, the Department of Education will consult these panels prior to bringing the draft regulation to the Board for first review. The Department will consider all comments provided by the panels and determine whether the draft regulation should be revised prior to the Board's first review of the draft regulation.

After the Board of Education has completed first review of a proposed regulation, and where standing or ad hoc advisory panels exist related to a particular subject matter of a proposed regulation, the Department of Education will request that the panels provide written comments on the

proposed regulation, as well as notify the panels of the place and time of public hearings, when scheduled.

The Department of Education shall maintain mailing lists of parties expressing an interest in the Board of Education's regulatory activities related to a specific subject matter. The Department will mail the notice of intended regulatory action to those groups or individuals on the list. The notice shall request written comments on the intended regulatory action. After the Board of Education's first review of proposed regulations, such groups or individuals shall be requested to provide written comments on the proposed regulations. Such request shall include the place and time of any public hearings, when scheduled.

§ 3. Identification and notification of interested parties.

§ 3.1. The Department of Education shall maintain mailing lists of parties expressing an interest in the Board of Education's regulatory activities related to a specific subject matter.

§ 3.2. The Notice of Intended Regulatory Action shall include:

- a) title/subject of the regulation;
- b) purpose of the proposed action;
- c) identification of parties that will be affected by the regulation;
- d) request for input in the formation and development of the regulation;
- e) name, address, and telephone number of contact person;
- f) date for submission of information by interested parties (no less than 30 days after publication of the Notice of Intended Regulatory Action is published in the Virginia Register); and
- g) whether or not there will be a public hearing regarding the proposed action.

§ 3.3. The Notice of Proposed Regulatory Action shall include:

- a) subject of the proposed regulation;
- b) identification of parties that will be affected by the regulation;
- c) purpose of the proposed regulation;
- d) place where the proposed regulation can be obtained;
- e) request for comments from interested parties;



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- f) place and time of public hearings, when scheduled;
- g) name, address, and telephone number of contact person; and
- h) date for submission of information from interested parties.

§ 3.4. Methods of seeking input from interested parties on intended regulatory action shall include:

- a) Placing an advertisement of the notice of intended regulatory action in a newspaper of general circulation at the Capital;
- b) Utilizing mailing lists referenced in item 1, mailing of the notice of intended regulatory action to groups or individuals that had an interest in the regulation, and requesting comments in writing. Such notice will include the place and time of public hearings, when scheduled;
- c) Advertising the intent to develop or amend a regulation in various Department of Education publications which are distributed on a statewide basis;
- d) Provide information or speak to the intended action as requested by interested parties; and
- e) Consult with standing or ad hoc advisory panels that are involved in an activity requiring regulatory action.

§ 3.5. Methods of seeking input from interested parties on proposed regulations shall include:

- a) The Registrar publishing the advertisement of the proposed regulation in a newspaper of general circulation at the Capital and coordinating with the Department of Education the publication of the proposed regulation in a locality where it has a particular effect;
- b) Utilizing mailing lists referenced in item 1, mailing of a proposed regulation to groups or individuals that would be affected or have an interest in the regulation, and requesting comments in writing. In addition, such notice will include the place and time of public hearings, when scheduled;
- c) Advertising the intent of the Board of Education to consider a regulation in various Department publications which are distributed on a statewide basis;
- d) Provide information or speak to the regulatory action as requested by interested parties;
- e) Place the proposed regulation on the Board's monthly agenda for discussion in committee or by the full Board;
- f) Consult with standing or ad hoc advisory panels that are involved in an activity requiring the regulatory action;
- g) Use media other than print, if necessary, to notify

the public of the proposed regulation;

- h) Inform appropriate interest groups that meet with the Board of Education periodically; and
- i) Publish the proposed regulation in the Virginia Register and provide for a 60-day comment period.

Approved this 30th day of June, 1993.

/s/ Joseph A. Spagnolo, Jr.  
Superintendent of Public Instruction  
Department of Education

Approved this 25th day of June, 1993

/s/ James W. Dyke, Jr.  
Secretary of Education

/s/ Lawrence Douglas Wilder  
Governor  
Commonwealth of Virginia

Filed with the Registrar of Regulations June 30, 1993.

VA.R. Doc. No. R93-675; Filed June 30, 1993, 12:34 p.m.

## STATE EDUCATION ASSISTANCE AUTHORITY

Title of Regulation: VR 275-00-1. Guidelines for the Development and Promulgation of Regulations.

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

### Preamble:

The General Assembly, at its 1993 Session, adopted a comprehensive revision of procedures for the promulgation of regulations by the administrative agencies or political subdivisions of the Commonwealth of Virginia. It is the intention of the State Education Assistance Authority to comply with the applicable provisions of the Code of Virginia and regulations of the Commonwealth for the development and promulgation of regulations by the Authority.

### Nature of the Emergency and Necessity for Action:

In order to comply with the amended Administrative Process Act, emergency regulations are being submitted to amend the Authority's existing Guidelines for the Development and Promulgation of Regulations.

The amendments address methods for the identification and notification of interested parties, and any specific means of seeking input from persons or groups which the Authority intends to use in addition to the Notice of Intended Regulatory Action.

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The amendments provide for the use of a standing advisory board and consultation with groups and individuals registering interest in working with the agency. The amendments address the circumstances in which the agency will utilize recommendations from advisory groups or other interested parties.

## VR 275-00-1. Public Participation Guidelines.

In order to comply with the APA the authority agrees to adhere to the following steps for the adoption, amendment and repeal of regulations:

1. The Authority will obtain approval from the Board of Directors to proceed with publication of proposed regulations.

2. The Authority will first publish a notice of proposed action *Notice of Intended Regulatory Action* in the Virginia Register and in the Authority's newsletter ; the SEAA LINE, in order to give the public an opportunity to comment on the proposal and on the text of the proposed regulations. These comments may be accepted orally or in writing, in order to alert interested individuals or groups of the purpose of the regulatory action and allow them at least thirty (30) days to provide input by submitting oral or written comments to the Authority. If required, this Notice shall state whether or not the Authority intends to hold a public hearing on the proposed regulations. If the Authority elects not to hold a public hearing, a hearing will be held if the Governor directs that a hearing be held or if at least 25 persons request a public hearing. The SEAA School/Lender Advisory Board, comprising consisting of a representative sample of individuals from various types and sizes of participating schools and lenders, may also be utilized for input at this stage of regulation regulatory development. This Advisory Board provides the Authority guidance on general and specific policies and operational requirements impacting school and lender administration of the student loan program. The Authority will consider recommendations from this Board in advance of any Notice of Intended Regulatory Action. Interested representatives of other state agencies or other citizens may participate in Advisory Board meetings held by the Authority.

3. Sixty days prior to action on the proposal, the authority will publish a notice of comment period and a notice of public hearing (scheduled no sooner than 60 days after the publication date) in No earlier than thirty (30) days following publication of the Notice of Intended Regulatory Action the Authority will publish a Notice to obtain public comments. The Notice to obtain public comment will be published in the following: the Virginia Register of Regulations , in a newspaper in general circulation in the state capital (for which the Registrar will coordinate and publish the needed information), in the SEAA LINE Authority's

newsletter or a letter to Virginia schools and lenders participating in the Authority's loan programs, and other interested parties as determined by the Authority. addressing those on the SEAA LINE address list (comprising participating lenders, schools and other interested parties); and in any other media the authority deems appropriate, requesting comments in writing or at the public hearing. At the Authority's discretion, it may publish the Notice for public comments in newspapers outside the state capital and issue press releases or other media notices. The public comment period will conclude no earlier than sixty (60) days following the publication of the Notice for comments.

During this time, the Governor and the General Assembly will review the proposed regulations. Upon receipt of the Governor's comments on a proposed regulation, the authority may (i) adopt the proposed regulation if the Governor has no objection to the regulation; (ii) modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions; or (iii) adopt the regulation without changes despite the Governor's recommendations for change. Within 21 days after receipt by the authority of a legislative objection, the authority will file a response with the Registrar, the objecting legislative Committee, and the Governor.

3. At the end of the 60 days of public comment period, the authority will conduct a public hearing for final public comments before final action is taken.

4. When After final action is taken upon by the Board's Board of Directors, a copy of the final regulations will be submitted to the Registrar of Regulations for publication as soon as practicable. All changes to the proposed regulations shall be highlighted in the final regulations and substantial changes shall be explained. Once published by the Registrar, the regulations shall be effective no earlier than thirty (30) days after publication or at a later date specified by the Authority. vote for adoption of the regulation, the authority will again publish the text of the regulation as adopted, highlighting and explaining any substantial changes in the final regulation, at which time, a 30-day final adoption period will begin. During this time, the Governor will review the final regulation and forward any objections to the authority and the Registrar. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for an additional 30 days and require the authority to solicit additional public comments on the substantial changes.

5. A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any later date specified by the authority, unless, (i) a legislative objection has been filed; in which event the regulation, unless withdrawn, becomes effective on the date

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specified, which shall be after the expiration of the 21-day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for the solicitation of additional public comment, in which event, unless withdrawn, the regulation becomes effective on the date specified which shall be after the period for which the Governor has suspended the regulatory process. Upon adoption of the regulation, the authority will submit to the Registrar of Regulations:

- a. A copy of the final regulation with substantial changes highlighted and explained.
- b. A current statement of basis, purpose, and impact.
- c. A summary of public comments and the authority's reply to those comments.
- d. A statement of any special effective or termination dates.
- e. A signed statement that regulations are full, true, and correctly dated.
- f. A statement of prior regulations repealed, modified, or supplemented (optional).

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

If the authority determines that an emergency situation exists, it will request the Governor's approval to issue an emergency regulation. The regulation becomes operative upon its adoption and filing with the Registrar of Regulations. Emergency regulations are limited in time to 12 months unless a later date is specified and will be published as quickly as possible in the Register. During the time that the emergency status is in effect, the authority may take action to adopt the regulations as permanent through the usual procedures.

The effective date of this regulation shall be the date upon which it is filed with the Virginia Registrar of Regulations.

Approved this 25th day of June, 1993

/s/ Robert P. Schultze  
Executive Director  
State Education Assistance Authority

Approved this 25th day of June, 1993

/s/ James W. Dyke, Jr.  
Secretary of Education

Approved this 25th day of June, 1993

/s/ Lawrence Douglas Wilder

Governor of Virginia

Filed with Registrar of Regulations June 30, 1993.

V.A.R. Doc. No. R93-686; Filed June 30, 1993, 1:46 p.m.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

Title of Regulation: VR 304-01-01. Public Participation Guidelines.

Statutory Authority: § § 9-6.14:7.1 and 62.1-195.1 of the Code of Virginia.

Effective Dates: June 29, 1993, through June 28, 1994.

### Preamble:

VR 304-01-01 establishes Public Participation Guidelines (PPGs) for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations. Legislation enacted by the General Assembly effective July 1, 1993, imposes new requirements on agencies of state government for processing rulemaking under the Administrative Process Act (Act). One of the new requirements of the amended Act mandates that the Department of Environmental Quality (Department) include as part of its PPGs a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the Department. Such policy shall address the circumstances in which the Department considers such groups or consultation appropriate and intends to make use of such panels or consultation.

The legislation further requires the Department to set out in its PPGs any method for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the Department intends to use in addition to the Notice of Intended Regulatory Action.

Beginning on July 1, 1993, the new legislation will require PPGs to contain such provisions. Because PPGs must be in compliance with the Act before the Department can initiate any regulatory actions, it is important that PPGs that will satisfy the new requirements of the Act be in place and ready for use before July 1, 1993. In addition, because the provisions of the PPGs are a declaration of the means by which the public is involved in Department regulation making, the Department has, on a limited basis, incorporated language of the PPGs to accommodate soon-to-take-effect requirements of the Act. For example, the PPGs allow the Department to, at its discretion, begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit input.

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## Nature of the Emergency:

The Department proposes to adopt emergency PPGs in order to ensure its ability to process necessary regulatory actions after July 1, 1993. The Department is responsible for the administration of programs designed to protect and enhance the quality of the Commonwealth's environment. Without PPGs which satisfy the new requirements of the Act, the Department will be unable to process any regulatory actions until such time as permanent PPGs can be adopted. Under the Act, it could take as long as a year to adopt permanent PPGs which would result in necessary regulatory actions taking as much as two years to complete.

## Necessity for Action:

The Department proposes to adopt emergency PPGs in order to ensure its ability to process necessary regulatory actions after July 1, 1993.

## Summary:

This regulation will establish PPGs which will allow the Department to initiate after July 1, 1993 regulatory action processes to adopt, amend, or repeal necessary regulations, in conformance with the amended Act. This emergency regulation will be enforced under applicable statutes and remain in full force and effect for one year from the effective date, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the Act and this emergency regulation.

The Department will receive, consider and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered.

BY:

/s/ Richard N. Burton  
Director  
Department of Environmental Quality  
Date: June 24, 1993

APPROVED BY:

/s/ Elizabeth H. Haskell  
Secretary of Natural Resources  
Date: June 17, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder  
Governor of the Commonwealth  
Date: June 23, 1993

FILED WITH:

/s/ Ann M. Brown  
Deputy Registrar of Regulations  
Date: June 29, 1993

VR 304-01-01. Public Participation Guidelines.

## § 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means Department of Environmental Quality including staff, etc., established pursuant to Virginia law that implements programs and provides administrative support to the approving authority.

"Approving authority" means the Director of the Department of Environmental Quality established pursuant to Virginia law as the legal authority to adopt regulations.

"Director" means the Director of the Department of Environmental Quality or his designee.

"Person" means an individual, corporation, partnership, association, governmental body, municipal corporation, or any other legal entity.

"Environmental protection law" means the provisions found in the Code of Virginia or the Virginia Acts of Assembly authorizing the approving authority, director or agency to make regulations or decide cases or containing procedural requirements thereof.

Unless specifically defined in the Virginia Environmental Protection Law or in this regulation, terms used shall have the meanings commonly ascribed to them.

## § 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C).

B. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation.

C. Any person may petition the director for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

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1. Name of petitioner.
2. Petitioner's mailing address and telephone number.
3. Petitioner's interest in the proposed action.
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations.
5. Statement of need and justification for the proposed action.
6. Statement of impact on the petitioner and other affected persons.
7. Supporting documents, as applicable.

The director shall provide a written response to such petition within 180 days from the date the petition was received.

## § 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the approving authority so directs or upon its own initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The director shall form an ad hoc advisory group, utilize a standing advisory committee or consult with groups and individuals registering interest in working with the agency to assist in the drafting and formation of the proposal when:

1. a. The director, in the director's sole discretion, determines to form an ad hoc advisory group, utilizes a standing advisory committee, or consults with groups and individuals; or

b. The agency receives written comments from at least 25 persons during the comment period of the notice of intended regulatory action (NOIRA) requesting the director to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; and

2. The subject matter of the NOIRA has not previously been the subject of a NOIRA published in the Register of Regulations by the agency.

When an ad hoc advisory group is formed, such ad hoc advisory group shall include representatives of the regulated community and the general public.

D. The agency shall issue a NOIRA whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include the following:

a. A brief statement as to the need for regulatory action;

b. A brief description of alternatives available, if any, to meet the need.

c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

e. A statement of the agency's intent to hold at least one informational proceeding or public hearing on the proposed regulation after it is published.

f. A statement inviting comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of the proposal, unless the director has already determined to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals pursuant to subdivision 1 of subsection 3 C.

2. Holding public meetings.

a. The agency shall hold at least one public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the director specifically authorizes the agency to proceed without holding a public meeting.

b. In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in The Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication of the NOIRA in the Virginia Register.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may complete the draft proposed regulation and any supporting documentation required for review. If an ad hoc advisory

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group has been established, a standing advisory committee utilized, or groups and individuals consulted the draft regulation shall be developed in consultation with the selected advisor. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group, standing advisory committee or groups and individuals during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency shall publish a Notice of Public Comment (NOPC) and the proposal for public comment.

H. The NOPC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. The identity of any locality particularly affected by the proposed regulation. For purposes of these guidelines the term "locality particularly affected" means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

5. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare.

b. A statement of estimated impact:

(1) Projected number and types of regulated entities or persons affected.

(2) Projected cost, expressed as a dollar figure or range, to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where the agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of

the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need that the proposed regulation addresses, and a statement as to whether the agency believes that the proposed regulation is the least burdensome alternative to the regulated community that fully meets the stated purpose of the proposed regulation.

f. A schedule setting forth when, after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

6. The date, time and place of at least one informational proceeding held in accordance with § 9-6.14:7.1 to receive comments on the proposed regulation. (In those cases in which the agency elects to conduct an evidential hearing, the notice shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Code of Virginia.) The informational proceeding(s) may be held at any time during the public comment period and, whenever practicable, no less than 10 days prior to the close of the public comment period. The informational proceedings(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register.

b. Publication in a newspaper of general circulation published at the state capital and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s)

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established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and the agency's response to the comments received. The agency shall send a draft of the summary of comments to all public commenters on the proposed regulation at least five days before final adoption of the regulation. The agency shall submit the summary and agency response and, if requested, submit the full comments to the approving authority. The summary, the agency response, and the comments shall become a part of the agency file and after final action on the regulation by the approving authority, made available, upon request, to interested persons.

L. If the agency determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the approving authority, the agency shall present to the approving authority for their consideration a recommendation and rationale for the withdrawal of the proposed regulation.

M. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

## § 4. Transition.

The provisions contained in this emergency regulation shall apply only to regulatory actions for which a NOIRA is filed with the Registrar of Regulations at or after the time these guidelines take effect.

V.A.R. Doc. No. R93-621; Filed June 29, 1993, 12:04 p.m.

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**Title of Regulations:** VR 380-01-00. Guidelines for Public Participation in the Development and Promulgation of Regulations.

**Statutory Authority:** §§ 9-6.14:7.1 and 23-9.3 through 23-9.14 of the Code of Virginia.

**Effective Dates:** June 30, 1993, through June 29, 1994.

### Preamble:

Legislation that was adopted by the 1993 General Assembly requires agencies of the state government to include as a part of their public participation guidelines the following:

*"a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with agency. Such policy shall address the circumstances in which the agency considers such panels or*

*consultation appropriate and intends to make use of such panels or consultation."*

In addition, the legislation requires the agencies to:

*"set out any methods for the identification and notification of interested parties, and any specific means of seeking input from interested persons or groups which the agency intends to use in addition to the Notice of Intended Regulatory Action."*

These amended Guidelines for Public Participation should improve public participation in a manner consonant with the requirements of a newly-amended Administrative Process Act.

VR 380-01-00. Guidelines for Public Participation in the Development and Promulgation of Regulations.

## § 1. Purpose.

In developing any proposed new or revised regulation, or when considering the repeal of an existing regulation, the State Council of Higher Education for Virginia (~~the Council~~), hereafter the Council, will solicit comments from officials of institutions of higher education, appropriate organizations and associations, and interested citizens. These guidelines outline the procedures to be used by the council in encouraging the participation of all interested persons in the formation and development of regulatory proposals under Virginia's Administrative Process Act.

The guidelines are based on the principle that interested citizens have both a right and a responsibility to take part in the governmental process, that government functions best when it provides for participation by the public, and that a state agency should impose only those requirements which are absolutely necessary to implement the agency's statutory responsibilities.

The guidelines shall apply to all regulations proposed or promulgated by the council which are subject to the Administrative Process Act.

## § 2. Initiation of regulations.

The council may initiate proposed regulations at any time. A petition for a new regulation for amendment, addition, or repeal of any existing regulation may be filed by any department of government, group, or individual. The Council shall respond to that request within 180 days.

## § 3. Identification and notification of interested parties.

### A. Identification of interested parties.

Prior to the development of any regulations ; however, the Council shall identify institutional officials, persons, and groups who might be interested in or affected by the regulations to be proposed. Because of the nature of the

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Council's mission, there are certain regulatory functions in which all citizens may have an interest. In these instances, the public at large will be regarded as the interested party. At other times, when proposed regulations will be more limited in its effect, the Council will identify certain institutional officials, individuals, groups, associations, and organizations that have an interest in the matter to be considered. *The agency, in identifying parties interested in proposed regulations, will use the following:*

- 1) *List of advisory and ad-hoc committees to the Council.*
- 2) *A listing of persons who request to be placed on a mailing list maintained by the agency.*
- 3) *A listing of persons who previously participated in public proceedings concerning related subjects or issues.*
- 4) *The Council's complete mailing list.*

*The Council's mailing list will be revised every two years to ensure that it is current.*

## *B. Notification of interested parties.*

As a general rule, the council will notify the president or chancellor of each state-supported college and university in Virginia when regulations are to be developed. The president or chancellor of each independent college and university in Virginia will be notified of any regulations to be developed pertaining to the Tuition Assistance Grant Program or to any other matter which might directly or indirectly affect private institutions. In addition, the Council will notify all persons whose names are included on the Council's mailing list, including institutional officials and private citizens when regulations are to be developed.

*The Council will notify all members of advisory and ad-hoc committees of the intent to initiate regulations. The Council will seek the input of the advisory committees or consider such input offered by the committees in the event of rule making.*

*The council's mailing list will be revised at least every other year to ensure that it is current.*

## **§ 3. Notification of interested parties. § 4. Notice of Intended Regulatory Action.**

### **A. Notice of intent.**

Prior to the development of any regulations, the Council shall prepare a Notice of Intent to Develop Regulations (Notice). The Notice will contain a brief and concise statement regarding the purpose of the regulations and invite all interested persons to provide written comments within 30 days of the publication of the Notice in the Virginia Register of Regulations. At least two weeks prior

to its publication date, the Notice shall be submitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. On or about the publication date of the notice in the Virginia Register of Regulations, the Council using its mailing list as described in § 2 3, will directly notify persons of its intent to develop the regulations.

### **B. Proposal of regulations.**

After consideration of all public comments received within the 30-day period, the Council shall prepare the proposed draft regulations. All drafts of the regulations will be labeled with word "draft" and dated.

## **§ 4. § 5. Public participation.**

The council shall submit a copy of the "draft regulations" to the Registrar of Regulations, who will publish a hearing notice in the Virginia Register of Regulations and in appropriate newspapers identified by the Council at least 60 days prior to the public hearing. A copy of the "draft regulations" will be provided to all persons who responded to the Notice of Intent. The Council will also send a copy of the "draft regulations" to all other parties, including individuals on the Council's mailing list, who have been identified during the development process as either having an interest in or potentially being affected by the proposed regulations.

In any matter considered to be of interest to the general public, the Council will prepare a news release and distribute it to daily and weekly newspapers, radio and television stations, and news wire services serving Virginia. The news release will include information about the subject matter and the purpose of the regulations under consideration and will announce the opportunity for public comment, including the time, date, and place of the scheduled public hearing.

Copies of "draft regulations" will be available for public inspection at the Council's office in Richmond at the address contained in § 7 8 of these guidelines and at the office of the Registrar of Regulations.

During the 60-day public participation period, the following persons and officials will have an opportunity to review and comment on the proposed regulations:

1. The public;
2. The Governor;
3. The General Assembly;
4. The Secretary of Education; and
5. The Attorney General.

The Council will hold a public hearing on any proposed regulations as prescribed in the hearing notice published in the Virginia Register of Regulations. The public hearing normally will be held in Richmond in the Council's conference room. The Council may hold the hearing in another location if the proposed regulations are of special



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interest to institutions or citizens in a particular geographic area. If determined desirable, the Council may hold a public hearing on proposed regulations in several locations throughout the Commonwealth.

To the extent possible, a hearing will be conducted at a time which is generally convenient for officials, persons, and organizations most directly affected by the matter under consideration.

The public will be offered an opportunity to make oral or written comment with regard to any proposed regulations. Persons addressing the proposed regulations at a public hearing will be encouraged to provide written copies of their statements.

At the Council's discretion, the record of proceedings may be held open to provide additional time for receiving written comments following the conclusion of the public hearing.

## § 5. § 6. Emergency regulations.

From time to time, it may be necessary to enact emergency regulations which do not allow the normal 60-day period for public comment. The Administrative Process Act recognizes this possibility and permits enactment of emergency regulations with the approval of the Governor. In these instances, the emergency regulations will become effective when filed with the Registrar of Regulations (unless a later effective date is given). The emergency regulations will be published in the next edition of the Virginia Register of Regulations.

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

Following the 60-day public participation period and the public hearing, the Council shall take final action to adopt proposed regulations. After the Council finally has acted, the action will be reported in a general news release and announced in the Virginia Register of Regulations. Under § 9-6.14:9 of the Code of Virginia, regulations cannot become operative until 30 days after the final regulations, as approved by the particular board, have been published in the Virginia Register of Regulations.

## § 7. § 8. Copies of regulations.

The Council will print copies of adopted regulations.

Copies of adopted regulations may be obtained by writing the Associate Director, State Council of Higher Education for Virginia, James Monroe Building, 101 North Fourteenth Street, Richmond, VA 23219.

## § 9. Effective date of guidelines.

*These guidelines shall become effective July 1, 1993, or as soon thereafter as is practicable under the provisions of the Virginia Register Act and the Administrative Process Act.*

The effective date of this regulation shall be the date upon which it is filed with the Virginia Registrar of Regulations.

Approved this 25th day of June, 1993

/s/ J. Michael Mullen  
Deputy Director  
State Council of Higher Education for Virginia

Approved this 25th day of June, 1993

/s/ Karen J. Peterson for James W. Dyke  
Secretary of Education

Approved this 25th day of June, 1993

/s/ Lawrence Douglas Wilder  
Governor of Virginia

Filed with Registrar of Regulations June 30, 1993.

V.A.R. Doc. No. R93-662; Filed June 30, 1993, 10:01 a.m.

## BOARD OF HISTORIC RESOURCES

**Title of Regulation: VR 390-01-01. Public Participation Guidelines.**

**Statutory Authority: §§ 9-6.14:7.1 and 10.1-2205 of the Code of Virginia.**

**Effective Dates: June 25, 1993, through June 24, 1994.**

### Preamble:

*VR 390-01-01 establishes amended Public Participation Guidelines (PPGs) for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations. Legislation enacted by the General Assembly which goes into effect on July 1, 1993, imposes new requirements on agencies of state government for processing rulemakings under the Administrative Process Act (Act).*

*One of the new requirements of the amended Act mandates that the Board of Historic Resources (Board) include as a part of its PPGs a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the Board. Such policy shall address the circumstances in which the Board considers such groups or consultation appropriate and intends to make use of such panels or consultation.*

*The legislation further requires the Board to set out in its PPGs any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons o.*

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groups which the Board intends to use in addition to the Notice of Intended Regulatory Action.

Beginning on July 1, 1993, the new legislation will require PPGs to contain such provisions. Because PPGs must be in compliance with the Act before the Board can initiate any regulatory actions, it is important that PPGs that will satisfy the new requirements of the Act be in place and ready for use before July 1, 1993.

In addition, because the provisions of the PPGs are a declaration of the means by which the public is involved in Board regulation making, the Board has, on a limited basis, amended language of the PPGs to reflect current Board practices and to accommodate soon-to-take-effect requirements of the Act. For example, the PPGs have been amended to allow the Board, at its discretion, to begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit input.

## Nature of Emergency:

The Board proposes to adopt emergency PPGs in order to ensure the Board's ability to process necessary regulatory actions after July 1, 1993. The Board is responsible for the formal designation of the Commonwealth's significant historic resources for the purpose of encouraging the protection and enhancement of those resources. Pursuant to new statutory requirements, the Board currently has under consideration a proposed regulation setting out the criteria and procedures by which it makes its formal designations. Without PPGs that satisfy the new requirements of the Act, the Board will be unable to promulgate the necessary designation criteria until such time as permanent PPGs can be adopted. Under the Act it could take as long as a year to adopt permanent PPGs so that promulgating the necessary criteria could take as long as two years to complete.

## Necessity for Action:

The adoption of emergency PPGs is critical to the continued operation of the Board's principal program of designating historic landmarks. The state landmark designation process is open to all interested persons. The Board must meet regularly throughout the year in order to provide a timely response to these applicants. Further, designation by the Board is a principal guideline for use by local governments and property owners in making land-use decisions that affect the Commonwealth's significant historic resources. The new procedures and requirements of the Administrative Process Act do not allow for the promulgation of the permanent regulation in time to prevent serious disruption of the Board's orderly conduct of statutory responsibilities or to avoid significant inconvenience and hardship to interested persons.

## Summary:

This regulation will establish PPGs that allow the Board to initiate after July 1, 1993 regulatory action processes to adopt, amend, or repeal necessary regulations in conformance with the amended Act.

This emergency regulation will be enforced under applicable statutes and remain in full force and effect for one year from the effective date, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the Act and this emergency regulation.

The Board will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered.

BY:

/s/ Hugh C. Miller  
Director  
Department of Historic Resources  
Date: June 23, 1993

APPROVED BY:

/s/ Elizabeth H. Haskell  
Secretary of Natural Resources  
Date: June 17, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder  
Governor of the Commonwealth  
Date: June 23, 1993

FILED WITH:

/s/ Joan W. Smith  
Registrar of Regulations  
Date: June 25, 1993

VR 390-01-01. Public Participation Guidelines.

§ 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Board" means the Board of Historic Resources.

"Department" means the Department of Historic Resources.

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"Director" means the Director of the Department of Historic Resources or his designee.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or other legal entity.

Unless specifically defined in Chapters 22, 23, and 24 of Title 10.1 of the Code of Virginia or in this regulation, terms used shall have the meanings commonly ascribed to them.

## § 2. General provisions.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C).

~~B. At the discretion of the board or the director, the procedures in § 3 may be supplemented to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.~~

~~E. B. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation .~~

~~D. C. Any person may petition the board for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:~~

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

~~If the board determines not to act upon a petition, it shall provide a written response to such petition within 180 days from receipt of the petition. The Board shall provide a written response to such petition within 180 days from the date the petition is received .~~

## § 3. Public participation procedures.

A. The department shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the board so directs or upon its own initiative, the department may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. ~~The department director shall form an ad hoc advisory group or utilize a standing advisory committee or consult with groups and individuals registering interest in working with the agency (groups and individuals) to assist in the drafting and formation of the proposal unless the board specifically authorizes the department to proceed without utilizing an ad hoc advisory group or standing advisory committee. when:~~

1. A. *The director, in the director's sole discretion, determines to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals, or*

*B. The agency receives written comments from at least 25 persons during the comment period of the notice of intended regulatory action (NOIRA) requesting the director to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; and*

2. *The subject matter of the NOIRA has not previously been the subject of a NOIRA published in the Register of Regulations by the department.*

When an ad hoc advisory group is formed, such ad hoc advisory group shall include representatives of the regulated community and the general public.

~~D. The department shall issue a notice of intended regulatory action (NOIRA) NOIRA whenever it considers the adoption, amendment or repeal of any regulation.~~

1. The NOIRA shall include at least the following:

a. A brief statement as to the need for regulatory action;

b. A brief description of alternatives available, if any, to meet the need.

c. A request for comments on the intended regulatory action, to include any ideas to assist the department in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

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e. A statement of the department's intent to hold at least one informational proceeding or public hearing on the proposed regulation after it is published.

f. A statement inviting comment on whether the department should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of the proposal, unless the director has already determined to form an ad hoc advisory group, utilize a standing committee, or consult with groups and individuals pursuant to subdivision 1 of subsection 3. C.

2. During the public comment period for NOIRAs, the department shall conduct public meetings as follows:

a. The department shall hold at least one public meeting whenever the board considers the adoption, amendment or repeal of any regulation unless the board specifically authorizes the department to proceed without holding a public meeting, or the director specifically determines the department can proceed without holding a public meeting in those cases where the subject matter of the NOIRA has previously been the subject matter of a NOIRA published in the Register of Regulations by the department.

b. In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication of the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication of the NOIRA in the Virginia Register.

E. The department shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public comment, the department may ~~prepare complete~~ the draft proposed regulation and any supporting documentation required for review. If an ad hoc advisory group has been established, a standing advisory committee utilized, or groups and individuals consulted, the draft regulation shall be developed in consultation with ~~such group the selected advisor~~. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group, standing advisory committee or groups and individuals during the development of the draft regulation. A summary or copies of the comments received in response to the NOIRA shall also be distributed to the

board.

G. Upon approval of the draft proposed regulation by the board, the department shall publish the NOPC and the proposal for public comment.

H. The NOPC shall include the following:

1. The notice of the opportunity to comment on the proposed regulation, location where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. The identity of any locality particularly affected by the proposed regulation. For purposes of these guidelines the term "locality particularly affected" means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

5. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: ~~why the regulation is proposed and the desired end result or objective of the regulation the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare.~~

b. A statement of estimated impact:

(1) ~~Number~~ Projected number and types of regulated entities or persons affected.

(2) Projected cost, expressed as a dollar figure or range, to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where ~~an agency the department~~ is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the department for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

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c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or upon other organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement as to whether the department believes that the proposed regulation is the least burdensome alternative to the regulated community that fully meets the stated purpose of the regulation.

f. A schedule setting forth when, after the effective date of the regulation, the board will evaluate it for effectiveness and continued need.

5- 6. The date, time and place of at least one ~~public hearing~~ *informational proceeding* held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. (In those cases in which the department elects to conduct an evidential hearing, the notice shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Code of Virginia.) The ~~hearing(s)~~ *informational proceeding(s)* may be held at any time during the public comment period and, whenever practicable, no less than 10 days prior to the close of the public comment period. The ~~hearing(s)~~ *informational proceedings(s)* may be held in such location(s) as the department determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The department shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:
  - a. Publication in the Virginia Register of Regulations;
  - b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the department may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The department shall prepare a summary of comments received in response to the NOPC and the department's response to the comments received. *The department shall send a draft of the summary of*

*comments to all public commenters on the proposed regulation at least five days before final adoption of the regulation.* The department shall submit the summary and agency response and, if requested, submit the full comments to the board. The summary, the department's response, and the comments shall become a part of the department file and after final action on the regulation by the board, made available, upon request, to interested persons.

L. If the department determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the board, the department shall present to the board for its consideration a recommendation and rationale for the withdrawal of the proposed regulation.

M. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

## § 4. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register prior to February 10, 1993, shall be processed in accordance with the Public Participation Guidelines specified in Chapter 656 of the Acts of Assembly of 1989.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to February 10, 1993, shall be processed in accordance with this regulation (~~VR 390-01-01~~).

*The amending provisions contained in this emergency regulation shall apply only to regulatory actions for which a NOIRA is filed with the Registrar of Regulations at or after the time these guidelines take effect.*

VA.R. Doc. No. R93-599; Filed June 25, 1993, 12:48 p.m.

## DEPARTMENT OF HISTORIC RESOURCES

**Title of Regulation: VR 392-01-01:1. Public Participation Guidelines for the Director of the Department.**

**Statutory Authority: §§ 9-6.14:7.1 and 10.1-2202 of the Code of Virginia.**

**Effective Dates: June 25, 1993, through June 24, 1994.**

### Preamble:

*VR 392-01-01:1 establishes amended Public Participation Guidelines (PPGs) for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations. Legislation enacted by the General Assembly which goes into effect on July 1, 1993, imposes new requirements on agencies of state government for*

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processing rulemakings under the Administrative Process Act (Act).

One of the new requirements of the amended Act mandates that the Department of Historic Resources (Department) include as part of its PPGs a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the Department. Such policy shall address the circumstances in which the Department considers such groups or consultation appropriate and intends to make use of such panels or consultation.

The legislation further requires the Department to set out in its PPGs any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the Department intends to use in addition to the Notice of Intended Regulatory Action.

Beginning on July 1, 1993, the new legislation will require PPGs to contain such provisions. Because PPGs must be in compliance with the Act before the Department can initiate any regulatory actions, it is important that PPGs that will satisfy the new requirements of the Act be in place and ready for use before July 1, 1993.

In addition, because the provisions of the PPGs are a declaration of the means by which the public is involved in Department regulation making, the Department has, on a limited basis, amended language of the PPGs to reflect current Department practices and to accommodate soon-to-take-effect requirements of the Act. For example, the PPGs have been amended to allow the Department, at its discretion, to begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit input.

## Nature of Emergency:

The Department proposes to adopt emergency PPGs in order to ensure the Department's ability to process necessary regulatory actions after July 1, 1993. The Director of the Department (Director) is responsible for the formal nomination of the Commonwealth's significant historic resources to the National Park Service for inclusion in the National Register of Historic Places, for the purpose of encouraging the protection and enhancement of those resources. Pursuant to new statutory requirements, the Director currently has under consideration a proposed regulation setting out the criteria and procedures by which he makes his formal nominations. Without PPGs that satisfy the new requirements of the Act, the Department will be unable to promulgate the necessary nomination criteria until such time as permanent PPGs can be adopted. Under the Act, it could take as long as a year to adopt permanent

PPGs, so that promulgating the necessary criteria could take as long as two years to complete.

## Necessity for Action:

The adoption of emergency PPGs is critical to the Director's ability to carry out his duties under state and federal law to nominate properties to the National Register. The nomination process is open to all interested persons. The Director must provide for the timely processing of nominations presented to him by property owners and other interested persons throughout the year. Further, inclusion of property in the National Register is a principal guideline for use by local governments, federal agencies and property owners in making decisions that affect the Commonwealth's significant historic resources. The new procedures and requirements of the Administrative Process Act do not allow for the promulgation of the permanent regulation in time to prevent serious disruption of the Director's orderly conduct of statutory responsibilities or to avoid significant inconvenience and hardship to interested persons.

## Summary:

This regulation will establish PPGs that will allow the Department to initiate after July 1, 1993 regulatory action processes to adopt, amend or repeal necessary regulations in conformance with the amended Act.

This emergency regulation will be enforced under applicable statutes and remain in full force and effect for one year from the effective date, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the Act and this emergency regulation.

The Director will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered.

BY:

/s/ Hugh C. Miller  
Director, Department of Historic Resources  
Date: June 23, 1993

APPROVED BY:

/s/ Elizabeth H. Haskell  
Secretary of Natural Resources  
Date: June 17, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder  
Governor of the Commonwealth

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Date: June 23, 1993

FILED WITH:

/s/ Joan W. Smith  
Registrar of Regulations  
Date: June 25, 1993

VR 392-01-01:1. Public Participation Guidelines for the Director of the Department.

## § 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Department" means the Department of Historic Resources.

"Director" means the Director of the Department of Historic Resources or his designee.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or other legal entity.

Unless specifically defined in Chapters 22, 23, and 24 of Title 10.1 of the Code of Virginia or in this regulation, terms used shall have the meanings commonly ascribed to them.

## § 2. General provisions.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C).

~~B. At the discretion of the director, the procedures in § 3 may be supplemented to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.~~

~~C. B. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation .~~

~~D. C. Any person may petition the director for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:~~

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

~~If the director determines not to act upon a petition, he shall provide a written response to such petition within 180 days from receipt of the petition. The Director shall provide a written response to such petition within 180 days from the date the petition was received.~~

## § 3. Public participation procedures.

A. The department shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. The department may commence the regulation adoption process upon its own initiative and proceed to draft a proposal according to these procedures.

~~C. The department Director shall form an ad hoc advisory group or utilize a standing advisory committee or consult with groups and individuals registering interest in working with the Department (groups and individuals) to assist in the drafting and formation of the proposal unless the director specifically authorizes the department to proceed without utilizing an ad hoc advisory group or standing advisory committee. when:~~

~~1.A. The Director, in the Director's sole discretion, determines to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals, or~~

~~B. The Department receives written comments from at least 25 persons during the comment period of the notice of intended regulatory action (NOIRA) requesting the Director to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; and~~

~~2. The subject matter of the NOIRA has not previously been the subject matter of the NOIRA published in the Register of Regulations by the Department.~~

When an ad hoc advisory group is formed, such ad hoc advisory group shall include representatives of the regulated community and the general public.

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D. The department shall issue a ~~notice of intended regulatory action (NOIRA)~~ NOIRA whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include at least the following:

- a. A brief statement as to the need for regulatory action;
- b. A brief description of alternatives available, if any, to meet the need.
- c. A request for comments on the intended regulatory action, to include any ideas to assist the department in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.
- d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.
- e. *A statement of the Department's intent to hold at least one informational proceeding or public hearing on the proposed regulation after it is published.*
- f. *A statement inviting comment on whether the Department should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formation of the proposal, unless the Director has already determined to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals pursuant to subdivision 1 of subsection 3.C.*

2. During the public comment period for NOIRAs, the department shall conduct public meetings as follows:

- a. The department shall hold at least one public meeting whenever the director considers the adoption, amendment or repeal of any regulation unless the director specifically authorizes the department to proceed without holding a public meeting - , or the Director specifically determines the Department can proceed without holding a public meeting in those cases where the subject matter of the NOIRA has previously been the subject matter of a NOIRA published in the Register of Regulations by the Department.
  - b. In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication of the Virginia Register, time and place of the public meeting(s).
3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication of the NOIRA in the Virginia Register.

E. The department shall disseminate the NOIRA to the

public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.
2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public comment, the department may ~~prepare complete~~ the draft proposed regulation and any supporting documentation required for review. If an ad hoc advisory group has been established, a *standing advisory committee utilized, or groups and individuals consulted*, the draft regulation shall be developed in consultation with ~~such group~~ *the selected advisor*. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group , *standing advisory committee or groups and individuals* during the development of the draft regulation.

G. Upon approval of the draft proposed regulation by the director, the department shall publish the NOPC and the proposal for public comment.

H. The NOPC shall include the following:

1. The notice of the opportunity to comment on the proposed regulation, location where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.
  2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.
  3. A request for comments on the costs and benefits of the proposal.
  4. *The identity of any locality particularly affected by the proposed regulation. For purposes of these guidelines the term "locality particularly affected" means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*
- 4 5 . A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:
- a. A statement of purpose: ~~why the regulation is proposed and the desired end result or objective of the regulation~~ *the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare .*

b. A statement of estimated impact:

- (1) ~~Number~~ *Projected number* and types of



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regulated entities or persons affected.

(2) Projected cost, expressed as a dollar figure or range, to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency the Department is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the department for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or upon other organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement as to whether the department believes that the proposed regulation is the least burdensome alternative to the regulated community that fully meets the stated purpose of the regulation.

f. A schedule setting forth when, after the effective date of the regulation, the department will evaluate it for effectiveness and continued need.

5 6. The date, time and place of at least one public hearing informational proceeding held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. (In those cases in which the department elects to conduct an evidential hearing, the notice shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Code of Virginia.) The hearing(s) informational proceeding(s) may be held at any time during the public comment period and, whenever practicable, no less than 10 days prior to the close of the public comment period. The hearing(s) informational proceeding(s) may be held in such location(s) as the department determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register of Regulations.

J. The department shall disseminate the NOPC to the

public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations;

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the department may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The department shall prepare a summary of comments received in response to the NOPC and the department's response to the comments received. The Department shall send a draft of the summary of comments to all public commenters on the proposed regulation at least five days before final adoption of the regulation. Both the summary and the comments shall become a part of the department file and after final action on the regulation by the director, made available, upon request, to interested persons.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

§ 4. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register prior to February 10, 1993, shall be processed in accordance with the Public Participation Guidelines specified in Chapter 656 of the Acts of Assembly of 1989.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to February 10, 1993, shall be processed in accordance with this regulation (VR 392-01-01).

The amending provisions contained in this emergency regulation shall apply only to regulatory actions for which a NOIRA is filed with the Registrar of Regulations at or after the time these guidelines take effect.

VA.R. Doc. No. R93-596; Filed June 25, 1993, 12:48 p.m.

## BOARD OF MEDICINE

Title of Regulations: Emergency Amendments to Regulations of the Virginia Board of Medicine Relating to Fees.

VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture.

VR 465-03-1. Regulations Governing the Practice of Physical Therapy.

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VR 465-04-1. Regulations Governing the Practice of Respiratory Therapy Practitioners.

VR 465-05-1. Regulations Governing the Practice of Physician Assistants.

VR 465-08-1. Regulations for Certification of Occupational Therapists.

VR 465-09-1. Certification of Optometrists to Prescribe for and Treat Certain Diseases, including Abnormal Conditions of the Human Eye and Its Adnexa with Certain Pharmaceutical Agents.

VR 465-10-1. Certification for Radiological Technology Practitioners.

Statutory Authority: §§ 54.1-113, 54.1-2400 and 54.1-2900 et seq. of the Code of Virginia.

Effective Dates: January 1, 1994, through December 31, 1994.

Request for Approval of Emergency Regulations of the Board of Medicine:

*I recommend approval of the proposed emergency regulation as cited above and attached. The emergency regulation reducing fees for one renewal cycle is necessary to bring the Board into compliance with statutory requirements that fees not exceed expenditures by more than ten percent during the biennium.*

*The effective date is January 1, 1994, and the expiration date is December 31, 1994. The promulgation of regulations under the normal procedures of the Administrative Process Act would not allow the Board sufficient time to notify licensees of changes in renewal fees prior to their renewal date.*

/s/ Bernard L. Henderson, Jr.  
Director  
Department of Health Professions  
Date: June 22, 1993

I recommend approval of the above regulation.

/s/ Howard M. Cullum  
Secretary of Health and Human Resources  
Date: June 24, 1993

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 24, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith  
Registrar of Regulations  
Date: June 29, 1993

## Summary:

*The emergency amendments correct fees of the Board of Medicine so that moneys collected are within guidelines established by § 54.1-113 of the Code of Virginia. These amendments are a one time 12 month reduction in fees.*

*The emergency amendments as adopted by the Board on June 3, 1993 respond to continuing review by the Board and staff of the regulations.*

## Preamble:

*Consistent with § 54.1-113 of the Code of Virginia the Board of Medicine must adjust (lower) fees to assure that revenue is not excessive. In order to lower fees prior to the next renewal cycle, the Board seeks to enact emergency amendments. Failure to enact these amendments will result in the collection of an excessive dedicated revenue and will have a disproportionate impact on a limited number of licensees.*

VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture.

## PART I. GENERAL PROVISIONS.

### § 1.1. Definitions.

A. The following words and terms, when used in these regulations, shall have the meaning ascribed to them in § 54.1-2900 of the Code of Virginia:

Acupuncture

Board

Clinical psychologist

Practice of clinical psychology

Practice of medicine or osteopathy

Practice of chiropractic

Practice of podiatry

The healing arts.

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

*"American institution"* means any accredited licensed medical school, college of osteopathic medicine, school of podiatry, chiropractic college, or institution of higher education offering a doctoral program in clinical

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psychology, located in the United States, its territories, or Canada.

“*Approved foreign institution*” means any foreign institution that is approved by the board under the provisions of VR 465-02-2, Regulations for Granting Approval of Foreign Medical Schools and Other Foreign Institutions That Teach the Healing Arts.

“*Foreign institution*” means any medical school, college of osteopathic medicine, school of podiatry, chiropractic college, or institution of higher education offering a doctoral program in clinical psychology, located elsewhere than in the United States, its territories, or Canada.

“*Home country*” means the country in which a foreign institution’s principal teaching and clinical facilities are located.

“*Principal site*” means the location in the home country where a foreign institution’s principal teaching and clinical facilities are located.

## § 1.2. Approval of foreign medical schools.

A separate Virginia State Board of Medicine regulation, VR 465-02-02, Requirements for Approval of Foreign Medical Schools and Other Foreign Institutions That Teach the Healing Arts, is incorporated by reference in these regulations. Prospective applicants for licensure in Virginia who studied at a foreign institution should refer to that regulation in addition to the regulations contained here.

## § 1.3. Public participation guidelines.

A separate board regulation, VR 465-01-01, entitled Public Participation Guidelines, which provides for involvement of the public in the development of all regulations of the Virginia State Board of Medicine, is incorporated by reference in these regulations.

## § 1.4. Advertising ethics.

A. Any statement specifying a fee for professional services which does not include the cost of all related procedures, services and products which, to a substantial likelihood will be necessary for the completion of the advertised service as it would be understood by an ordinarily prudent person, shall be deemed to be deceptive or misleading, or both. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of prices for specifically described services shall not be deemed to be deceptive or misleading.

B. Advertising discounted or free service, examination, or treatment and charging for any additional service, examination, or treatment which is performed as a result of and within 72 hours of the initial office visit in response to such advertisement is unprofessional conduct unless such professional services rendered are a result of a bonafide emergency.

C. Advertisements of discounts shall disclose the full fee and documented evidence to substantiate the discounted fees.

## § 1.5. Vitamins, minerals and food supplements.

A. The use or recommendations of vitamins, minerals or food supplements and the rationale for that use or recommendation shall be documented by the practitioner. The rationale for said use must be therapeutically proven and not experimental.

B. Vitamins, minerals, or food supplements, or a combination of the three, shall not be sold, dispensed, recommended, prescribed, or suggested in toxic doses.

C. The practitioner shall conform to the standards of his particular branch of the healing arts in the therapeutic application of vitamins, minerals or food supplement therapy.

## § 1.6. Anabolic steroids.

It shall be considered unprofessional conduct for a licensee of the board to sell, prescribe, or administer anabolic steroids to any patient for other than accepted therapeutic purposes.

## § 1.7. Misleading or deceptive advertising.

A licensee or certificate holder’s authorization of or use in any advertising for his practice of the term “board certified” or any similar words or phrase calculated to convey the same meaning shall constitute misleading or deceptive advertising under § 54.1-2914 of the Code of Virginia, unless the licensee or certificate holder discloses the complete name of the specialty board which conferred the aforementioned certification.

## § 1.8. Current business addresses.

Each licensee shall furnish the board his current business address. All notices required by law or by these regulations to be mailed by the board to any such licensee shall be validly given when mailed to the latest address given by the licensee. Any change of address shall be furnished to the board within 30 days of such change.

## § 1.9. Solicitation or remuneration in exchange for referral.

It shall be unprofessional conduct for a licensee of the board to knowingly and willfully solicit or receive any remuneration, directly or indirectly, in return for referring an individual to a facility or institution as defined in § 37.1-179 of the Code of Virginia, or hospital as defined in § 32.1-123.

Remuneration shall be defined as compensation, received in cash or in kind, but shall not include any payments, business arrangements, or payment practices

allowed by Title 42, § 1320a-7b(b) of the United States Code, as amended, or any regulations promulgated thereto.

PART II.  
LICENSURE: GENERAL REQUIREMENTS AND  
LICENSURE BY EXAMINATION.

§ 2.1. Licensure, general.

A. No person shall practice medicine, osteopathy, chiropractic, podiatry, acupuncture, or clinical psychology in the Commonwealth of Virginia without a license from this board, except as provided in § 4.3, Exemption for temporary consultant, of these regulations.

B. For all applicants for licensure by this board except those in clinical psychology, licensure shall be by examination by this board or by endorsement, whichever is appropriate.

C. Applicants for licensure in clinical psychology shall take the examination of the Virginia State Board of Psychology, which will recommend those qualifying to the Board of Medicine for licensure.

§ 2.2. Licensure by examination.

A. Prerequisites to examination.

1. Every applicant for examination by the Board of Medicine for initial licensure shall:

- a. Meet the educational requirements specified in subdivision 2 or 3 of this subsection;
- b. File the complete application and credentials required in subdivision 4 of this subsection with the executive director of the board not less than 75 days prior to the date of examination; and
- c. Pay the appropriate fee, specified in § 7.1, of these regulations, at the time of filing the application.

2. Education requirements: Graduates of American institutions.

Such an applicant shall be a graduate of an American institution that meets the criteria of subdivision a, b, c, or d of § 2.2 A.2, whichever is appropriate to the profession in which he seeks to be licensed:

- a. For licensure in medicine. The institution shall be a medical school that is approved or accredited by the Liaison Committee on Medical Education or other official accrediting body recognized by the American Medical Association, or by the Committee for the Accreditation of Canadian Medical Schools or its appropriate subsidiary agencies or any other organization approved by the board.

An applicant shall provide evidence of having completed one year of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering approved internship and residency training programs when such a program is approved by an accrediting agency recognized by the board for internship and residency training.

b. For licensure in osteopathy. The institution shall be a college of osteopathic medicine that is approved or accredited by the Committee on Colleges and Bureau of Professional Education of the American Osteopathic Association or any other organization approved by the board.

An applicant shall provide evidence of having completed one year of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering approved internship and residency training programs when such a program is approved by an accrediting agency recognized by the board for internship and residency training.

c. For licensure in podiatry. The institution shall be a school of podiatry approved and recommended by the Council on Podiatry Education of the American Podiatry Medical Association or any other organization approved by the board.

An applicant shall provide evidence of having completed one year of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering approved internship and residency training programs when such a program is approved by an accrediting agency recognized by the board for internship and residency training.

d. For licensure in chiropractic.

(1) If the applicant matriculated in a chiropractic college on or after July 1, 1975, he shall be a graduate of a chiropractic college accredited by the Commission on Accreditation of the Council of Chiropractic Education or any other organization approved by the board.

(2) If the applicant matriculated in a chiropractic college prior to July 1, 1975, he shall be a graduate of a chiropractic college accredited by the American Chiropractic Association or the International Chiropractic Association or any other organization approved by the board.

3. Educational requirements: Graduates and former students of foreign institutions.

a. No person who studied at or graduated from a foreign institution shall be eligible for board examination unless that institution has been granted approval by the board according to the provisions of VR 465-02-2, Regulations for Granting Approval of

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## Foreign Medical Schools and Other Foreign Institutions That Teach the Healing Arts.

b. A graduate of an approved foreign institution applying for board examination for licensure shall also present documentary evidence that he:

(1) Was enrolled and physically in attendance at the institution's principal site for a minimum of two consecutive years and fulfilled at least half of the degree requirements while enrolled two consecutive academic years at the institution's principal site.

(2) Received a degree from the institution; and

(3) Has fulfilled the applicable requirements of § 54.1-2930 of the Code of Virginia.

(4) Has completed three years of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering an approved internship or residency training program when such a program is approved by an accrediting agency recognized by the board for internship and residency. The board may substitute other postgraduate training or study for up to two years of the three-year requirement when such training or study has occurred in the United States or Canada and is:

(a) An approved fellowship program; or

(b) A position teaching medical students, interns, or residents in a medical school program approved by an accrediting agency recognized by the board for internship and residency training.

(5) The Virginia Board of Medicine recognizes as accrediting agencies the Liaison Committee on Graduate Medical Education (LCGME) and the Liaison Committee on Medical Education (LCME) of the American Medical Association, the American Osteopathic Association and the American Podiatric Medical Association and the License Medical Council of Canada (LMCC) or other official accrediting bodies recognized by the American Medical Association.

c. A graduate of an approved foreign institution applying for examination for licensure in medicine or osteopathy shall also possess a standard Educational Council of Foreign Medical Graduates certificate (ECFMG), or its equivalent. Proof of licensure by the board of another state or territory of the United States or a Province of Canada may be accepted in lieu of ECFMG certification.

d. An applicant for examination for licensure in medicine who completed all degree requirements except social services and postgraduate internship at an approved foreign institution shall be admitted to

examination provided that he:

(1) Was enrolled at the institution's principal site for a minimum of two consecutive years and fulfilled at least half of the degree requirements while enrolled at the institution's principal site;

(2) Has qualified for and completed an appropriate supervised clinical training program as established by the American Medical Association;

(3) Has completed the postgraduate hospital training required of all applicants for licensure as defined in § 54.1-2930 of the Code of Virginia; and

(4) Has completed three years of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering an approved internship or residency training program when such a program is approved by an accrediting agency recognized by the board for internship and residency. The board may substitute other postgraduate training or study for up to two years of the three-year requirement when such training or study has occurred in the United States or Canada and is:

(a) An approved fellowship program; or

(b) A position teaching medical students, interns, or residents in a medical school program approved by an accrediting agency recognized by the board for internship and residency training.

(5) The Virginia Board of Medicine recognizes as accrediting agencies the Liaison Committee on Graduate Medical Education (LCGME) and the Liaison Committee on Medical Education (LCME) of the American Medical Association, the American Osteopathic Association and the American Podiatric Medical Association and the License Medical Council of Canada (LMCC) or other official accrediting bodies recognized by the American Medical Association.

(6) Presents a document issued by the approved foreign institution certifying that he has met all the formal requirements of the institution for a degree except social services and postgraduate internship.

These regulations are promulgated pursuant to § 54.1-2958 of the Code of Virginia and shall not be deemed to apply to graduates of foreign medical schools who matriculated before July 1, 1985. By resolution adopted at a public meeting on November 20, 1982, the board voted to promulgate the following regulations to be effective July 1, 1985, thereby placing potential foreign medical students on notice that such regulations would become effective on said date. Foreign medical students matriculating on and after July 1, 1985, should take care to determine

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whether their school satisfies these regulations before applying for licensure in Virginia. Inquiries may be directed to the board office at 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005, (804) 662-9908.

#### 4. Credentials to be filed prior to examination.

Applicants shall file with the executive director of the board, along with their applications for board examination (and at least 75 days prior to the date of examination) the credentials specified in subdivisions a, b, or c of § 2.2 A 4, whichever are appropriate:

a. Every applicant who is a graduate of an American institution shall file:

(1) Documentary evidence that he received a degree from the institution; and

(2) A complete chronological record of all professional activities since graduation, giving location, dates, and types of services performed.

b. Every applicant who attended a foreign institution shall file:

(1) The documentary evidence of education required by subdivisions 3 b, c, or d of this subsection, whichever is or are appropriate;

(2) For all such documents not in the English language, a translation made and endorsed by the consul of the home country of the applicant or by a professional translating service; and

(3) A complete chronological record of all professional activities since the applicant attended the foreign institution, giving location, dates, and types of services performed.

c. Every applicant discharged from the United States military service within the last 10 years shall in addition file with his application a notarized photostatic copy of his discharge papers.

B. Applicants for licensure by board examination shall take the appropriate examination prescribed by the board as provided in § 3.1 Examinations, of these regulations.

§ 2.3. Supervision of unlicensed persons practicing as psychologists in exempt settings.

#### A. Supervision.

Pursuant to subdivision 4 of § 54.1-3601 of the Code of Virginia, supervision by a licensed psychologist, shall mean that the supervisor shall:

1. Provide supervision of unlicensed personnel who are providing psychological services as defined in § 54.1-3600 and who are functioning in practice and title

as a professional psychologist, including the review of assessment protocols, intervention plans and psychological reports, with review denoted by countersignature on all client records and reports as specified in the required protocols within 30 days of origination;

2. Determine and carry out instructional and evaluative consultation with supervisees appropriate to their levels of training and skill, and adjust their service delivery according to current standards of professional practice; and

3. Supervise only those psychological services that fall within the supervisor's area of competence as demonstrated by his own professional practice and experience.

#### B. Reporting.

A clinical psychologist who is providing supervision, as provided for in subdivision 4 of § 54.1-3601, shall:

1. Submit to the board, within 120 days of the effective date of this regulation, a copy of the supervisory protocol established for each unlicensed supervisee and signed by the supervisor, supervisee, and authorized representative of the institution or agency.

2. Notify the board of any changes in supervisory relationships, including terminations or additions, prior to or within 10 days of such change, with copies of supervisory protocol for all new supervisory relationships to follow within 30 days of such notice.

### PART III. EXAMINATIONS.

#### § 3.1. Examinations, general.

The following general provisions shall apply for applicants taking Board of Medicine examinations:

A. Applicants for licensure in medicine and osteopathy may take Components I and II of the Federation Licensing Examination (FLEX) separately or as a unit. However, in no case shall an applicant who has not passed Component I be eligible to sit for Component II as a separate examination. The examination results shall be reported to the candidate as pass/fail.

1. Applicants for licensure in medicine and osteopathy may be eligible to sit for Section 3 of the United States Medical Licensing Examination (USMLE) upon evidence of having passed Sections 1 and 2 of the United States Medical Licensing Examination (USMLE).

2. Applicants who have successfully passed one component of the FLEX may, upon evidence of having

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passed one component of the FLEX, be eligible to sit for Section 3 of the United States Medical Licensing Examination (USMLE) for licensure in Virginia.

B. Applicants who have taken both Components I and II of the Federation Licensing Examination (FLEX), in one sitting, and have failed to pass both components, or have taken and passed only one component in another state or territory of the United States, the District of Columbia, or Province of Canada, and have met all other requirements for licensure in Virginia may be eligible to take the failed or missing component upon payment of the fee prescribed in § 7.1.

C. Applicants for licensure in podiatry shall provide evidence of having passed the National Board of Podiatric Medical Examiners Examination, Parts I and II, to be eligible to sit for the Podiatric Medical Licensing Examination (PMLEXIS) in Virginia. The examination results shall be reported to the candidate as pass/fail.

D. Applicants for licensure in chiropractic shall provide evidence of having passed the National Board of Chiropractic Examiners Examination, Parts I, II and III, to be eligible to sit for the Virginia licensure examination administered by the board. Applicants who graduated prior to January 31, 1991, shall not be required to show evidence of having passed the National Board of Chiropractic Examiners Examination Part III to be eligible to sit for the licensure examination required by the board. A minimum score of 75 is required to pass the examination.

## § 3.2. Reexamination.

An applicant for licensure by examination who fails three consecutive attempts to pass the examination(s) administered by the board shall be eligible to sit for another series of three consecutive attempts upon presenting proof to the Credentials Committee of the board that he has fulfilled the requirements of subsection A, B, or C of this section, whichever is appropriate.

A. An applicant for licensure in medicine or osteopathy who fails three consecutive attempts to pass Component I and Component II, or Parts I, II, and III of the FLEX examination or the United States Medical Licensing Examination in Virginia or any other state or territory of the United States, the District of Columbia, or Province of Canada, or a combination of either of these examinations, shall engage in one year of additional postgraduate training to be obtained in a hospital in the United States or Canada approved by the American Medical Association or the American Osteopathic Association.

B. An applicant for licensure in podiatry who fails three consecutive attempts to pass the Virginia examination administered by the board shall appear before the Credentials Committee of the board and shall engage in such additional postgraduate training as may be deemed appropriate by the Credentials Committee.

C. An unsuccessful candidate for chiropractic licensure after each series of three unsuccessful attempts for licensure by examination, shall engage in one year of additional professional training approved by the board before he will be eligible to retake another series of examinations.

## § 3.3. Administration of examination.

A. The board may employ monitors for the examination.

B. For examinations given by the board other than those for which answer sheets are furnished, plain paper shall be used, preferably white, and no reference shall be made indicating either school or date of graduation. One side of paper only may be written upon and as soon as each sheet is finished, it shall be reversed to prevent its being read by others.

C. Questions will be given out and papers collected punctually at the appointed time and all papers shall be handed in at once when expiration time is announced by the chief proctor.

D. Sections of the examination shall be in such sequence as may be determined by the Federation Licensure Examination (FLEX) Committee or appropriate testing agency.

E. The order of examination shall be posted or announced at the discretion of the board. If the board has no objections, the examiners may exchange hours or days of monitoring the examination.

F. For the guidance of examiners and examinees, the following rules shall govern the examination.

1. Only members of the board, office staff, proctors, and applicants shall be permitted in the examination room, except by consent of the chief proctor.
2. Applicants shall be seated as far apart as possible at desks or desk chairs and each shall have in plain view an admission card bearing his number and photograph.
3. No examinee shall have any compendium, notes or textbooks in the examination room.
4. Any conversation between applicants will be considered prima facie evidence of an attempt to give or receive assistance.
5. Applicants are not permitted to leave the room except by permission of and when accompanied by an examiner or monitor.
6. The use of unfair methods will be grounds to disqualify an applicant from further examination at that meeting.

7. No examiner shall tell an applicant his grade until the executive director has notified the applicant that he has passed or failed.

8. No examination will be given in absentia or at any time other than the regularly scheduled examination.

9. The chief proctor shall follow the rules and regulations recommended by the FLEX Test Committee or other testing agencies.

## § 3.4. Scoring of examination.

Scores forwarded to the executive director shall be provided to the candidate within 30 days or receipt of the scores provided by the testing service.

## PART IV. LICENSURE BY ENDORSEMENT.

### § 4.1. Licensure by endorsement.

A. An applicant for licensure by endorsement will be considered on his merits and in no case shall be licensed unless the Credentials Committee is satisfied that he has passed an examination equivalent to the Virginia Board of Medicine examination at the time he was examined and meets all requirements of Part II of these regulations.

B. A Doctor of Medicine who meets the requirements of Part II of these regulations and has passed the examination of the National Board of Medical Examiners, FLEX, United States Medical Licensing Examination, or the examination of the Licensing Medical Council of Canada may be accepted for licensure by endorsement without further examination.

No applicant for licensure to practice medicine and surgery by endorsement will be considered for licensure unless the applicant has met all the following requirements for pre or postgraduate training as follows:

1. Graduates of schools of medicine approved by an accrediting agency recognized by the board shall have completed one year of satisfactory postgraduate training as an intern or resident in a hospital approved by the Accreditation Council for Graduate Medical Education, Licensing Medical Council of Canada or other official accrediting body recognized by the American Medical Association for intern or residency training.

2. Graduates of schools of medicine not approved by an accrediting agency recognized by the board who serve supervised clinical training in the United States as part of the curriculum of a foreign medical school, shall serve the clerkships in an approved hospital, institution or school of medicine offering an approved residency program in the specialty area for the clinical training received.

3. Graduates of schools of medicine not approved by an accrediting agency recognized by the board shall have completed three years of satisfactory postgraduate training as an intern or resident in a hospital approved by the Accreditation Council for Graduate Medical Education, Licensing Medical Council of Canada or other official accrediting body recognized by the American Medical Association for intern or residency training. The board may substitute other postgraduate training or study for up to two years of the three year requirement when such training or study has occurred in the United States or Canada and is:

a. An approved fellowship program; or

b. A position teaching medical students, interns, or residents in a medical school program approved by an accrediting agency recognized by the board for internship and residency training.

4. An applicant for licensure by the FLEX examination who has experienced more than three unsuccessful attempts, shall submit proof of one additional year of approved postgraduate studies in the United States following each series of three attempts to pass the FLEX to be eligible for licensure to practice medicine and surgery in Virginia.

C. A Doctor of Osteopathy who meets the requirements of Part II of these regulations and has passed the examination of the National Board of Osteopathic Examiners may be accepted for licensure by endorsement without further examination.

No applicant for licensure to practice osteopathy by endorsement will be considered for licensure unless the applicant has met all the following requirements for pre or postgraduate training as follows:

1. Graduates of schools of osteopathy approved by an accrediting agency recognized by the board shall have completed one year of satisfactory postgraduate training as an intern or resident in a hospital approved by the American Osteopathic Association, the American Medical Association, Licensing Medical Council of Canada or other official accrediting body recognized by the American Osteopathic Association, or the American Medical Association for intern or residency training.

2. Graduates of schools of osteopathy not approved by an accrediting agency recognized by the board who serve supervised clinical training in the United States as part of curriculum of a foreign osteopathic school, shall serve the clerkships in an approved hospital, institution or school of osteopathy or medicine offering an approved residency program in the specialty area for the clinical training received.

3. Graduates of schools of osteopathy not approved by



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an accrediting agency recognized by the board shall have completed three years of satisfactory postgraduate training as an intern or resident in a hospital approved by the American Osteopathic Association, the Accreditation Council for Graduate Medical Education, Licensing Medical Council of Canada or other official accrediting body recognized by the American Osteopathic Association, or the American Medical Association for intern or residency training. The board may substitute other postgraduate training or study for up to two years of the three year requirement when such training or study has occurred in the United States or Canada and is:

a. An approved fellowship program; or

b. A position teaching osteopathic or medical students, interns, or residents in an osteopathic or medical school program approved by an accrediting agency recognized by the board for internship and residency training.

4. An applicant for licensure by the FLEX examination who has experienced more than three unsuccessful attempts, shall submit proof of one additional year of approved postgraduate studies in the United States following each series of three attempts to pass the FLEX to be eligible for licensure to practice osteopathy and surgery in Virginia.

D. A Doctor of Podiatry who meets the requirements of Part II of these regulations, and has passed the National Board of Podiatry Examiners examination and has passed a clinical competence examination equivalent to the Virginia Board of Medicine examination may be accepted for licensure by endorsement without further examination.

E. A Doctor of Chiropractic who meets the requirements of Part II of these regulations, who has passed the National Board of Chiropractic Examiners examination, and has passed an examination equivalent to the Virginia Board of Medicine Part III examination, may be accepted for licensure without further examination.

## § 4.2. Licensure to practice acupuncture.

Acupuncture is an experimental therapeutic procedure, used primarily for the relief of pain, which involves the insertion of needles at various points in the human body. There are many acupuncture points, and these points are located on most portions of the human body. Insufficient information is available regarding the general usefulness of acupuncture and the risks attendant. Among the risks that attend upon it are the possibilities of prolonged and inappropriate therapy.

It is clear that the administration of acupuncture is accompanied by the possibility of serious side effects and injuries, and there are reported cases of such injuries. Possible complications and injuries include peritonitis, damage from broken needles, infections, serum hepatitis,

acquired immunity deficiency syndrome, pneumothorax, cerebral vascular accident (stroke), damage to the eye or the external or middle ear, and the inducement of cardiac arrhythmia.

In the judgment of the board, acupuncture shall be performed only by those practitioners of the healing arts who are trained and experienced in medicine, as only such a practitioner has (i) skill and equipment to determine the underlying cause of the pain; (ii) the capability of administering acupuncture in the context of a complete patient medical program in which other methods of therapeutics and relief of pain, including the use of drugs and other medicines, are considered and coordinated with the acupuncture treatment; and (iii) skill and training which will minimize the risks attendant with its use.

Based on the foregoing considerations, the board will license as acupuncturists only doctors of medicine, osteopathy, and podiatry, as only these practitioners have demonstrated a competence in medicine by passing the medicine/osteopathy licensure examination or podiatry licensure examination.

A. No person shall practice acupuncture in the Commonwealth of Virginia without being licensed by the board to do so.

B. The board shall license as acupuncturists only licensed doctors of medicine, osteopathy, and podiatry. Such licensure shall be subject to the following condition:

The applicant shall first have obtained at least 200 hours of instruction in general and basic aspects, specific uses and techniques of acupuncture and indications and contraindications for acupuncture administration.

C. A podiatrist may use acupuncture only for treatment of pain syndromes originating in the human foot.

D. The licensee shall maintain records of the diagnosis, treatment and patient response to acupuncture and shall submit records to the board upon request.

E. Failure to maintain patient records of those patients treated with acupuncture or failure to respond to the board's request for patient records within 30 days shall be grounds for suspension or revocation of a license to practice acupuncture.

## § 4.3. Exemption for temporary consultant.

A. A practitioner may be exempted from licensure in Virginia if:

1. He is authorized by another state or foreign country to practice the healing arts;

2. Authorization for such exemption is granted by the executive director of the board; and

3. The practitioner is called in for consultation by a licensee of the Virginia State Board of Medicine.

B. Such practitioner shall not open an office or designate a place to meet patients or receive calls from his patient within this Commonwealth, nor shall he be exempted from licensure for more than two weeks unless such continued exemption is expressly approved by the board upon a showing of good cause.

## PART V. RENEWAL OF LICENSE; REINSTATEMENT.

### § 5.1. Renewal of license.

Every licensee who intends to continue his practice shall renew his license biennially during his birth month and pay to the board the renewal fee prescribed in § 7.1, Fees..., of these regulations.

A. A practitioner who has not renewed his license by the first day of the month following the month in which renewal is required shall be dropped from the registration roll.

B. An additional fee to cover administrative costs for processing a late application shall be imposed by the board. The additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

### § 5.2. Reinstatement of lapsed license.

A practitioner who has not renewed his certificate in accordance with § 54.1-2904 of the Code of Virginia for two successive years or more and who requests reinstatement of licensure shall:

A. Submit to the board a chronological account of his professional activities since the last renewal of his license; and

B. Pay the reinstatement fee prescribed in § 7.1 of these regulations.

## PART VI. ADVISORY COMMITTEES AND PROFESSIONAL BOARDS.

### § 6.1. Advisory committees to the board.

#### A. Advisory Committee on Acupuncture.

The board may appoint an Advisory Committee on Acupuncture from licensed practitioners in this Commonwealth to advise and assist the board on all matters relating to acupuncture. The committee shall consist of three members from the state-at-large and two members from the board. Nothing herein is to be construed to make any recommendation by the Advisory Committee on Acupuncture binding upon the board. The term of office of each member of the committee shall be

for one year or until his successor is appointed.

#### B. Psychiatric Advisory Committee.

1. The board may appoint a Psychiatric Advisory Committee from licensed practitioners in this Commonwealth to examine persons licensed under these regulations and advise the board concerning the mental or emotional condition of such person when his mental or emotional condition is an issue before the board. Nothing herein is to be construed to make any recommendations by the Psychiatric Advisory Committee binding upon the Board of Medicine.

2. The term of office for each member of the Psychiatric Advisory Committee shall be one year or until his successor is appointed.

## PART VII. FEES REQUIRED BY THE BOARD.

### § 7.1. Fees required by the board are:

A. Examination fee for medicine or osteopathy: The fee for the Federation Licensing Examination (FLEX) for Component I shall be ~~\$275~~ \$225 and Component II shall be ~~\$325~~ \$275. Upon successfully passing both components of the Federation Licensing Examination (FLEX) in Virginia, the applicant shall be eligible for licensure upon payment of a licensure fee of \$125 to the board.

B. Examination fee for podiatry: The fee for the Podiatry Licensure Examination shall be \$325.

C. Examination fee for chiropractic: The fee for the Virginia Chiropractic Examination shall be \$250.

D. The fees for taking the FLEX, podiatry, and chiropractic examination are nonrefundable. An applicant may, upon request 21 days prior to the scheduled exam, and payment of a \$100 fee, reschedule for the next time such examination is given.

E. The fee for rescoring the Virginia Chiropractic Examination or the Virginia Podiatry Examination shall be \$75.

F. Certification of licensure: The fee for certification of licensure/grades to another state or the District of Columbia by the board shall be \$25. The fee shall be due and payable upon submitting the form to the board.

G. The fee for a limited license issued pursuant to § 54.1-2936 of the Code of Virginia shall be \$125. The annual renewal is ~~\$25~~ \$15.

H. The fee for a duplicate certificate shall be \$25.

I. Biennial renewal of license: The fee for renewal shall be ~~\$125~~ \$100, due in the licensee's birth month. An additional fee to cover administrative costs for processing

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a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

J. The fee for requesting reinstatement of licensure pursuant to § 54.1-2921 of the Code of Virginia shall be \$750.

K. The fee for a temporary permit to practice medicine pursuant to § 54.1-2927 B of the Code of Virginia shall be \$25.

L. The fee for licensure by endorsement for medicine, osteopathy, chiropractic, and podiatry shall be ~~\$300~~ \$250 . A fee of \$150 shall be retained by the board for a processing fee upon written request from the applicant to withdraw his application for licensure.

M. The fee for licensure to practice acupuncture shall be \$100. The biennial renewal fee shall be ~~\$80~~ \$65 , due and payable by June 30 of each even-numbered year.

N. Lapsed license: The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904, which has expired for a period of two years or more, shall be \$250 and shall be submitted with an application for licensure reinstatement.

O. The fee for a limited license issued pursuant to § 54.1-2937 shall be \$10 a year. An additional fee for late renewal of licensure shall be \$10.

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

Q. The fee for taking the Special Purpose Examination (SPEX) shall be \$350. The fee shall be nonrefundable.

R. Any applicant having passed one component of the FLEX examination in another state shall pay \$325 to take the other component in the Commonwealth of Virginia.

## VR 465-03-1. Regulations Governing the Practice of Physical Therapy.

### 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:

“Board” means the Virginia Board of Medicine.

“Advisory board” means the Advisory Board on Physical Therapy.

“Evaluation” means the carrying out by a physical therapist of the sequential process of assessing a patient,

planning the patient's physical therapy treatment program, and appropriate documentation.

“Examination” means an examination approved and prescribed by the board for licensure as a physical therapist or physical therapist assistant.

“Physical therapist” means a person qualified by education and training to administer a physical therapy program under the direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery.

“Physical therapist assistant” means a person qualified by education and training to perform physical therapy functions under the supervision of and as directed by a physical therapist.

“Physical therapy aide” means any nonlicensed personnel performing patient care functions at the direction of a physical therapist or physical therapist assistant within the scope of these regulations.

“Referral and direction” means the referral of a patient by a licensed doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery to a physical therapist for a specific purpose and for consequent treatment that will be performed under the direction of and in continuing communication with the referring doctor or dentist.

“Trainee” means a person undergoing a traineeship.

1. “Relicensure trainee” means a physical therapist or physical therapist assistant who has been inactive for two years or more and who wishes to return to the practice of physical therapy.

2. “Unlicensed graduate trainee” means a graduate of an approved physical therapy or physical therapist assistant program who has not taken the state licensure examination or who has taken the examination but not yet received a license from the board or who has failed the examination three times as specified in § 3.3 A.

3. “Foreign trained trainee” means a physical therapist or physical therapist assistant who graduated from a school outside the United States, its territories, or the District of Columbia and who is seeking licensure to practice in Virginia.

“Traineeship” means a period of activity during which an unlicensed physical therapist or physical therapist assistant works under the direct supervision of a physical therapist approved by the board.

“Direct supervision” means a physical therapist is present and is fully responsible for the activities assigned to the trainee.

§ 1.2. A separate board regulation entitled VR 465-01-01,

Public Participation Guidelines, which provides for involvement of the public in the development of all regulations of the Virginia State Board of Medicine, is incorporated by reference in these regulations.

## PART II. LICENSURE: GENERAL REQUIREMENTS AND LICENSURE BY EXAMINATION.

### § 2.1. Requirements, general.

A. No person shall practice as a physical therapist or physical therapist assistant in the Commonwealth of Virginia except as provided in these regulations.

B. Licensure by this board to practice as a physical therapist or physical therapist assistant shall be by examination or by endorsement, whichever is appropriate.

### § 2.2. Licensure by examination: Prerequisites to examination.

A. Every applicant for initial board licensure by examination shall:

1. Meet the age and character requirements of §§ 54.1-2947 and 54.1-2948 of the Code of Virginia;
2. Meet the educational requirements prescribed in § 2.3 or § 2.4 of these regulations;
3. Submit the required application and credentials to the board not less than 30 days prior to the date of examination; and
4. Submit, along with his application, the examination fee prescribed in § 9.1, Fees, of these regulations.

B. Every applicant shall take the examination at the time prescribed by the board.

### § 2.3. Education requirements: Graduates of American institutions or programs.

A. A graduate of an American institution who applies for licensure as a physical therapist shall be a graduate of a school of physical therapy approved by the American Physical Therapy Association and shall submit to the board documented evidence of his graduation from such a school.

B. An applicant for licensure as a physical therapist assistant who attended an American institution shall be a graduate of a two-year college-level educational program for physical therapist assistants approved by the board and shall submit to the board documented evidence of his graduation from such a program.

### § 2.4. Educational requirement: Graduates of foreign institutions.

A. An applicant for licensure as a physical therapist or physical therapist assistant who graduated from a school outside the United States or Canada shall be a graduate of such a school which offers and requires courses in physical therapy acceptable to the board on the advice of the advisory board.

B. An applicant under this section for licensure as a physical therapist or physical therapist assistant, when filing his application and examination fee with the board, shall also:

1. Submit proof of proficiency in the English language by passing with a grade of not less than 560, the Test of English as a Foreign Language (TOEFL); or an equivalent examination approved by the board. TOEFL may be waived upon evidence of English proficiency.

2. Submit a photostatic copy of the original certificate or diploma verifying his graduation from a physical therapy curriculum which has been certified as a true copy of the original by a notary public.

3. If such certificate or diploma is not in the English language, submit either:

a. A translation of such certificate or diploma by a qualified translator other than the applicant; or

b. An official certification from the school attesting to the applicant's attendance and graduation date.

4. Submit verification of the equivalency of the applicant's education to the following standards from a scholastic credentials service approved by the advisory board.

a. The minimum educational requirements in general and professional education for licensure as a physical therapist shall be 120 semester hours as follows:

(1) General education requirements. 40 or more semester hours in the following subjects: humanities, social sciences, natural sciences, biological sciences and electives.

(2) Professional education requirements. 60 or more semester hours; the course of professional study shall include: basic health sciences, clinical sciences, clinical education, and other electives.

b. The minimum requirements in general and professional education for licensure as a physical therapist assistant shall be 68 semester hours as follows:

(1) General education requirements: 24 or more semester hours in the following subjects: humanities, social sciences, natural sciences, biological sciences, and electives.

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(2) Professional educational requirements: 44 or more semester hours in the following course of professional study: basic health sciences, clinical sciences, clinical education, and electives.

c. Education requirements of foreign trained physical therapists or physical therapist assistants shall be equivalent to the entry level degree of U.S. trained physical therapists or physical therapist assistants as established by the American Physical Therapy Association.

5. An applicant for licensure as a physical therapist shall submit verification of having successfully completed a full-time 1000 hour traineeship (approximately six months) under the direct supervision of a physical therapist licensed under § 54.1-2946 of the Code of Virginia. The initial 500 hours must be in an acute care facility treating both in and out patients and 500 hours may be in another type of physical therapy facility which is on the list approved by the advisory board.

6. An applicant for licensure as a physical therapist assistant shall submit verification of having successfully completed a full-time 500 hour traineeship in an acute care facility under the direct supervision of a physical therapist licensed under § 54.1-2946 of the Code of Virginia treating both inpatients and outpatients in a facility which meets the requirements of subdivision 7 below.

7. The traineeship must be completed in Virginia:

a. At a JCAH accredited hospital or other facility approved by the advisory board; and

b. At a facility that serves as a clinical education facility for students enrolled in an accredited program educating physical therapists or physical therapist assistants in Virginia.

8. It will be the responsibility of the trainee to make the necessary arrangements for his training with the Director of Physical Therapy, or the director's designee at the facility selected by the trainee.

9. The physical therapist supervising the trainee shall submit a progress report to the chairman of the advisory board at the end of 500 hours of training. A final report will be submitted at the end of the second 500 hours. These reports will be submitted on forms supplied by the advisory board.

10. If the trainee's performance is unsatisfactory, during the training period, the supervising therapist will notify, in writing, the chairman of the advisory board.

11. If the traineeship is not successfully completed at the end of the six-month period, the advisory board

shall determine if the traineeship will be continued for a period not to exceed six months.

12. The traineeship requirements of this part may be waived, at the discretion of the advisory board, if the applicant for licensure can verify, in writing, the successful completion of one year of clinical practice in the United States, its territories or the District of Columbia.

13. A foreign trained physical therapist or physical therapist assistant licensed in another state who has less than one year of clinical practice in the United States, its territories or the District of Columbia must comply with the traineeship requirement for licensure by endorsement.

## PART III. EXAMINATION.

### § 3.1. Conditions of examinations.

A. The licensure examinations for both physical therapists and physical therapist assistants shall be prepared and graded as prescribed and approved by the board.

B. The advisory board shall schedule and conduct the examinations at least once each fiscal year, the time and place to be determined by the advisory board.

C. The physical therapy examination shall be a one-part comprehensive examination approved by the board as prescribed in § 54.1-2947 of the Code of Virginia.

D. The physical therapy assistant examination shall be an examination approved by the board as prescribed in § 54.1-2948.

### § 3.2. Examination scores.

A. The minimum passing scores shall be:

1. For the physical therapy examination: the grade shall be established by the board.

2. For the physical therapist assistant examination: the grade shall be established by the board.

B. The scores shall be filed with the appropriate reporting service.

### § 3.3. Failure to pass.

An applicant who fails the examination after three attempts shall be required to satisfactorily complete a full time supervised traineeship approved by the chairman of the Advisory Board on Physical Therapy as prescribed in § 8.4, Traineeship, prior to being eligible for three additional attempts.

## PART IV. LICENSURE BY ENDORSEMENT.

### § 4.1. Endorsement.

A. A physical therapist or physical therapist assistant who has been licensed by another state or territory or the District of Columbia by examination equivalent to the Virginia examination at the time of licensure and who has met all other requirements of the board may, upon recommendation of the advisory board to the board, be licensed in Virginia by endorsement.

B. Any physical therapist or physical therapist assistant seeking endorsement or as described in § 7.2 B who has been inactive for a period of two years or more and who wishes to resume practice shall first successfully complete a traineeship.

## PART V. PRACTICE OF PHYSICAL THERAPY.

### § 5.1. General requirements.

All services rendered by a physical therapist shall be performed only upon medical referral by and under the direction of a doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery.

§ 5.2. Individual responsibilities to patients and to referring doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery.

A. The physical therapists' responsibilities are to evaluate a patient, plan the treatment program and administer and document treatment within the limit of his professional knowledge, judgment, and skills.

B. A physical therapist shall maintain continuing communication with and shall report the results of periodic evaluation of patients to the referring practitioner.

### § 5.3. Supervisory responsibilities.

A. A physical therapist shall supervise no more than three physical therapist assistants at any one time per practice setting, but not to exceed a total of two practice settings.

B. A physical therapist shall be responsible for any action of persons performing physical therapy functions under the physical therapist's supervision or direction.

C. A physical therapist may not delegate physical therapy treatments to physical therapy aides except those activities that are available without prescription in the public domain to include but not limited to hot packs, ice packs, massage and bandaging.

D. Supervision of a physical therapy aide means that a licensed physical therapist or licensed physical therapist

assistant must be within the facility to give direction and instruction when procedures or activities are performed. Such nonlicensed personnel shall not perform those patient care functions that require professional judgment or discretion.

E. For patients assigned to a physical therapist assistant, the physical therapist shall make on-site visits to such patients jointly with the assistant at the frequency prescribed in § 6.1 of these regulations.

F. The advisory board may at its discretion approve the utilization of more than three physical therapist assistants supervised by a single physical therapist in institutions under the supervision of the Department of Mental Health, Mental Retardation and Substance Abuse Services where the absence of physical therapy care would be detrimental to the welfare of the residents of the institution.

G. A physical therapist shall supervise no more than two trainees at any one time as established in § 2.4 and Part VIII of these regulations.

## PART VI. PRACTICE OF PHYSICAL THERAPIST ASSISTANTS.

### § 6.1. Scope of responsibility.

A. A physical therapist assistant is permitted to perform all physical therapy functions within his capabilities and training as directed by a physical therapist. The scope of such functions excludes initial evaluation of the patient, initiation of new treatments, and alteration of the plan of care of the patient.

B. Direction by the physical therapist shall be interpreted as follows:

1. The initial patient visit shall be made by the physical therapist for evaluation of the patient and establishment of a plan of care.
2. The physical therapist assistant's first visit to the patient shall be made jointly with the physical therapist.
3. The physical therapist shall provide on-site supervision according to the following schedules:
  - a. For inpatients in hospitals, not less than once a week.
  - b. For all other patients, one of 12 visits made to the patient during a 30-day period, or once every 30 days, whichever comes first.
4. Failure to abide by this regulation due to absence of the physical therapist in case of illness, vacation, or professional meeting, for a period not to exceed five consecutive days, will not constitute violation of the foregoing provisions.

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## PART VII. RENEWAL OF LICENSURE; UPDATE FOR QUALIFICATIONS.

### § 7.1. Biennial renewal of license.

Every physical therapist and physical therapist assistant who intends to continue practice shall renew his license biennially during his birth month in each even numbered year and pay to the board the renewal fee prescribed in § 9.1 of these regulations.

A. A licensee whose license has not been renewed by the first day of the month following the month in which renewal is required shall be dropped from the registration roll.

B. An additional fee to cover administrative costs for processing a late application shall be imposed by the board. The additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

### § 7.2. Updates on professional activities.

A. The board shall require from physical therapists and physical therapist assistants licensed or applying for licensure in Virginia reports concerning their professional activities as shall be necessary to implement the provisions of these regulations.

B. A minimum of 320 hours of practice shall be required for licensure renewal for each biennium.

C. Any physical therapist or physical therapist assistant who fails to meet the requirements of subsection B of this section shall be considered to have been inactive since the professional activity requirement was last satisfied and the license shall be deemed to have expired and become invalid.

## PART VIII. TRAINEESHIP REQUIREMENTS.

### § 8.1. Traineeship required for relicensure.

A. Any physical therapist or physical therapist assistant who has been inactive as described in § 7.1 for a period of two years or more and who wishes to resume practice shall first successfully complete a traineeship.

B. The period of traineeship to be served by such person shall be:

1. A minimum of one month full time for those inactive for a period of two to six years.
2. A minimum of two months full time for those inactive for a period of seven to 10 years.
3. A minimum of three months full time for those inactive for a period exceeding 10 years.

C. The physical therapist who serves as the supervisor of a trainee under this section shall certify to the advisory board upon completion of the traineeship that the trainee's knowledge and skills meet current standards of the practice of physical therapy.

D. Upon receipt of a petition from a person seeking relicensure and declaring hardship, the advisory board may, at its discretion, recommend to the board that the traineeship provision be waived.

### § 8.2. Additional requirement for physical therapist examination.

In addition to the traineeship required in § 8.1, any physical therapist seeking relicensure who has been inactive for seven years or more shall take and pass the examination approved by the board and pay a fee as prescribed in § 9.1. If a trainee fails the examination three times, the trainee must appear before the advisory board prior to additional attempts.

### § 8.3. Exemption for physical therapist assistant.

A physical therapist assistant seeking relicensure who has been inactive shall be exempt from reexamination requirements but not from traineeship requirements.

§ 8.4. Traineeship required for unlicensed graduate scheduled to sit for the board's licensure examination as required by regulation in § 2.1.

A. Upon approval of the chairman of the advisory board, an unlicensed graduate trainee may be employed under the direct supervision of a physical therapist while awaiting the results of the next licensure examination.

B. The traineeship shall terminate upon receipt by the candidate of the licensure examination results.

C. A person not taking the licensure examination within three years after graduation shall successfully complete a full-time three-month traineeship before taking the licensure examination.

## PART IX. FEES.

§ 9.1. The following fees have been established by the board:

1. The fee for the physical therapist examination shall be \$200.
2. The fee for the physical therapist assistant examination shall be \$200.
3. The fee for licensure by endorsement for the physical therapist shall be ~~\$225~~ \$200 .
4. The fee for licensure by endorsement for the

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physical therapist assistant shall be ~~\$225~~ \$175 .

5. The fees for taking the physical therapy or physical therapist assistant examination are nonrefundable. An applicant may, upon request 21 days prior to the scheduled exam, and payment of the \$100 fee; reschedule for the next time such examination is given.

6. The fee for license renewal for a physical therapist assistant's license is ~~\$80~~ \$65 and shall be due in the licensee's birth month, in each even numbered year. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

7. The fee for license renewal for a physical therapy license is ~~\$125~~ \$100 and shall be due in the licensee's birth month, in each even numbered year. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

8. The examination fee for reinstatement of an inactive license as prescribed in § 8.2 shall be 200.

9. Lapsed license. The fee for reinstatement of a physical therapist or a physical therapist assistant license issued by the Board of Medicine pursuant to § 54.1-2904, which has expired for a period of two years or more, shall be \$225 and must be submitted with an application for licensure reinstatement.

## VR 465-04-1. Regulations Governing the Practice of Respiratory Therapy Practitioners.

### PART I. GENERAL PROVISIONS.

#### § 1.1. Definitions.

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

"Advisory Board" means the advisory board on respiratory therapy to the board.

"Board" means the Virginia State Board of Medicine.

"Certified respiratory therapy practitioner" means a person who has passed the certification examination for the entry level practice of respiratory therapy administered by the National Board of Respiratory Care, Inc., or other examination approved by the board, who has complied with such rules and regulations pertaining to certification as shall be prescribed by the board, and who has been issued a certificate by the board.

"NBRC" means the National Board for Respiratory Care, Inc.

"Referral and direction" means the referral of a patient by a licensed doctor of medicine, osteopathy, podiatry or dental surgery to a certified respiratory therapy practitioner for a specific purpose and for consequent treatment that will be performed under the direction of and in continuing communication with the referring doctor.

§ 1.2. A separate board regulation, VR 465-01-01, short title: Public Participation Guidelines, which provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine, is incorporated by reference in these regulations.

§ 1.3. Any violation of Chapter 29 of Title 54.1 shall be subject to the statutory sanctions as set forth in the Act.

### PART II. REQUIREMENTS FOR PRACTICE AS A CERTIFIED RESPIRATORY THERAPY PRACTITIONER.

#### § 2.1. Requirements, general.

A. No person shall practice as a certified respiratory therapy practitioner in the Commonwealth of Virginia except as provided in these regulations.

B. All services rendered by a certified respiratory therapy practitioner shall be performed only upon referral and direction of a doctor of medicine, osteopathy, podiatry or dental surgery licensed to practice in the Commonwealth of Virginia.

#### § 2.2. Certification.

An applicant for a certificate to practice as a certified respiratory therapy practitioner shall:

1. Submit to the board written evidence, verified by affidavit, that the applicant has passed the NBRC entry level examination for respiratory therapy, or its equivalent;

2. Make application on forms supplied by the board and completed in every detail; and

3. Pay at the time of filing the application, the application fee prescribed in § 4.1 of these regulations.

#### § 2.3. Renewal of certificate.

Every certified respiratory therapy practitioner intending to continue his certification shall biennially in each odd-numbered year in his birth month:

1. Register with the board for renewal of his certificate; and

2. Pay the prescribed renewal fee at the time he files



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for renewal.

## PART III. SCOPE OF PRACTICE.

### § 3.1. Individual responsibilities.

Practice as a certified respiratory therapy practitioner means, upon medical referral and direction, the evaluation, care and treatment of patients with deficiencies and abnormalities associated with the cardiopulmonary system. This practice shall include, but not be limited to, ventilatory assistance and support; the insertion of artificial airways without cutting tissue and the maintenance of such airways; the administration of medical gases exclusive of general anesthesia; topical administration of pharmacological agents to the respiratory tract; humidification; and administration of aerosols. The practice of respiratory therapy shall include such functions shared with other health professionals as cardiopulmonary resuscitation; bronchopulmonary hygiene; respiratory rehabilitation; specific testing techniques required to assist in diagnosis, therapy and research; and invasive and noninvasive cardiopulmonary monitoring.

## PART IV. FEES.

### § 4.1. Fees.

The following fees are required:

1. The application fee, payable at the time the application is filed, shall be \$100.
2. The biennial fee for renewal of registration shall be ~~\$50~~ \$30, payable in each odd-numbered year in the certificate holder's birth month.
3. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$10 for each renewal cycle.
4. Lapsed license. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904, which has expired for a period of two years or more, shall be \$100 and must be submitted with an application for licensure reinstatement.

## VR 465-05-1. Regulations Governing the Practice of Physician Assistants.

### 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:

"Assistant to a Doctor of Medicine, Osteopathy, or Podiatry," or "Physician's Assistant," means an individual who is qualified as an auxiliary paramedical person by academic and clinical training and is functioning in a dependent-employee relationship with a doctor of medicine, osteopathy, or podiatry licensed by the board.

"Board" means the Virginia Board of Medicine.

"Committee" means the Advisory Committee on Physician's Assistants appointed by the president of the board to advise the board on matters relating to physician's assistants. The committee is composed of four members of the board, one supervising physician, and two physician's assistants.

"Group practice" means the practice of a group of two or more doctors of medicine, osteopathy, or podiatry licensed by the board who practice as a partnership or professional corporation.

"Institution" means a hospital, nursing home or other health care facility, community health center, public health center, industrial medicine or corporation clinic, a medical service facility, student health center, or other setting approved by the board.

"NCCPA" means the National Commission on Certification of Physician Assistants.

"Protocol" means a set of directions developed by the supervising physician that defines the supervisory relationship between the physician assistant and the physician and the circumstances under which the physician will see and evaluate the patient.

"Supervision" means:

1. "Alternate supervising physician" means a member of the same group or professional corporation or partnership of any licensee, any hospital or any commercial enterprise with the supervising physician. Such alternating supervising physician shall be a physician licensed in the Commonwealth of Virginia who has registered with the board and who has accepted responsibility for the supervision of the service that a physician's assistant renders.
2. "Direct supervision" means the physician is in the room in which a procedure is being performed.
3. "General supervision" means the supervising physician is easily available and can be physically present within one hour.
4. "Personal supervision" means the supervising physician is within the facility in which the physician's assistant is functioning.
5. "Supervising physician" means the supervising physician who makes application to the board for

licensure of the assistant.

6. "Substitute supervising physician" means a doctor of medicine, osteopathy, or podiatry licensed in the Commonwealth of Virginia who has accepted responsibility for the supervision of the service that a physician's assistant renders in the absence of such assistant's supervising physician.

## § 1.2. Applicability.

These regulations apply to physician's assistants only, as defined in § 1.1.

§ 1.3. A separate board regulation, VR 465-01-01, entitled Public Participation Guidelines, which provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine, is incorporated by reference in these regulations.

## PART II.

### REQUIREMENTS FOR PRACTICE AS A PHYSICIAN'S ASSISTANT.

#### § 2.1. Requirements, general.

A. No person shall practice as a physician's assistant in the Commonwealth of Virginia except as provided in these regulations.

B. All services rendered by a physician's assistant shall be performed only under the supervision of a doctor of medicine, osteopathy, or podiatry licensed by this board to practice in the Commonwealth of Virginia.

#### § 2.2. Licensure: Entry requirements and application.

A. A license to practice as a physician's assistant shall be obtained from the board before such assistant begins to practice with a supervising doctor of medicine, osteopathy, or podiatry.

##### B. Entry requirements.

An applicant for licensure shall:

1. Possess the educational qualifications prescribed in § 2.3 of these regulations; and
2. Meet the requirements for examination prescribed in §§ 3.1 through 3.3 of these regulations.

C. Application for board approval of a physician's assistant shall be submitted to the board by the supervising physician under whom the assistant will work, and who will assume the responsibility for the assistant's performance. By submitting the application, the supervising physician attests to the general competence of the assistant. In a group or institutional practice setting, the supervising physician shall be the contact for the board regardless of whether the supervision has been delegated

to an alternate or substitute supervising physician.

#### D. The application shall:

1. Be made on forms supplied by the board and completed in every detail.

2. Spell out the roles and functions of the assistant with a protocol acceptable to the board and any such protocols shall take into account such factors as the number of patients, the types of illness treated by the physician, the nature of the treatment, special procedures, and the nature of the physician's availability in ensuring direct physician involvement at an early stage and regularly thereafter.

a. The board may require, at its discretion, in a supplement to the application, information regarding the level of supervision, "direct," "personal" or "general," with which the supervising physician plans to supervise the physician's assistant for selected tasks. The board may also require the supervising physician to document the assistant's competence in performing such tasks.

b. The supervising physician shall maintain records of all approved invasive procedures performed by the physician's assistant.

c. The supervising physician shall report to the board the number of invasive procedures performed by the physician's assistant and complications resulting from the procedures, on forms provided by the board.

d. Failure to maintain records of invasive procedures performed by the physician's assistant, or provide a report to the board, shall be considered unprofessional conduct.

3. Provide that if, for any reason, the assistant discontinues working in the employment and under the supervision of the licensed practitioner who submitted the application:

a. Such assistant and the employing practitioner shall so inform the board and the assistant's approval shall terminate.

b. A new application shall be submitted to the board and approved by the board in order for the assistant either to be reemployed by the same practitioner or to accept new employment with another supervising physician.

E. The application fee prescribed in § 5.1 of these regulations shall be paid at the time the application is filed.

#### § 2.3. Educational requirements.

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An applicant for licensure shall:

1. Have successfully completed a prescribed curriculum of academic study in a school or institution accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association and accredited by the American Academy of Physician Assistants; and
2. Present documented evidence of eligibility for the NCCPA examination or completed licensure requirements.

## PART III. EXAMINATION.

§ 3.1. The proficiency examination of the NCCPA constitutes the board examination required of all applicants for licensure.

§ 3.2. Provisional registration.

An applicant who has met the requirements of the board at the time his initial application is submitted may be granted provisional registration by the board if he meets the provisions of § 54.1-2950 of the Code of Virginia and § 2.3 of these regulations. Such provisional licensure shall be subject to the following conditions:

1. The provisional licensure shall be valid until the applicant takes the next subsequent NCCPA examination and its results are reported, but this period of validity shall not exceed 30 days following the reporting of the examination scores.
2. An applicant who fails the examination may be granted individual consideration by the board and granted an extension of the provisional licensure upon evidence that he is eligible for admission to the next scheduled board examination.

§ 3.3. Examination.

A. Every applicant shall take the NCCPA examination at the time scheduled by the NCCPA.

B. An applicant who fails the examination three consecutive times shall surrender his license to practice until proof has been provided to the board that the standards of NCCPA have been met.

§ 3.4. Renewal of license.

A. Every licensed physician's assistant intending to continue to practice shall biennially renew the license in each odd numbered year in the licensee's birth month:

1. Register with the board for renewal of his license;
2. Present documented evidence of compliance with continuing medical education standards established by

the NCCPA; and

3. Pay the renewal fee as prescribed in § 5.1 B at the time of filing the license renewal.

B. Any physician's assistant who allows his NCCPA certification to lapse shall be considered not licensed by the board. Any such assistant who proposes to resume his practice shall make a new application for licensure.

## PART IV. INDIVIDUAL RESPONSIBILITIES.

§ 4.1. Individual responsibilities.

A supervising physician and the physician's assistants working with him shall observe the following division of responsibilities in the care of patients:

A. The supervising physician shall:

1. See and evaluate any patient who presents the same complaint twice in a single episode of care and has failed to improve significantly. Such physician involvement shall occur not less frequently than every fourth visit for a continuing illness.
2. Review the record of services rendered the patient by the physician's assistant and sign such records within 24 hours after any such care was rendered by the assistant.
3. Be responsible for all invasive procedures. Under general supervision, a physician's assistant may insert a nasogastric tube, bladder catheter, needle, or peripheral intravenous catheter, but not a flow-directed catheter, and may perform minor suturing, venipuncture, and subcutaneous intramuscular or intravenous injection.

All other invasive procedures not listed above must be performed under direct supervision unless, after directly supervising the performance of a specific invasive procedure three times or more, the supervising physician attests to the competence of the physician's assistant to perform the specific procedure without direct supervision by certifying to the board in writing the number of times the specific procedure has been performed and that the physician's assistant is competent to perform the specific procedure. After such certification has been accepted and approved by the board, the physician's assistant may perform the procedure under general supervision.

B. The physician's assistant shall not render independent health care. Such assistant:

1. Shall perform only those medical care services that are within the scope of the practice and proficiency of the supervising physician as prescribed in the physician's assistants protocol. When a physician's

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assistant is to be supervised by an alternate supervising physician outside the scope of specialty of the supervising physician, then the physician's assistant's functions shall be limited to those areas not requiring specialized clinical judgment, unless a separate protocol for that alternate supervising physician is approved and on file with the board.

2. Shall not sign prescriptions.

3. Shall, during the course of performing his duties, wear identification showing clearly that he is a physician's assistant.

C. If the assistant is to perform duties away from the supervising physician, such supervising physician shall obtain board approval in advance for any such arrangement and shall establish written policies to protect the patient.

D. If, due to illness, vacation, or unexpected absence, the supervising physician is unable to supervise personally the activities of his assistant, such supervising physician may temporarily delegate the responsibility to another doctor of medicine, osteopathy, or podiatry. The employing supervising physician so delegating his responsibility shall report such arrangement for coverage, with the reason therefor, to the board office in writing, subject to the following provisions:

1. For planned absence, such notification shall be received at the board office at least one month prior to the supervising physician's absence;

2. For sudden illness or other unexpected absence, the board office shall be notified as promptly as possible, but in no event later than one week;

3. Temporary coverage may not exceed four weeks unless special permission is granted by the board.

E. With respect to assistants employed by institutions, the following additional regulations shall apply:

1. No assistant may render care to a patient unless the physician responsible for that patient has signed an application to act as supervising physician for that assistant. The board shall make available appropriate forms for physicians to join the application for an assistant employed by an institution.

2. Any such application as described in subdivision 1 above shall delineate the duties which said physician authorizes the assistant to perform.

3. The assistant shall as soon as circumstances may dictate but, within an hour, with an acute or significant finding or change in clinical status, report to the supervising physician concerning the examination of the patient. The assistant shall also record his findings in appropriate institutional records.

4. No physician assistant shall perform the initial evaluation, or institute treatment of a patient who presents to the emergency room or is admitted to the hospital for a life threatening illness or injury. In noncritical care areas, the physician assistant may perform the initial evaluation in an inpatient setting provided the supervising physician evaluates the patient within eight hours of the physician assistant's initial evaluation.

## PART V. FEES.

§ 5.1. The following fees are required:

A. The application fee, payable at the time application is filed, shall be \$100.

B. The biennial fee for renewal of license shall be \$80 \$65 payable in each odd numbered year in the birth month of the licensee.

C. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$10 for each renewal cycle.

## VR 465-08-1. Regulations for Certification of Occupational Therapists.

### 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:

"Advisory board" means the Advisory Board of Occupational Therapy.

"AOTA" means the American Occupational Therapy Association, Inc.

"AOTCB" means the American Occupational Therapy Certification Board, Inc., under which the national examination for certification is developed and implemented.

"AMA" means the American Medical Association.

"Board" means the Virginia Board of Medicine.

"Certification examination" means the national examination approved and prescribed by AOTCB for certification as an occupational therapist.

"Occupational therapist" means a person who is qualified by education and training to administer an occupational therapy program and who holds current and

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valid certification by the board.

“Occupational therapy personnel” means a person who provides occupational therapy services under the supervision of a certified occupational therapist.

“World Federation of Occupational Therapists” means the association of member nations outside of the United States, its possessions or territories whose academic and clinical fieldwork requirements are in accordance with the American Occupational Therapy Association Essentials of an accredited educational program for an occupational therapist.

§ 1.2. A separate regulation, VR 465-01-01, Public Participation Guidelines, which provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine, is incorporated by reference in these regulations.

## PART II. REQUIREMENTS OF CERTIFICATION AS AN OCCUPATIONAL THERAPIST.

### § 2.1. Requirements, general.

A. No person shall practice as an occupational therapist in the Commonwealth of Virginia except as provided in these regulations.

B. Certification by the board to practice as an occupational therapist shall be by examination as prescribed in these regulations.

### § 2.2. Educational requirements.

A. An applicant for certification who has received his professional education in the United States, its possessions or territories, must successfully complete all academic and fieldwork requirements of an AMA/AOTA accredited educational program as verified by the candidate’s program director.

B. An applicant who has received his professional education outside the United States, its possessions or territories, must successfully complete all academic and clinical fieldwork requirements of a program approved by a member association of the World Federation of Occupational Therapists as verified by the candidate’s occupational therapy program director and approved by the AOTCB.

C. An applicant who does not meet the educational requirements as prescribed in subsection B of this section but who holds certification by the AOTCB as an occupational therapist shall provide verification of his education, training and work experience acceptable to the board.

### § 2.3. Certification by examination.

A. An applicant for certification to practice as an occupational therapist must submit to the board a score report from the certification examination indicating a minimum passing score as established and verified by the AOTCB.

B. Persons who hold current and valid certification from the AOTCB may submit with their application to the board verification of that AOTCB Certification in lieu of the score report of the certification examination as required in § 2.3 A of these regulations.

C. An applicant must submit the application, credentials and prescribed fees as required by the board for certification.

D. An applicant who has graduated from a duly accredited educational program in occupational therapy shall be allowed to practice as an occupational therapist for one year from the date of graduation or until he has taken and received a passing grade of the certification examination, whichever occurs sooner.

E. An applicant who fails to successfully pass the examination within one year after graduation may practice occupational therapy under the supervision of a certified occupational therapist until successful completion of the certification examination and the filing of the required application, credentials, and fee.

F. An applicant who does not qualify by education for the AOTCB Certification Examination and who does not hold valid certification from the AOTCB but who is currently practicing occupational therapy may submit for review and recommendation of the advisory board and the approval by the board evidence of his education, training, and experience along with a request to take the certification examination for certification as an occupational therapist in Virginia. A person who does not take the certification examination may continue to practice occupational therapy under the supervision of an occupational therapist.

### § 2.4. Practice requirements.

An applicant who has met education and examination requirements but who has not practiced occupational therapy for a period of six years shall serve a board approved supervised practice of 160 hours which is to be completed in two consecutive months.

## PART III. RENEWAL OF CERTIFICATION: REINSTATEMENT.

### § 3.1. Biennial renewal of certification.

A. An occupational therapist shall renew his certification biennially during his birth month in each even numbered year by:

1. Paying to the board the renewal fee prescribed in §

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5.1 of these regulations; and

2. Indicating whether or not he has been professionally active during each biennial renewal cycle.

B. An occupational therapist whose certification has not been renewed by the first day of the month following the month in which renewal is required shall be dropped from the certification roll.

C. An additional fee to cover administrative costs for processing a late application shall be imposed by the board as prescribed in § 5.1.

## § 3.2. Reinstatement.

A. An occupational therapist who allows his certification to lapse for a period of two years or more and chooses to resume his practice shall make a new application to the board and payment of the fee for reinstatement of his certification as prescribed in § 5.1 B of these regulations.

B. An occupational therapist who has allowed his certification to lapse for six years or more, must serve a board approved, supervised practice of 160 hours to be completed in two consecutive months.

C. An occupational therapist whose certification has been revoked by the board and who wishes to be reinstated must make a new application to the board and payment of the fee for reinstatement of his certification as prescribed in § 5.1 F of these regulations.

## PART IV. PRACTICE OF OCCUPATIONAL THERAPY.

### § 4.1. General responsibilities.

An occupational therapist renders his services of assessment, program planning, and therapeutic treatment upon request for such service.

### § 4.2. Individual responsibilities.

A. An occupational therapist provides assessment by determining the need for, the appropriate areas of, and the estimated extent and time of treatment. His responsibilities include an initial screening of the patient to determine need for services and the collection, evaluation and interpretation of data necessary for treatment.

B. An occupational therapist provides program planning by identifying the goals and the methods necessary to achieve those goals for the patient. The therapist analyzes the tasks and activities of the program, documents the progress, and coordinates the plan with other health, community or educational services, the family and the patient. The services may include but are not limited to education and training in activities of daily living (ADL);

the design, fabrication, and application of orthoses (splints); guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; prevocational evaluation and training; and consultation concerning the adaptation of physical environments for the handicapped.

C. An occupational therapist provides the specific activities or therapeutic methods to improve or restore optimum functioning, to compensate for dysfunction, or to minimize disability of patients impaired by physical illness or injury, emotional, congenital or developmental disorders, or by the aging process.

### § 4.3. Supervisory responsibilities.

A. An occupational therapist shall be responsible for supervision of occupational therapy personnel who work under his direction.

B. The supervising occupational therapist shall meet with the occupational therapy personnel to review and evaluate treatment and progress of the individual patients at least once every fifth treatment session or 21 calendar days, whichever occurs first.

C. An occupational therapist shall not supervise more than six occupational therapy personnel.

D. An occupational therapist shall be responsible for any action of persons providing occupational therapy under his supervision.

## PART V. FEES.

§ 5.1. The following fees have been established by the board:

1. The initial fee for the occupational therapist certification shall be ~~\$150~~ \$100 .
2. The fee for reinstatement of the occupational therapist certification shall be \$150.
3. The fee for certification renewal shall be ~~\$85~~ \$70 and shall be due in the birth month of the certified therapist in each even numbered year.
4. The additional fee to cover administrative costs for processing a late application shall be \$25 for each renewal cycle.
5. The fee for a letter of good standing/verification to another state for a license or certification shall be \$10.
6. The fee for reinstatement of revoked certification shall be \$500.

VR 465-09-1. Certification of Optometrists to Prescribe

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for and Treat Certain Diseases, Including Abnormal Conditions of the Human Eye and Its Adnexa with Certain 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 cut, altered, or otherwise infiltrated by mechanical or other means. 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 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;
  - c. 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 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 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.
2. Superficial 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. Chlorotetracycline
6. Sodium Sulfacetamide - 10%
7. Sodium Sulfacetamide - 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

18. Neomycin

### § 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 intra-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.

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. 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



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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 one-part comprehensive examination in accordance with § 3.1 of these regulations.

## 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~~ \$250. 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~~ \$100.

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.

## VR 465-10-1. Certification for Radiological Technology Practitioners.

### PART I. GENERAL PROVISIONS.

#### § 1.1. Definitions.

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

"AMA" means the American Medical Association.

"ARRT" means the American Registry of Radiologic Technologists.

"ASRT" means the American Society of Radiologic Technologists.

"Board" means the Virginia Board of Medicine.

"CAHEA" means the Committee on Allied Health Education and Accreditation of the American Medical Association.

"Certification examination" means an examination administered by the American Registry of Radiologic Technologists or other examinations approved by the board.

"Certified Radiological Technology Practitioner (C.R.T.P.);" means a person who is qualified by education or training to perform radiologic procedures and has been issued a certificate by the board.

"Committee" means the Advisory Committee on Radiological Technology.

"Practitioner" means any licensed doctor of medicine, osteopathy, podiatry, chiropractic, or dentistry who prescribes radiologic procedures for diagnostic or therapeutic purposes.

"Referral and direction" means to provide patient services using diagnostic or therapeutic modalities prescribed by a licensed practitioner.

#### § 1.2. Violations.

Any violation of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 shall be subject to statutory sanctions as set forth in the Code of Virginia.

### PART II. REQUIREMENTS FOR PRACTICE AS A CERTIFIED RADIOLOGICAL TECHNOLOGY PRACTITIONER.

#### § 2.1. Requirements, general.

A. No person shall practice as a certified radiological

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technology practitioner in the Commonwealth of Virginia except as provided in these regulations.

B. Certification by the board to practice as a certified radiological technology practitioner shall be by examination as prescribed in these regulations.

## § 2.2. Certification.

A. An applicant for certification to practice as a certified radiological technology practitioner shall:

1. Make an application on forms supplied by the board by responding to all questions;
2. Pay, at the time of filing the application, an application fee prescribed in subdivision 1 of § 5.1 of these regulations;
3. Submit to the board written evidence from the American Registry of Radiologic Technologists, or other organizations approved by the board, that the applicant has passed an appropriate examination; and
4. Present such other documents as requested by the board concerning education, work experience, and employment history.

## PART III. RENEWAL OF CERTIFICATION; REINSTATEMENT.

### § 3.1. Biennial renewal of certification.

A. Each certified radiological technology practitioner shall renew his certification biennially on or before July 1 of each odd-numbered year by:

1. Paying to the board the renewal fee prescribed in subdivision 2 of § 5.1 of these regulations;
2. Submitting evidence of having a current certificate issued by the ARRT or other organizations approved by the board; and
3. Paying an additional fee to cover administrative costs for processing a late renewal application which shall be imposed by the board as prescribed in subdivision 3 of § 5.1.

### § 3.2. Reinstatement.

A. A C.R.T.P. who allows his certification to lapse for a period of two years or more and elects to reinstate his certification shall make a new application to the board and pay a fee as prescribed in subdivision 4 of § 5.1.

B. A C.R.T.P. whose certification has been revoked by the board and who requests to be reinstated must make a new application to the board and pay a fee for reinstatement of his certification as prescribed in subdivision 5 of § 5.1 and meet conditions set forth in §

54.1-2921 of the Code of Virginia.

## PART IV. PRACTICE OF THE CERTIFIED RADIOLOGICAL TECHNOLOGY PRACTITIONER (C.R.T.P.).

### § 4.1. General responsibilities.

A C.R.T.P. provides patient services using diagnostic or therapeutic modalities as referred and directed by a licensed practitioner as defined in Part I, § 1.1.

## PART V. FEES.

### § 5.1. Fees.

The following fees have been established by the board:

1. The application fee for the certified radiological technology practitioner shall be \$100.
2. The fee for biennial certification renewal shall be \$80 \$65 .
3. The fee for processing a late certification renewal shall be \$25 for each renewal cycle.
4. The fee for reinstatement of a lapsed certification as prescribed in § 3.2 shall be \$100.
5. The fee for reinstatement of a revoked certification shall be \$500.
6. The fee for a letter of good standing or verification to another state for certification shall be \$10.

V.A.R. Doc. No. R93-786; Filed June 29, 1993, 2:27 p.m.

## DEPARTMENT OF REHABILITATIVE SERVICES

Title of Regulation: VR 595-00-1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 51.5-14 of the Code of Virginia.

Effective Dates: July 1, 1993, through June 30, 1994.

Request: In accordance with VA Code § 9-6.14:4.1.C.5, the Commissioner of the Department of Rehabilitative Services, acting pursuant to VA Code § 51.5-14, finds that the amendments to its Public Participation Guidelines (VR 595-00-1) are necessitated by an emergency situation. The regulations are needed to comply with recent amendments to the Virginia Administrative Process Act which direct all state agencies to amend their Public Participation Guidelines as they relate to public comment mechanisms, the use of advisory councils in regulations development and amendment, and the right of individuals to petition an

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agency to initiate rulemaking. The Commissioner of the Department of Rehabilitative Services is requesting the Governor's approval of these emergency regulations.

/s/ Susan Urofsky  
Commissioner  
Date: June 23, 1993

## Concurrence:

/s/ Howard M. Cullum  
Secretary of Health and Human Resources  
Date: June 24, 1993

## Authorization:

/s/ Lawrence Douglas Wilder  
Governor of the Commonwealth  
Date: June 24, 1993

Filed with Registrar of Regulations

/s/ Joan W. Smith  
Date: June 29, 1993

## Preamble:

*The Department of Rehabilitative Services (DRS) is requesting approval to promulgate emergency regulations amending the Department's Public Participation Guidelines (VR 595-00-1). The Commissioner of the Department of Rehabilitative Services has the statutory authority, by § 51.5-14 of the Code of Virginia, to promulgate regulations.*

*The proposed emergency regulations are needed so that the agency can comply with the Virginia Administrative Process Act, amended during the 1993 session of the Virginia General Assembly by the passage of House Bill 1652, House Bill 1978, and Senate Bill 911. The amendments pertaining to rulemaking direct that state agencies revise their Public Participation Guidelines by July 1, 1993 to include (1) a provision pertaining to the right of an individual to petition the agency for rulemaking; (2) a provision for the agency to issue a Notice of Intended Regulatory Action (NOIRA) which describes the subject matter and intent of the planned regulation and provides for at least 30 days public comment after the proposed regulations are published and a statement as to whether a public hearing will be held; and (3) a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency as well as the circumstances under which the agency considers such panels or consultation appropriate and intends to make use of the panels and consultation.*

*The Department's current public participation guidelines do not include the provision relating to an*

*individual's right to petition the agency for rulemaking. The current regulations do not provide for a 30-day public comment period after publishing proposed regulations and do not state that the NOIRA will include a statement as to whether a public hearing will be held.*

*In order to achieve compliance with Virginia's Administrative Process Act, the proposed amendments to the agency's Public Participation Guidelines are needed.*

VR 595-00-1. Public Participation Guidelines.

## § 1. General information.

### A. Authority.

Chapter 1-1-1 of Title 9, Code of Virginia, deals with the promulgation of rules and regulations. Specifically, § 9-6.14:7-1 directs agencies of the Commonwealth to develop public participation guidelines for soliciting the input of interested parties in the formation and development of regulations. Chapter 3 of Title 51.5 of the Code of Virginia establishes the department and empowers it to make, adopt and promulgate regulations.

### B. § 1. Statement of Purpose.

These regulations are designed to provide consistent, written guidelines in order to ensure participation from interested parties at all stages of the regulatory process. The purpose of these regulations is to provide guidelines for the involvement of the public in the development and promulgation of regulations applying to the operation of and programs administered by the Department of Rehabilitative Services. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

### C. § 2. Administration.

The Commissioner of the Department of Rehabilitative Services has the responsibility for promulgating regulations pertaining to public participation in the regulatory process authority to promulgate regulations under § 51.5-14 of the Code of Virginia .

### D. § 3. Application of regulations.

These regulations have general application throughout the Commonwealth.

### § 4. Severability.

If any provision of these regulations or the application of them to any person or circumstances is held to be invalid, such invalidity shall not affect the application of any portion of the regulations which is held as valid. The provisions of these regulations and their various

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applications are declared to be severable.

## § 2. Identification of interested parties.

### A. Agency advisory list.

## § 5. Agency mailing list.

The department shall create and maintain current mailing lists of persons/agencies/organizations that are interested in advising and assisting in developing regulations or in making substantial changes to existing regulations. At the discretion of the department, these lists may be maintained on a program specific basis or be of a general interest group.

### § 5.1. Composition of the mailing list.

A. The Department shall maintain a list or lists of persons, agencies, and organizations who have requested to be notified of the formulation and promulgation of regulations or who have indicated to the Department that they are interested in advising and assisting the Department in developing or amending existing regulations. The Department may add to the list any person or entity whose participation would serve the purpose of improving the regulatory process.

B. No less than once each year, the Department shall publish in the Virginia Register and in agency-selected general circulation newspapers throughout Virginia, a notice requesting that any individual or organization interested in participating in the Department's development of specific rules and regulations notify the Department. Any persons or identities identified through this process will be added to the Department's mailing list.

C. The Department shall periodically request those on the mailing list to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned to the Department as undeliverable, individuals or organizations shall be deleted from the list. The Department may also delete any person or organization from the mailing list who fails to respond to an inquiry of continued interest in participating.

D. In addition to those individuals and entities who have requested placement on the Department's mailing list, the Department shall maintain on this list the Developmental Disabilities Planning Council, the Centers for Independent Living, the Board for People with Disabilities, the Department for the Rights of Virginians with Disabilities, as well as state and local human service agencies and other organizations known by the Department to be interested in disability-related issues.

### B. Updating of listing.

### § 5.2. Documents to be sent to individuals and entities on the mailing list.

Persons or entities on the mailing list described in § 5.1 shall be mailed the following documents relating to the promulgation of regulations.

### A. Notice of Intended Regulatory Action

### B. Notice of Comment Period

C. A copy of any final regulation adopted by the Department

D. A notice soliciting comment on a final regulation when the regulatory process has been extended.

No less than once each year the department shall publish in the Virginia Register and such newspapers of general circulation in Virginia localities as the department may decide, a notice requesting that any individual or organization interested in participating in the department's development of specific rules and regulations so notify the department. Any persons or organizations identified in this process will be incorporated in the initial list. The department may at any time remove from the list any person or organization that requests to be removed or fails to respond to an inquiry of continued interest in participating.

## § 6. Public participation procedures.

### § 6.1. Petition for rulemaking.

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the Department to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and if applicable, the organization interested in the petition.

2. The number and title of the regulation to be developed or amended.

3. A description of the regulatory problem or need to be addressed.

4. The petitioner's recommended addition, deletion, or amendment to the regulation.

C. The Department shall receive, consider, and respond to the petition within 180 days.

D. Nothing herein shall prohibit the Department from receiving information from the public and proceeding on its own motion of rulemaking.

## § 3. Notice of intent.

### § 6.2. Notice of Intended Regulatory Action.

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## Dissemination of notice of intent.

A. When the department deems it necessary to develop a regulation or ~~make substantial change to existing regulations~~ *substantially amend an existing regulation*, a Notice of Intent *Intended Regulatory Action* shall be published in the Virginia Register and ~~such in selected newspapers of general circulation in Virginia localities to be determined by the Department.~~ *as the department may decide.* This notice shall invite those interested in providing input to notify the agency of their interest. Various agencies and associations, such as the Developmental Disabilities Planning Council, Overall Advisory Council on Needs of Handicapped Persons, Handicaps Unlimited of Virginia and independent living centers, shall be notified and requested to advise their constituency through newsletters, etc. All human service agencies shall be notified. In addition to this notice, known interested parties shall be advised, through a special mailing, of the agency's desire to develop a regulation and shall be invited to assist the agency in developing the regulations or in providing information on how the regulations may affect the consumer.

B. The Notice of intent *Intended Regulatory Action* shall include the following :

1. Subject of the proposed regulation *Purpose of the proposed regulatory action* .
2. A brief statement of the need or problem the proposed action will address.
2. 3. Identification of the persons and entities that will be affected.
3. Discussion of the purpose of the proposed regulation and the issues involved.
4. Listing of applicable laws or regulations, and location where these documents can be reviewed or obtained.
5. Timetable for reaching a decision.
6. Name, address and telephone number of staff person to be contacted for further information.
4. A Department contact person and telephone number.

C. The Notice shall indicate whether the Department intends to hold a public hearing on the proposed regulation after it is published. If the Department does not intend to hold a public hearing, it shall state the reason in the Notice.

D. The Notice shall state that a public hearing will be scheduled, if during the 30 day pre-publication comment period, the Department receives requests for a public hearing from at least twenty-five persons.

## § 6.3. Notice of Comment Period.

A. The Notice shall indicate that copies of the proposed regulations are available from the Department and may be requested in writing or by telephone from the contact person specified in the Notice.

B. The Notice shall indicate that copies of the substance, issues, basis, purpose, applicable laws and regulations, and estimated impact of the regulations may also be requested from the Department.

C. The Notice shall provide for the submission by the public of oral or written comments, or both, as determined by the Department. These comments may address the impact of the proposed regulations on the regulated entity and the public and the cost of compliance with the proposed regulations.

## § 6.4. Public comment.

A. The Department's summary description of public comment shall be sent by the Department to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

B. If one or more changes of substantial impact are made to a proposed regulation from the time it is published as a proposed regulation to the time it is published as a final regulation, any person may petition the agency within thirty days from the publication of the final regulation to request an opportunity for oral and written submissions on the changes to the regulation. If the agency receives requests from at least twenty-five persons for an opportunity to submit comments on the changes to the regulation, the Department shall suspend the regulatory process to solicit additional public comment, unless the Department determines that the changes made to the regulation are minor or inconsequential in their impact.

## § 7. Advisory and ad hoc committees.

### § 4. Solicitation of input from interested parties.

#### A. Formation of core committees.

##### § 7.1. Appointment of committees.

A. The Department may appoint one or more ad hoc advisory committees whose responsibility it shall be to assist in the review and development of regulations for the Department. The membership of the committee may be ~~Whenever necessary,~~ as determined by the nature and scope of the regulations, ~~the department shall establish a core committee to~~ and shall include selected individuals who responded to the Notice of intent, *Intended Regulatory Action* or to any special notice contained in a newsletter or special departmental mailing.

B. The Department may appoint an ad hoc advisory

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committee to provide professional advice or technical assistance in a specialized area when the Department determines that such expertise is necessary to address a specific regulatory issue. This committee shall be oriented to the department and program issues, constraints, entities to be affected, program options and time limitations. The recommendations made by any ad hoc committee appointed by the Department to discuss possible regulatory action shall be fully considered by the Department when drafting final regulations. The committee shall discuss the issues and make recommendations which shall be considered in drafting regulations. Once the regulations have been developed, the committee shall review them and continue to participate during the promulgation process as directed by the Administrative Process Act.

## § 7.2. Limitation of service.

A. An advisory or ad hoc committee which has been appointed by the Department may be dissolved by the Department when:

1. There is no response to the Notice of Intended Regulatory Action, or
2. The Department determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act (§ 9-6.14:4.1) of the Code of Virginia.

B. An advisory committee shall remain in existence no longer than 12 months from its initial appointment.

1. If the Department determines that the specific regulatory need continues to exist beyond that time, it shall set a specific term for the committee of not more than six additional months.
2. At the end of the extended term, the Department shall evaluate the continued need for the committee and may continue the committee for additional six-month terms.

B. The department shall develop an orientation/training plan to be used with members of the core committee which shall include:

1. The responsibility and authority of the department, and
2. The method of promulgating regulations.

C. Other input.

Respondents to the notice of intent who indicate a desire to participate with respect to a particular regulation's development or modification shall be provided a copy of any draft materials pertaining to that regulation prepared for review by the department's designated staff and core committee during the predevelopment process. They shall be invited to forward written comments within

fourteen calendar days of that material's dissemination.

## § 5. Administrative Process Act procedures.

After proposed regulations have been developed by the department according to these guidelines, they will be submitted for public comment under § 9-6.14 of the Code of Virginia and promulgated finally under this section of the Code.

## § 8. Compliance with the Administrative Process Act.

Any regulations promulgated by the Department shall be in compliance with Administrative Process Act Procedures, including any procedures and mandates not specifically addressed in these Public Participation Guidelines.

VAR. Doc. No. R93-659; Filed June 29, 1993, 4:02 p.m.

## DEPARTMENT OF TAXATION

Title of Regulation: VR 630-0-1. Guidelines for Public Participation in Regulation Development and Promulgation.

Statutory Authority: §§ 9-6.14:7.1 and 58.1-203 of the Code of Virginia.

Effective Dates: June 30, 1993 through June 29, 1993.

### Summary:

The 1984 amendments to the Administrative Process Act (APA) required each agency promulgating regulations to adopt Public Participation Guidelines for obtaining comments from interested parties when developing, revising, or repealing regulations. These procedures were required before initial action on any regulation, and during the entire promulgation process.

Chapter 898 of the 1993 Acts of the Assembly further amends the APA effective July 1, 1993 by adding additional provisions to be included in agency Public Participation Guidelines.

This emergency regulation will supersede the department's existing Guidelines for Public Participation in Regulation Development and Promulgation, which initially took effect on January 1, 1985. The emergency regulation will take effect on June 30, 1993 and remain in effect for one year or until superseded by a permanent regulation adopted under the APA.

### Preamble:

This emergency regulation is necessary to implement the changes to the APA enacted by the 1993 General Assembly which will take effect on July 1, 1993.

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*An emergency exists in that the department must ensure that its regulations adopted after July 1, 1993 conform fully to the APA changes that will take effect on that date.*

*The department's existing regulation on this subject already conforms in virtually all respects to the 1993 changes in the APA. In addition, the department's current administrative practices conform closely to the 1993 changes, e.g., ad hoc working groups have been utilized by the department for several years. This emergency regulation sets out such administrative practices which are not explicitly stated in the current regulation, and reflects law changes that will take effect on July 1, 1993.*

VR 630-0-1. Guidelines for Public Participation in Regulation Development and Promulgation.

## § 1. Generally.

*These guidelines shall govern the development or revision of all regulations not exempt from the provisions of the Administrative Process Act ("APA"), Chapter 1.1:1 (§ 9-6.14:1, et seq.) of Title 9 of the Code of Virginia*

In developing any regulation which it proposes, the Department of Taxation ("department") is committed to soliciting the maximum level of input and comment from interested taxpayers, professional associations, and industry associations. Such input and participation shall be actively solicited by the department.

*The department will generally promulgate new regulations or revise existing regulations as a result of federal or state law changes, regulatory changes by other federal or state agencies, changes or clarifications in department policy, or upon petition by an individual or group. Petitions requesting revision or development of a regulation will be responded to by the department within 180 days from the date of the petition.*

Any person who is interested in participating in the regulation development process generally or in specific regulation development efforts, or who wishes to petition for the development or revision of a regulation or regulations, should immediately notify the department in writing. Such notification of interest should be sent to Director, Tax Policy Division, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282 Assistant Commissioner, Office of Tax Policy, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880.

## § 2. Identification of interested parties.

Prior to the development of any regulation, the department shall identify persons and/or groups whom it feels would be interested in or affected by the proposal. The methods for identifying interested parties shall include, but not be limited to, the following:

1. Obtain annually from the Secretary of the Commonwealth a list of all persons, taxpayer groups, associations and others who have registered as lobbyists for the annual General Assembly session. This list will be used to identify interest groups which may be interested in the subject matter of the proposed regulation.

2. Utilize the statewide listing of business, professional, civic and charitable associations and societies in Virginia published by the State Chamber of Commerce to identify additional industry and professional associations which might be interested in the regulation.

3. Utilize department subject matter files to identify persons who have previously raised questions or expressed an interest in the subject matter under consideration through requests for formal rulings or administrative appeals.

4. Utilize a standing list, compiled by the department, of persons who have previously participated in public proceedings relative to similar subject matters or who have expressed an interest in all tax regulations.

5. Utilize a standing list, compiled by the department, of attorneys, certified public accountants, and corporate tax personnel who practice primarily in the field of state and local taxation.

6. Utilize persons who petition for the development or revision of a regulation pursuant to § 1 of this regulation.

## § 3. Notification of interested parties.

### A. Generally.

The department shall prepare a Notice of Intent to Develop Regulation Intended Regulatory Action ("Notice") prior to the development of any regulation. The notice shall identify the subject matter and purpose intent for the development of the new of the planned regulation(s) and shall specify a time deadline of at least thirty (30) days for receipt of responses from persons interested in participating in the development process. The Notice shall also state whether the department intends to conduct a public hearing on the regulation after its publication (see § 4 B).

The department may elect to begin development of a Working Draft of the regulation (see § 4 A 2) during the period of time covered by the Notice. Also, the department may choose to develop a Working Draft prior to this time and disseminate the draft to interested persons along with the Notice.

### B. Dissemination of notice.

The methods for disseminating the notice to the public

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shall include, but not be limited to, the following:

1. Send notice to all persons identified (pursuant to subsection B § 2 above ) as having a potential interest in the regulation;
2. Publish notice in the Virginia Register of Regulations; and
3. Request that industry, professional and taxpayer associations to whom the notice is sent publish such notice in newsletters or journals or use any other means available to them to disseminate the notice to their membership.

## § 4. Public participation.

### A. Regulation development.

1. Initial comment. After interested parties have responded to the notice, the department will analyze the level of interest. If sufficient interest exists, or absent a substantial expression of interest if the department feels such action is warranted, the department may schedule informal meetings may be scheduled prior to the development of any regulation to determine the specific areas of interest and/or concern and to gather factual information relative to the subject matter of the regulation. Alternatively, the department may elect to request that persons who have responded to the notice make written submittals of comments, concerns and suggestions relative to the proposed regulation.

*The department, in its discretion, may establish an ad hoc working group to assist in the regulation development process. The department will establish an ad hoc working group upon the request of twenty-five (25) or more persons or by an industry, professional or similar group (whether organized formally or informally) affected by the regulation, and will generally do so when the subject matter of the regulation is of an esoteric nature.*

*The activities of an ad hoc working group typically will include reviewing drafts and providing feedback, furnishing information on and facilitating the department's understanding of a business or industry including site visits to plants or other facilities, formulating alternative approaches within applicable statutory and case law, and providing any other assistance that will facilitate the adoption of a comprehensive and technically accurate regulation.*

2. Preparation of working draft. Subsequent to the initial public input on the development of any regulation, the department shall develop a working draft of the proposed regulation. In certain instances where the technical nature of the subject matter merits, the department may request that industry or professional groups or ad hoc working groups formed

*under subsection A 1 develop a working draft. A copy of this draft Copies of the Working Draft will be furnished to all persons who responded to the notice indicating an interest in the regulation and to those persons participating in the initial comment phase of the development process. Persons to whom a copy of the working draft is furnished will be invited to submit written comments on the draft. The communication providing the Working Draft to interested persons shall specify the deadline for comments. A minimum of fourteen (14) days will generally be allowed by the department for comments and where possible a longer period of time will be provided for this purpose. If the response warrants, or upon request by interested parties or a working group, additional informal meetings may be held to discuss the working draft.*

### B. Submission of regulation pursuant to the under Administrative Process Act.

*Upon conclusion of the development process consideration of comments received in connection with the Working Draft , the department shall prepare the a proposed regulation for submission to under the Administrative Process Act ("APA") APA . After submission of the proposed regulation to the Registrar of Regulations pursuant to the APA, the regulation will be published in the Virginia Register of Regulations. The department shall furnish to all persons identified as having a potential interest in the subject matter, a copy of the regulation as submitted pursuant to under the APA together with a copy of the General Public Notice of Informational Proceeding any other material that may be helpful in better understanding the regulation . A cover letter accompanying these documents shall explain the deadlines for submitting formal public comments pursuant to under the APA. A minimum of sixty (60) days shall be provided for the submission of oral comments (generally via a public hearing) and/or written comments after the proposed regulation is published in the Virginia Register of Regulations.*

*Except in the case of nonsubstantive changes, the department will generally conduct a public hearing on proposed regulations. If a nonsubstantive regulation is being promulgated and comment will be restricted to written submittals, the date and place to which submittals must be made shall be clearly specified. In cases when the department states in the Notice of Intended Regulatory Action that it does not intend to hold a public hearing, no such hearing is required unless the Governor requests the department to do so or the department receives requests for a hearing from twenty-five (25) or more persons. Where a public proceeding hearing is to be held, the time, date, and place shall be clearly specified in the department's communications with interested parties . Additionally, the date by which persons intending to participate in the public proceeding should notify the department of their interest shall be noted. Additionally, notice of the public hearing will be publicized in*



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accordance with the APA, including publication in the *Richmond Times-Dispatch* or another newspaper of general circulation in the State Capital and publication in the *Virginia Register of Regulations*. When a public hearing will be held, persons who will participate will be encouraged to submit written copies of their comments in advance or at the public proceeding hearing in order to insure that all comments are accurately reflected in the formal transcript of the proceeding.

## C. Adoption period.

Upon responding to all public comments on the proposed regulation and making any changes it deems necessary based upon such comments, the department may adopt the regulation.

The final regulation will also be published in the *Virginia Register of Regulations*. Generally, the final regulation will become effective thirty (30) days after its publication in the *Virginia Register of Regulations*.

However, when one or more changes of substantial impact have been made between the proposed and final regulation, a person may petition the department to request an opportunity to submit additional comments on the change(s). In any case in which twenty-five (25) or more such requests are received, the department will suspend the adoption of the regulation for thirty (30) days to allow for additional public comment, except when the department determines that the change(s) in question are minor or inconsequential in their impact.

Similarly, the Governor has the discretion to suspend the regulatory process for thirty (30) days to enable the department to seek additional public comment on any substantial change(s) made between the proposed and final regulations.

Upon issuing an order Five (5) days prior to adopting a regulation, the department, at its discretion, may will send a copy of the final regulation as adopted together with a summary of public comments and its response to comments made during the public proceeding or written submittal period, to participants responses to all commentators and interested parties.

## D. Publication of final regulation.

When any regulation is published, the department shall print and distribute such regulation. The distribution of any regulation shall be made with a goal of increasing voluntary tax compliance.

I certify that this regulation is full, true, and correctly dated, and IT IS SO ORDERED BY:

/s/ W. M. Forst, Tax Commissioner  
Department of Taxation  
Date: June 28, 1993

## APPROVED BY:

/s/ Paul W. Timmreck  
Secretary of Finance

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 24, 1993

## FILED WITH:

Joan W. Smith  
Registrar of Regulations  
Date: June 29, 1993

VA.R. Doc. No. R93-631; Filed June 29, 1993, 2:31 p.m.

## VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: VR 672-01-1:1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-44.15(7) of the Code of Virginia.

Effective Dates: June 30, 1993, through June 29, 1994.

## Preamble:

VR 672-01-1:1 establishes amended Public Participation Guidelines (PPGs) for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations. Legislation enacted by the General Assembly which goes into effect on July 1, 1993, imposes new requirements on agencies of state government for processing rulemakings under the Administrative Process Act (Act).

One of the new requirements of the amended Act mandates that the Virginia Waste Management Board (Board) include as part of its PPGs a general policy for the use of standing or ad hoc advisory groups and consultation with groups and individuals registering interest in working with the Board. Such policy shall address the circumstances in which the Board considers such groups or consultation appropriate and intends to make use of such panels or consultation.

The legislation further requires the Board to set out in its PPGs any methods for the identification and notification of interested persons, and any specific means of seeking input from interested persons or groups which the Board intends to use in addition to the Notice of Intended Regulatory Action.

Beginning on July 1, 1993, the new legislation will require PPGs to contain such provisions. Because PPGs must be in compliance with the Act before the Board can initiate any regulatory actions, it is

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important that PPGs that will satisfy the new requirements of the Act be in place and ready for use before July 1, 1993. In addition, because the provisions of the PPGs are a declaration of the means by which the public is involved in Board regulation making, the Board has, on a limited basis, amended language of the PPGs to accommodate soon-to-take-effect requirements of the Act. For example, the PPGs have been amended to allow the Board to, at its discretion, begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit input.

## Nature of Emergency:

The Board proposes to adopt emergency PPGs in order to ensure the Board's ability to process necessary regulatory actions after July 1, 1993. The Board is responsible for the administration of several programs, both state and federal, whose purpose is to protect and enhance the quality of the Commonwealth's health and environment. Among these are the hazardous waste management, solid waste management, hazardous materials transportation, regulated medical waste, financial assurance, waste tires, and vegetative waste. Without PPGs which satisfy the new requirements of the Act, the Board will be unable to process any regulatory actions until such time as permanent PPGs can be adopted. Under the Act, it could take as long as a year to adopt permanent PPGs which would result in necessary regulatory actions taking as much as 2 years to complete.

## Necessity for Action:

The adoption of emergency PPGs is critical to continued operation of many of the programs of the Board. For example, legislation passed by the 1993 Session of the General Assembly amended various provisions of the regulated medical waste program which will require amending the regulations before permits can be issued to incinerators. Without emergency PPGs, the Board would be unable to incorporate and implement the amended provisions for approximately 2 years. Since these amendments benefit entities regulated by this program, failure to proceed as soon as possible would impose unnecessary hardship on the regulated community.

Failure to adopt emergency PPGs would also jeopardize the Board's ability to complete new rulemaking procedures for the adoption of financial assurance regulations for solid waste in time to allow facilities to remain in compliance with requirements of the Resource Conservation Act and federal regulations. Adoption of these regulations would ease the administrative burden on local governments in complying with financial assurance requirements for solid waste management facilities.

## Summary:

This regulation will establish PPGs which will allow the Board to initiate after July 1, 1993 regulatory action processes to adopt, amend or repeal necessary regulations, in conformance with the amended Act.

This emergency regulation will be enforced under applicable statutes and remain in full force and effect for one year from the effective date, unless sooner modified or vacated or superseded by permanent regulations adopted pursuant to the Act and this emergency regulation.

The Board will receive, consider, and respond to petitions by any interested persons at any time for the reconsideration or revision of this regulation.

It is so ordered.

BY:

/s/ Richard N. Burton  
Director  
Department of Environmental Quality  
Date: June 25, 1993

APPROVED BY:

/s/ Elizabeth H. Haskell  
Secretary of Natural Resources  
Date: June 17, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder  
Governor of the Commonwealth  
Date: June 23, 1993

FILED WITH:

/s/ Ann M. Brown  
Deputy Registrar of Regulations  
Date: June 30, 1993

VR 672-01-1:1. Public Participation Guidelines.

§ 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the Virginia Department of Waste Management Environmental Quality.

"Approving authority" means the Virginia Waste Management Board.

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"Director" means the director of the Department of Waste Management Environmental Quality or his designee.

"Environmental Protection Law" means the provisions found in the Code of Virginia authorizing the approving authority or agency, or both, to make regulations or decide cases or containing procedural requirements thereof, including but not limited to Chapter 14 of Title 10.1.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

B. Unless specifically defined in the Environmental Protection Law or in this regulation, terms used shall have the meanings commonly ascribed to them.

## § 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C)

~~B. At the discretion of the approving authority or the agency, the procedures in § 3 may be supplemented to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.~~

~~C. B. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.~~

~~D. C. Any person may petition the approving authority for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:~~

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The approving authority shall provide a written response to such petition within 180 days from the date the petition was received.

## § 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the approving authority so directs or upon its own initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency director shall form an ad hoc advisory group or utilize a standing advisory committee, or consult with groups and individuals registering interest in working with the agency to assist in the drafting and formation of the proposal unless the approving authority specifically authorizes the agency to proceed without utilizing an ad hoc advisory group or standing advisory committee, when:

1.
  - a. The director, in the director's sole discretion, determines to form an ad hoc advisory group, utilize a standing advisory committee or consult with groups and individuals registering interest in working with the agency; or
  - b. The agency receives written comments from at least 25 persons during the comment period of the notice of intended regulatory action (NOIRA) requesting the director to form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups and individuals; and
2. The subject matter of the NOIRA has not previously been the subject of a NOIRA published in the Register of Regulations by the agency.

When an ad hoc advisory group is formed, such ad hoc advisory group shall include representatives of the regulated community and the general public.

~~D. The agency shall issue a notice of intended regulatory action (NOIRA) NOIRA whenever it considers the adoption, amendment or repeal of any regulation.~~

1. The NOIRA shall include, at least, the following:
  - a. A brief statement as to the need for regulatory action.
  - b. A brief description of alternatives available, if any, to meet the need.
  - c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any

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proposed regulation developed pursuant to the NOIRA.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

e. *A statement of the agency's intent to hold at least one informational proceeding or public hearing on the proposed regulation after it published.*

f. *A statement inviting comment on whether the agency should establish an ad hoc advisory committee, utilize a standing advisory committee, or consult with groups registering interest in working with the agency to assist in the drafting and formation of the proposal unless the director determines under § 3.C.1 to form an ad hoc advisory group, utilize a standing advisory committee or consult with groups and individuals.*

2. The agency shall hold at least one public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the approving authority specifically authorizes the agency to proceed without holding a public meeting or the director determines the agency can proceed without holding a public meeting in the case where the NOIRA has previously been the subject of a NOIRA published by the agency in the Register of Regulations .

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication in the Virginia Register.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may ~~prepare~~ complete the draft proposed regulation and any supporting documentation required for review. If an ad hoc advisory group has been established, *a standing advisory committee utilized, or groups and individuals consulted* the draft regulation shall be developed in consultation with ~~such group~~ *the selected advisor* . A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group , *standing advisory committee or groups and individuals* during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the

approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency shall publish a Notice of Public Comment (NOPC) and the proposal for public comment.

H. The NOPC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. *The identity of any locality particularly affected by the proposed regulation. For purposes of these guidelines the term "locality particularly affected" means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

4. 5. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: ~~why the regulation is proposed and the desired end result or objective of the regulation;~~ *the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety or welfare.*

b. A statement of estimated impact:

(1) ~~Number~~ *Projected number* and types of regulated entities or persons affected.

(2) Projected cost , *expressed as a dollar figure or range*, to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

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c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement as to whether the agency believes that the proposed regulation is the least burdensome alternative to the regulated community that fully meets the stated purpose of the proposed regulation.

f. A schedule setting forth when, after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. 6. The date, time and place of at least one ~~public hearing~~ *informational proceeding* held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. ( In those cases where the agency elects to conduct an evidential hearing, the notice shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Code of Virginia. ) The ~~hearing(s)~~ *informational proceeding(s)* may be held at any time during the public comment period and, whenever practicable, no less than 10 days prior to the close of the public comment period. The ~~hearing(s)~~ *informational proceeding(s)* may be held in such location(s) as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the lists established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and the agency's response to the comments received. *The agency shall send a draft of the summary comments to all public commenters on the proposed regulation at least five days*

*before final adoption of the regulation.* The agency shall submit the summary and agency response and, if requested, submit the full comments to the approving authority. The summary, the agency response and the comments shall become a part of the agency file and after final action on the regulation by the approving authority, made available, upon request, to interested persons .

L. If the agency determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the approving authority, the agency shall present to the approving authority for their consideration a recommendation and rationale for withdrawal of the proposed regulation.

M. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

## § 4. Transition.

~~A. All regulatory actions for which a NOIRA has been published in the Virginia Register prior to January 27, 1993, shall be processed in accordance with the VR 672-01-1, Public Participation Guidelines.~~

~~B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to January 27, 1993, shall be processed in accordance with this regulation (VR 672-01-1:1).~~

*The amending provisions contained in this emergency regulation shall apply only to regulatory actions for which a NOIRA is filed with the Registrar of Regulations at or after the time these guidelines take effect.*

V.A.R. Doc. No. R93-640, Filed June 30, 1993, 8:44 a.m.

# STATE CORPORATION COMMISSION

..... AT RICHMOND, AUGUST 23, 1993

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

..... CASE NO. PUE930054

Ex Parte: In re: Investigation of the rules governing electric cooperative rate cases and rate regulation of electric cooperatives

## ORDER INITIATING INVESTIGATION

On March 1, 1983, and on April 11, 1985, the State Corporation Commission ("Commission") adopted rules governing rate filings for jurisdictional electric distribution cooperatives ("cooperatives"). See Commonwealth of Virginia, At the relation of the State Corporation Commission, Ex Parte: In the matter of adopting rules for expedited rate increases for electric cooperatives, Case No. PUE820087, Final Order, 1983 S.C.C. Ann. Rept. 403. See also Commonwealth of Virginia, At the relation of the State Corporation Commission, Ex Parte: In the matter of amending rules for expedited rate increases for electric cooperatives and requiring cooperatives to file certain schedules for general rate cases, Case No. PUE840052, Order Adopting Amendments to Rules and Requiring Cooperatives to File Certain Schedules for Rate Cases, 1985 S.C.C. Ann. Rept. 430. Our experience under these rules, as revised, demonstrates that there is some confusion among rate case participants as to how financial viability of electric cooperatives should be measured and how just and reasonable rates for these utilities should be established in general and expedited rate proceedings. In addition, we have observed that cooperative rate applicants and proceeding participants have experienced difficulty in defining which issues should be addressed only in general rate proceedings and which may be raised in an expedited proceeding. Often the applicant and participants are uncertain how to proceed when an issue, arguably improper in an expedited case, is discovered after the rates are implemented and the time to request a hearing has passed. Further, Staff has advised that various terms used in the current rules, e.g. "jurisdictional" customers, need clarification, and that additional data, e.g., cost of service studies, should be included as part of rate applications to expedite Staff's evaluation of these applications.

On the other hand, we recognize that rate proceedings involve a commitment of resources on the part of electric cooperatives. This commitment is complicated by the fact that a cooperative's customers are also its member-owners. Thus, the time and expense devoted to a rate hearing affect the cooperative's customers not only through the rates they pay as ratepayers, but also through the margins available to be returned to them as owner-members.

Finally, Staff has advised us that various cooperative

representatives have made informal inquiries to explore alternative regulatory procedures and rules for cooperative rate regulation. Consequently, we believe it is appropriate to docket this investigation to consider generally whether the procedures currently followed in cooperative rate proceedings should be streamlined and, specifically, whether the current rules governing rate filings should be further revised.

As a first phase in conducting this investigation, we will direct our Staff to investigate the current procedures and rules governing cooperative rate proceedings and consider whether their revision is appropriate. Data requests, surveys, and informal meetings with cooperatives and customer groups should be a part of its research. We encourage the meaningful input of interested persons in our investigation of the appropriate policy to govern cooperative rate regulation. We anticipate that there are many cooperatives and customers who will serve as rich informational resources to us during this investigation.

We shall also direct our Staff to summarize its investigatory procedures, findings, and recommendations in a report to be filed with the Commission on or before December 30, 1993. We anticipate that Staff's report will serve as a basis of proposed rules and policies which will be the subject of public notice, comment, and opportunity for hearing in the second phase of this proceeding. Accordingly,

## IT IS ORDERED:

- (1) That this matter shall be docketed and assigned Case No. PUE930054;
- (2) That the Staff is directed to conduct a general investigation regarding the issues described herein and shall file a report on or before December 30, 1993, with the Commission which describes Staff's investigatory procedures, findings, recommendations, and any proposed rules which it believes should be considered by the Commission;
- (3) That all Virginia cooperatives shall respond fully and promptly to Staff's request for data regarding the issues raised herein; and
- (4) That other interested persons be given an opportunity to submit data and information pertinent to the Staff's inquiry.

AN ATTESTED COPY hereof shall be sent to: each electric cooperative subject to the jurisdiction of this Commission, as set forth in Appendix A hereto; Charles C. Jones, Jr., Executive Vice President, The Virginia, Maryland & Delaware Association of Electric Cooperatives, P.O. Box 2340, Glen Allen, Virginia 23058-2340; James B. Huff, Administrator, Rural Electrification Administration, U.S. Dept. of Agriculture, 14th & Independence Avenue, S.W., Washington, D.C. 20250; John Edwards, President and Chief Executive Officer, Old Dominion Electric

# State Corporation Commission

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Cooperative, P.O. Box 2310, Glen Allen, Virginia 23058-2310; Nathan H. Miller, Esquire, and Michael L. Hern, Esquire, Miller & Hern, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; the Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; Jean Ann Fox, President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693; Linda A. Wilson, President, Rural Virginia, Inc., P.O. Box 105, Richmond, Virginia 23201; Richard D. Cagan, Registered Agent for Rural Virginia, Inc., P.O. Box 9081, Petersburg, Virginia 23906; Edward L. Flippen, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208; James C. Dimitri, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Divisions of Public Utility Accounting, Energy Regulation, and Economics and Finance.

..... APPENDIX A

Electric Cooperatives in Virginia

A&N Electric Cooperative  
Mr. Vernon N. Brinkley  
Executive Vice President  
P.O. Box 1128  
Parksley, Virginia 23421

B-A-R-C Electric Cooperative  
Mr. Hugh M. Landes  
General Manager  
P.O. Box 264  
Millboro, Virginia 24460-0264

Central Virginia Electric Cooperative  
Mr. Howard L. Scarboro  
General Manager  
P.O. Box 247  
Lovingson, Virginia 22949

Community Electric Cooperative  
Mr. J. M. Reynolds  
General Manager  
Post Office Box 267  
Windsor, Virginia 23487

Craig-Botetourt Electric Cooperative  
Mr. Gerald H. Groseclose  
General Manager  
Post Office Box 265  
New Castle, VA 24127

Mecklenberg Electric Cooperative  
Mr. John Bowman  
General Manager  
Caller 2451  
Chase City, Virginia 23924-2451

Northern Neck Electric Cooperative  
Mr. Charles R. Rice, Jr.

General Manager  
Post Office Box 288  
Warsaw, Virginia 22572-0288

Northern Virginia Electric Cooperative  
Mr. Stanley C. Feuerberg  
General Manager  
Post Office Box 2710  
Manassas, VA 22110

Powell Valley Electric Cooperative  
Mr. Randell W. Meyers  
General Manager  
Post Office Box 308  
Church Street  
Jonesville, VA 24263

Prince George Electric Cooperative  
Mr. Gene G. Carr  
General Manager  
Post Office Box 168  
Waverly, VA 23890

Rappahannock Electric Cooperative  
Mr. Cecil E. Viverette, Jr.  
President  
Post Office Box 7388  
Fredericksburg, VA 22404-7388

Shenandoah Valley Electric Cooperative  
Mr. C. D. Wine  
Executive Vice President  
Post Office Box 236  
Route 257  
Mt. Crawford, VA 22841-0236

Southside Electric Cooperative  
Mr. John C. Anderson  
Executive Vice President  
Post Office Box 7  
Crewe, VA 23930

V.A.R. Doc. No. R93-779; Filed August 27, 1993, 12:21 p.m.

# STATE LOTTERY DEPARTMENT

## DIRECTOR'S ORDER NUMBER TWENTY-THREE (93)

VIRGINIA'S THIRTY-SIXTH INSTANT GAME LOTTERY;  
"INSTANT MONOPOLY GAME," FINAL RULES FOR  
GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's thirty-sixth instant game lottery, "Instant MONOPOLY Game." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson  
Director  
Date: August 20, 1993

V.A.R. Doc. No. R93-789; Filed September 1, 1993, 10:31 a.m.

## DIRECTOR'S ORDER NUMBER TWENTY-FOUR (93)

"INSTANT MONOPOLY GAME"; PROMOTIONAL GAME  
AND DRAWING RULES

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Instant MONOPOLY Game" promotional game and drawing rules for the Instant Game 36 kickoff events which will be conducted at various lottery retailer locations throughout the Commonwealth on Thursday, August 26, 1993. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until August 31, 1993, unless otherwise extended by the Director.

/s/ Kenneth W. Thorson

Director  
Date: August 20, 1993

V.A.R. Doc. No. R93-790; Filed September 1, 1993, 9:08 a.m.

## DIRECTOR'S ORDER NUMBER TWENTY-FIVE (93)

VIRGINIA'S TWENTY-SECOND INSTANT GAME  
LOTTERY, "WILD CARD"; END OF GAME.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby give notice that Virginia's twenty-second instant game lottery, "Wild Card," will officially end at midnight on Thursday, September 23, 1993. The last day for lottery retailers to return for credit unsold tickets from "Wild Card" will be Thursday, October 14, 1993. The last day to redeem winning tickets for "Wild Card" will be Tuesday, March 22, 1994, 180 days from the declared official end of the games. Claims for winning tickets from "Wild Card" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a postmark of March 22, 1994, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson  
Director  
Date: August 26, 1993

V.A.R. Doc. No. R93-791; Filed September 1, 1993, 9:08 a.m.



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# GENERAL NOTICES/ERRATA

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<b>Symbol Key †</b>
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† Indicates entries since last publication of the Virginia Register
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## GENERAL NOTICES

### NOTICE

Notices of Intended Regulatory Action are published as a separate section at the beginning of each issue of the Virginia Register.

#### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

##### † Policy of Non-Discrimination on the Basis of Disability

The Virginia Department of Agriculture and Consumer Services (VDACS) does not discriminate on the basis of disability in access to employment or in its programs and activities. The VDACS Coordinator for the Americans with Disabilities Act and 504 has been designated to coordinate VDACS compliance with the non-discrimination requirements contained in § 35.107 (28 CFR 35.107) of the Department of Justice regulations which implement Title II of the Americans with Disabilities Act. To ensure full and equal access to all programs and activities, the Virginia Department of Agriculture and Consumer Services, upon request, shall provide reasonable accommodations and auxiliary aids, at no cost to the individual. Information concerning the provision of the Americans with Disabilities Act and the rights provided thereunder within the Virginia Department of Agriculture and Consumer Services, are available from the Americans with Disabilities Act/504 Coordinator, Harriet Smith, 1100 Bank Street, Richmond, Virginia 23219, telephone (804) 786-3531 or TDD Voice (804) 371-6344.



#### DEPARTMENT OF HEALTH (STATE BOARD OF)

##### Legal Notice of Opportunity to Comment on Proposed State Plan of Operations and Administration of Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1994

Pursuant to the authority vested in the State Board of Health by § 32.1-12 and in accordance with the provisions of Title 9, Chapter 1.1:1 of Public Law 95-627, notice is hereby given of a public comment period to enable the

general public to participate in the development of the Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1994.

Written comments on the proposed plan will be accepted in the office of the Director, WIC Program, State Department of Health, 1500 East Main Street, Room 132, Richmond, Virginia 23219, until 5 p.m. on October 6, 1993.

The proposed State Plan for WIC Program Operations and Administration may be reviewed at the office of your health district headquarters during public business hours beginning September 6, 1993. Please contact your local health department for the location of this office in your area.

#### VIRGINIA CODE COMMISSION

##### NOTICE TO STATE AGENCIES

**Mailing Address:** Our 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 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 AGRICULTURE AND CONSUMER SERVICES**

Title of Regulation: VR 115-04-12. Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law.

Publication: 9:20 VA.R. 3562-3565 June 28, 1993.

Correction to Final Regulation:

Page 3564, bottom of left column:

"4. Existent gum, mg. .... ASTM  
per 100 ml., maximum .....5 D381"

should read

"4. Existent gum, 5 mg. .... ASTM  
per 100 ml., maximum ..... D381"

**BOARD OF MEDICINE**

Title of Regulation: VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathy, Chiropractic, Clinical Psychology and Acupuncture.

Publication: 9:25 VA.R. 4849 September 6, 1993.

Correction to Notice of Intended Regulatory Action:

The notice incorrectly states that the agency intends to hold a public hearing on the proposed regulation. The reference to a public hearing being held has been corrected to read: "The agency does not intend to hold a public hearing on the proposed regulation after publication."

**DEPARTMENT OF SOCIAL SERVICES**

Title of Regulation: VR 175-08-01. Minimum Standards for Licensed Child Day Centers Serving Children of Preschool Age or Younger.

Publication: 9:23 VA.R. 4176-4209 August 9, 1993.

Corrections to Final Regulation:

Page 4178, § 1.1, definition of Child Day Center, Exemption 10, add the words "or Bat Mitzvah" after "Mitzvah"

Page 4182, § 2.18 3, Note, the text of this note should be inserted at the end of § 2.18.

Page 4183, § 2.19, subdivision 4, delete the word "Quarterly"

Page 4187, § 4.1, subdivision A 2 b., "sewerage" should read "Sewage"

Page 4189, § 4.2, subdivision B 2, "sewerage" should read "Sewage"

Page 4189, § 4.6, "READY FOR TASK" should be deleted.

Page 4189, §§ 4.7 and 4.8 A through C, sections were omitted and need to be added.

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

1. Outside lighting provided at entrances and exits used by children before sunrise or after sundown;
2. A working, nonpay telephone;
3. First aid kit or kits; and
4. Provision for locking medication as described in § 7.16.

§ 4.8. Hazardous substances and other harmful agents.

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

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

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

Page 4202, § 8.34, line 2, change "left" to "posted and visible"

Page 4202, § 8.39, line 2, after "vaccinated" insert " , if applicable,"

\* \* \* \* \*

Title of Regulation: VR 175-09-01. Minimum Standards for Licensed Child Day Centers Serving School Age Children.

Publication: 9:23 VA.R. 4209-4240 August 9, 1993.

## General Notices/Errata

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### Corrections to Final Regulation:

Page 4217, § 2.29, Exceptions, line 2, after "school" insert "and"

Page 4220, § 4.1, subdivision A 2 b, "sewerage" should be "sewage"

Page 4221, § 4.2, subdivision B 2, "sewerage" should be "sewage"

Page 4223, § 4.33, last line, delete the word "please"

Page 4225, § 6.2, subdivision 1, line 3, after "of" insert "outdoor"

### **STATE WATER CONTROL BOARD**

Title of Regulation: VR 680-14-12. Facility and Aboveground Storage Tank Registration Requirements.

Publication: 9:24 V.A.R. 4519-4524 August 23, 1993.

### Correction to Final Regulation:

Page 4521, § 5 C, line 1 should read in part "An operator of a facility or AST..."

# CALENDAR OF EVENTS

## Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

## VIRGINIA CODE COMMISSION

### EXECUTIVE



## DEPARTMENT FOR THE AGING

### Long-Term Care Ombudsman Program Advisory Council

**September 23, 1993 - 9 a.m. - Open Meeting**  
Virginia Association of Homes for Adults, Inc., Suite 101,  
United Way Building, 224 West Broad Street, Richmond,  
Virginia. ☒

Business will include further discussion on the goals and objectives for the Virginia Long-Term Care Ombudsman Program.

**Contact:** Etta V. Butler-Hopkins, Assistant Ombudsman, Virginia Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271 or toll-free 1-800-552-3402.

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

**September 29, 1993 - 9 a.m. - Open Meeting**  
Washington Building, 1100 Bank Street, Room 204,

Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

At this regular meeting, the board plans to discuss legislation, regulations and fiscal matters and will receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of other business, the board will review public comments for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy E. Seward, Secretary to the Board, at least 10 days before the meeting date, so that suitable arrangements can be made for any appropriate accommodation.

**Contact:** Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

## Pesticide Control Board

**September 30, 1993 - 10 a.m. - Open Meeting**  
Department of Agriculture and Consumer Services, 1100 Bank Street, Board Room No. 204, Richmond, Virginia.

The board will meet in general session to consider amendments to VR 115-04-20, Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services under the Virginia Pesticide Control Act. The board will consider (i) revisions to the pesticide registration fees; (ii) establishment of a deadline for registering pesticide products and a late fee for pesticide products registered after the deadline; and (iii) deleting provisions that allow a commercial applicator or registered technician, in lieu of paying a penalty, to submit an affidavit certifying that he has not applied pesticide classified for restricted use subsequent to the expiration of his certificate. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Dr. Marvin Lawson, Office of Pesticide Management, at least 10 days before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

**Contact:** Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23209, telephone (804) 371-6558.

# Calendar of Events

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## STATE AIR POLLUTION CONTROL BOARD

† **October 4, 1993 - 9 a.m.** – Open Meeting  
George Washington Inn, Williamsburg, Virginia.

The board will hold its annual meeting in conjunction with the Advisory Board on Air Pollution. Call for details.

**Contact:** Dr. Kathleen Sands, Policy Analyst, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

## ALCOHOLIC BEVERAGE CONTROL BOARD

**September 29, 1993 - 9:30 a.m.** – Open Meeting  
**October 13, 1993 - 9:30 a.m.** – Open Meeting  
**October 25, 1993 - 9:30 a.m.** – Open Meeting  
**November 8, 1993 - 9:30 a.m.** – Open Meeting  
**November 22, 1993 - 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.

## VIRGINIA COMMISSION FOR THE ARTS

† **September 23, 1993 - 10 a.m.** – Open Meeting  
Radisson Patrick Henry Hotel, 617 South Jefferson Street, Roanoke, Virginia. ☒

A quarterly business meeting.

**Contact:** Wanda T. Smith, Executive Secretary Senior, 223 Governor St., Richmond, VA 23219-2010, telephone (804) 225-3132.

## BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

**November 4, 1993 - 9:30 a.m.** – Open Meeting  
6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A regularly scheduled board meeting.

**Contact:** Meredyth P. Partridge, Executive Director, 6606 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9907.

## BOARD FOR BARBERS

† **October 4, 1993 - 9 a.m.** – Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) review enforcement cases and dispositions; and (iv) conduct routine board business.

**Contact:** Mark N. Courtney, Acting Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

### Central Area Review Committee

**September 29, 1993 - 10 a.m.** – Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The review 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 meeting; however, written comments are welcome.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or toll-free 1-800-243-7229/TDD ☒

### Northern Area Review Committee

**September 23, 1993 - 10 a.m.** – Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The review 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 meeting; however, written comments are welcome.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or toll-free 1-800-243-7229/TDD ☒

### Southern Area Review Committee

**September 24, 1993 - 1 p.m.** – Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter

for the deaf provided upon request)

The review 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 meeting; however, written comments are welcome.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or toll-free 1-800-243-7229/TDD ☎

## INTERDEPARTMENTAL REGULATION OF CHILDREN'S RESIDENTIAL FACILITIES

**October 15, 1993 - 8:30 a.m. - Open Meeting**  
Office of Coordinator, Interdepartmental Regulation, 730 East Broad Street, Theatre Row Building, Richmond, Virginia. ☒

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

**Contact:** John J. Allen, Jr., Coordinator, Interdepartmental Regulation, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1960.

## BOARD OF CONSERVATION AND RECREATION

**† September 24, 1993 - 9:30 a.m. - Open Meeting**  
Doe Run Lodge, Hillsville, Virginia. ☒

A general business meeting.

**Contact:** Karen Spencer, Executive Secretary, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124 or (804) 786-2121/TDD ☎

## CONSERVATION AND RECREATION FOUNDATION

**† September 22, 1993 - 1 p.m. - Open Meeting**  
General Assembly Building, 910 Capitol Square, 4th Floor West Conference Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general business and educational session.

**Contact:** Art Buehler, Division Director, Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-5046 or (804) 786-2121/TDD ☎

## BOARD FOR CONTRACTORS

**† September 21, 1993 - 8 a.m. - Open Meeting**  
3600 West Broad Street, Conference Room 4A, Richmond, Virginia. ☒

A meeting of the Regulatory/Statutory Review Committee to determine needed changes, additions or revisions in procedures, requirements and standards applicable to Class B and Class A licenses.

**Contact:** Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785.

## Recovery Fund Committee

**September 22, 1993 - 9 a.m. - Open Meeting**  
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discuss may be conducted in executive session.

**Contact:** Holly Erickson, Assistant Administrator, Recovery Fund, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-8561.

## BOARD FOR COSMETOLOGY

**† September 28, 1993 - 9:30 a.m. - Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A meeting to conduct a formal administrative hearing in regard to the Board of Cosmetology v. Par-Tic-U-Lars, t/a Patty's Perfect Hair and Nails.

**Contact:** Carol A. Mitchell, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8580.

## DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

**October 6, 1993 - 9 a.m. - Public Hearing**  
General Assembly Building, 910 Capitol Square, 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 240-01-5. Rules Relating to Compulsory Minimum Training Standards for Dispatchers.** The regulation mandates entry-level training requirements for dispatchers.

Statutory Authority: § 9-170 (1) and (8) of the Code of Virginia.

# Calendar of Events

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**Contact:** L. T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

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## BOARD OF DENTISTRY

**September 29, 1993 - 2 p.m.** – Public Hearing  
State Capitol, House Room 1, Richmond, Virginia.

**September 30, 1993 - 8:30 a.m.** – Open Meeting  
**October 1, 1993 - 1:30 a.m.** – Open Meeting  
**October 2, 1993 - 8:30 a.m.** – Open Meeting  
Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia. ☒

**September 24, 1993** – Written comments may be submitted through this date.

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 240-02-1. Regulations Relating to Criminal History Record Information Use and Security.** The purpose of the proposed amendment is to permit use of nondedicated telecommunication lines to access criminal history record information in limited, but secure, circumstances. Exceptions to the current requirement for use of dedicated telecommunication lines for data transmission would be granted on an exceptional basis provided that documented policies and procedures ensure that access to criminal history record information is limited to authorized users.

Formal hearings will be held on September 30, 1993. On October 1, 1993, a business meeting of the Board of Dentistry will be held. Agenda to include standing committees and issues concerning dentistry. Committee report to include proposed regulations regarding continuing education, endorsement and trade names. This is a public meeting. A 20 minute public comment period will be held beginning at 1:30 p.m. on October 1, 1993; however, no other public comment will be taken.

Statutory Authority: §§ 9-170 and 9-184 through 9-196 of the Code of Virginia.

**Contact:** Marcia J. Miller, Executive Director, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9906.

## BOARD OF EDUCATION

**Contact:** Paul F. Kolmetz, Ph.D., Director, Division of Information Systems, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 371-7726.

† **September 29, 1993 - 8:30 a.m.** – Open Meeting  
† **September 30, 1993 - 8:30 p.m.** – Open Meeting  
Wise County Vocational-Technical Center, Wise, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **October 6, 1993 - 1 p.m.** – Open Meeting  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **October 28, 1993 - 8:30 a.m.** – Open Meeting  
† **November 17, 1993 - 8:30 a.m.** – Open Meeting  
† **November 18, 1993 - 8:30 a.m.** – Open Meeting  
James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to consider matters relating to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

**Contact:** Paula Scott Dehetre, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

**Contact:** Dr. Ernest W. Martin, Assistant Superintendent, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2073 or toll-free 1-800-292-3820.

### Committee on Training

† **October 6, 1993 - 9 a.m.** – Open Meeting  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

\* \* \* \* \*

A meeting to discuss matters related to training for criminal justice personnel.

† **December 3, 1993 - 4 p.m.** – Public Hearing  
James Monroe Building, 101 North 14th Street, Richmond, Virginia.

**Contact:** Paula Scott Dehetre, Executive Assistant,

† **December 3, 1993** – 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 State Board of Education intends to amend regulations entitled: **VR 270-01-0034. Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits.** The proposed revisions increase user fees to the schools and update and provide consistency between the regulations and current practice. For more information or to receive a copy of the proposals contact Carol Buchanan at the address below.

Statutory Authority: §§ 22.1-321 and 22.1-327 of the Code of Virginia.

**Contact:** Carol Buchanan, Associate Specialist, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2848 or toll-free 1-800-292-3820.

## LOCAL EMERGENCY PLANNING COMMITTEE - FAIRFAX COUNTY, CITY OF FAIRFAX, AND THE TOWNS OF HERNDON AND VIENNA

**September 23, 1993 - 9:30 a.m. - Open Meeting**  
Fairfax County Government Center, 12000 Government Center Parkway, Conference Room 9, Fairfax, Virginia. ☒

A public hearing and LEPC meeting regarding 1993 HMER Plan.

**Contact:** Marysusan Giguere, Fire and Rescue Department, Management Analyst II, 4100 Chain Bridge Rd., Suite 400, Fairfax, VA 22030, telephone (703) 246-3991.

## LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† **October 6, 1993 - 3 p.m. - Open Meeting**  
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

A regularly scheduled meeting.

**Contact:** L. A. Miller, Fire Chief, Winchester Fire and Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (703) 662-2298.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

**September 22, 1993 - 1:30 p.m. - Open Meeting**  
Department of Environmental Quality, Lab Training Room, 4949 Cox Road, Room 111, Glen Allen, Virginia.

The department has established a work group on detection/quantitation levels for pollutants in the regulatory and enforcement programs. The work group will advise the Director of the Department of Environmental Quality. Other meetings of the work group have been scheduled at the same time and

location, for October 6, October 20, November 3, November 17, December 1 and December 15, 1993. However, these dates are not firm. Persons interested in the meetings of this work group should confirm the date with the contact person below.

**Contact:** Alan J. Anthony, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5070.

**October 6, 1993 - 10 a.m. - Open Meeting**  
Department of Environmental Quality, 4900 Cox Road, Main Board Room, Glen Allen, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Waste Division will hold a meeting to receive public comments and ideas on the proposal to amend Virginia Waste Management Board regulations entitled VR 672-10-1, Virginia Hazardous Waste Management Regulations. The proposal is to amend the Hazardous Waste Management Regulations to incorporate EPA amendments in federal regulations for the period from July 1, 1991, through September 30, 1993.

**October 6, 1993 - 2 p.m. - Open Meeting**  
Department of Environmental Quality, 4900 Cox Road, Main Board Room, Glen Allen, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Waste Division will hold a meeting to receive public comments and ideas on the proposal to develop Virginia Waste Management Board regulations entitled VR 672-20-20, Regulations Governing Management of Coal Combustion Byproduct. The purpose is to develop regulations that establish standards and procedures pertaining to management, use and disposal of coal combustion byproducts or residues.

**October 7, 1993 - 10 a.m. - Open Meeting**  
Monroe Building, 101 North 14th Street, 10th Floor Conference Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Waste Division will hold a meeting to receive public comments and ideas on the proposal to amend Virginia Waste Management Board regulations entitled VR 672-30-1, Virginia Regulations Governing the Transportation of Hazardous Materials. The proposed Amendment 12 to these regulations incorporates changes to U.S. Department of Transportation ("DOT") and U.S. Nuclear Regulatory Commission ("NRC") regulations on hazardous materials transportation and motor carrier safety. The proposal is to incorporate federal changes adopted from June 2, 1992, through July 1, 1993.

**October 7, 1993 - 10 a.m. - Open Meeting**  
Monroe Building, 101 North 14th Street, First Floor Conference Room C, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)



# Calendar of Events

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The Waste Division will hold a meeting to receive public comments and ideas on the proposal to develop Virginia Waste Management Board regulations entitled VR 672-20-30, Regulations Governing Management of Vegetative Waste. The proposed regulations would establish standards and procedures pertaining to management, use and disposal of vegetative waste and to encourage the development of facilities for the decomposition of vegetative waste.

**Contact:** William F. Gilley, Regulatory Service Manager, Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2966 or (804) 371-8737/TDD ☎

## Joint Ad Hoc Advisory Committee

† **September 28, 1993 - 10 a.m.** – Open Meeting  
Monroe Building, 101 North 14th Street, 13th Floor, York Conference Room, Richmond, Virginia. ☑ (Interpreter for the deaf provided upon request)

A meeting to discuss possible changes to the emergency regulations of the State Air Pollution Control Board and the Virginia Waste Management Board pertaining to the operation of regulated medical waste incinerators, and other management standards and treatment technologies for regulated medical wastes. The meeting is open to the public.

**Contact:** Michael Murphy, Policy and Planning Manager, Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-3237 or (804) 371-8737/TDD ☎

## CITIZEN'S ADVISORY COUNCIL ON FURNISHING AND INTERPRETING THE EXECUTIVE MANSION

† **October 5, 1993 - 10:30 a.m.** – Open Meeting  
The Executive Mansion, Capitol Square, Richmond, Virginia. ☑

A general business meeting.

**Contact:** Cathy Walker Green, Executive Mansion Director, The Executive Mansion, Capitol Square, Richmond, VA 23219, telephone (804) 371-2642.

## VIRGINIA FIRE SERVICES BOARD

**October 21, 1993 - 7:30 p.m.** – Public Hearing  
Ramada Inn, 1130 Motel Drive, Woodstock, Virginia.

A public hearing business meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

**October 22, 1993 - 9 a.m.** – Open Meeting  
Ramada Inn, 1130 Motel Drive, Woodstock, Virginia.

A business meeting to discuss training and fire

policies. The meeting is open to the public for comments and input.

**Contact:** Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## Fire/EMS Education and Training

**October 21, 1993 - 10 a.m.** – Open Meeting  
Ramada Inn, 1130 Motel Drive, Woodstock, Virginia.

A committee meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

**Contact:** Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## Fire Prevention and Control Committee

**October 21, 1993 - 9 a.m.** – Open Meeting  
Ramada Inn, 1130 Motel Drive, Woodstock, Virginia.

A committee meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

**Contact:** Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## Legislative/Liaison Committee

**October 21, 1993 - 1 p.m.** – Open Meeting  
Ramada Inn, 1130 Motel Drive, Woodstock, Virginia.

A committee meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

**Contact:** Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## DEPARTMENT OF GENERAL SERVICES

**October 11, 1993** – 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 General Services intends to **repeal** regulations entitled: **VR 330-02-06, Regulations for the Certification of Laboratories Analyzing Drinking Water** and **adopt** regulations entitled: **VR 330-02-06:1, Regulations for the Certification of Laboratories Analyzing Drinking Water**. The purpose of the proposed action is to repeal outdated regulations and promulgate regulations

to provide a mechanism to assure that laboratories are capable of providing data for compliance under the State Drinking Water Act.

Statutory Authority: § 2.1-429 of the Code of Virginia and 40 CFR 141.

Contact: Dr. James L. Pearson, Director, Division of Consolidated Laboratory Services, 1 N. 14th St., Richmond, VA 23219, telephone (804) 786-7905.

## BOARD FOR GEOLOGY

† **November 19, 1993 - 10 a.m.** – Open Meeting  
3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☒

A general board meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

## GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

**September 20, 1993 - 10:30 a.m.** – Open Meeting  
The Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general meeting open to the public. Auxiliary aids and services are available to individuals with disabilities, upon request. Please call the number below by September 17, 1993, if assistance is required.

Contact: Abria M. Singleton, Executive Secretary, 4615 W. Broad St., 3rd Floor, Richmond, VA 23230, telephone (804) 367-9816, toll-free 1-800-552-7020 or (804) 367-6283/TDD ☎

## HAZARDOUS MATERIALS TRAINING COMMITTEE

NOTE: CHANGE IN MEETING TIME

**September 22, 1993 - 10 a.m.** – Open Meeting  
Radisson Hotel, 1900 Pavilion Drive, Virginia Beach, Virginia.

The purpose of this meeting will be to discuss curriculum course development, and to review existing hazardous materials courses. Individuals with a disability, as defined in the Americans with Disabilities Act of 1990 (ADA), desiring to attend this meeting should contact VDES 10 days prior to the event so as to ensure appropriate accommodations are provided.

Contact: George B. Gotschalk, Jr., Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219,

telephone (804) 786-8001.

## BOARD OF HEALTH PROFESSIONS

† **October 14, 1993 - 1 p.m.** – Public Hearing  
Central Library, 4100 Virginia Beach Boulevard, Meeting Room B, Virginia Beach, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **October 14, 1993 - 3 p.m.** – Public Hearing  
City Hall, 418 Patton Street, City Council Chambers, Danville, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **October 15, 1993 - 1 p.m.** – Public Hearing  
Northern Virginia Community College, 8333 Little River Turnpike, Annandale Campus, Cultural Center, Annandale, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **October 15, 1993 - 3 p.m.** – Public Hearing  
City Hall, 497 Cumberland Street, City Council Chambers, Bristol, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **October 18, 1993 - 9 a.m.** – Public Hearing  
Department of Health Professions, 6606 West Broad Street, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A public hearing is being held to receive comments on the proposed regulations which implement the Practitioner Self-Referral Act of 1993 Chapter 24.1 of Title 54.1 of the Code of Virginia).

Contact: Richard D. Morrison, Ph.D., Deputy Director for Research, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**October 26, 1993 - 9:30 a.m.** – Open Meeting  
Blue Cross Blue Shield of Virginia, 2015 Staples Mill Road, Richmond, Virginia.

A monthly meeting. All council task forces will meet at 8:30 a.m. prior to the full council meeting.

† **November 23, 1993 - 9:30 a.m.** – Open Meeting  
Blue Cross Blue Shield of Virginia, 2015 Staples Mill Road, Richmond, Virginia.

A monthly meeting.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

# Calendar of Events

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## VIRGINIA HISTORIC PRESERVATION FOUNDATION

### NOTE: CHANGE IN MEETING DATE

September 22, 1993 - 10:30 a.m. - Open Meeting  
State Capitol, Senate Room 4, Capitol Square, Richmond,  
Virginia. ☒ (Interpreter for deaf provided upon request)

A general business meeting.

Contact: Margaret Peters, Information Director,  
Department of Historic Resources, 221 Governor St.,  
Richmond, VA 23219, telephone (804) 786-3143 or (804)  
786-1934/TDD ☎

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

† October 5, 1993 - 9 a.m. - Open Meeting  
† November 2, 1993 - 9 a.m. - Open Meeting  
† December 7, 1993 - 9 a.m. - Open Meeting  
Hopewell Community Center, Second and City Point Road,  
Hopewell, Virginia. ☒ (Interpreter for the deaf provided  
upon request)

A Local Emergency Preparedness committee meeting  
on emergency preparedness as required by SARA Title  
III.

Contact: Robert Brown, Emergency Services Coordinator,  
300 N. Main St., Hopewell, VA 23860, telephone (804)  
541-2298.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

October 12, 1993 - 10 a.m. - Public Hearing  
General Assembly Building, 910 Capitol Square, House  
Room C, Richmond, Virginia.

November 8, 1993 - Written comments may be submitted  
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Board of Housing and  
Community Development intends to adopt regulations  
entitled: VR 394-01-1. **Public Participation Guidelines.**  
The purpose of the proposed action is to amend  
existing regulations to conform with new legislation.

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia.

Contact: Norman R. Crumpton, Program Manager, 501 N.  
2nd St., Richmond, VA 23219-1321, telephone (804)  
371-7170.

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October 12, 1993 - 10 a.m. - Public Hearing  
General Assembly Building, 910 Capitol Square, House  
Room C, Richmond, Virginia.

November 8, 1993 - Written comments may be submitted  
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Board of Housing and  
Community Development intends to amend regulations  
entitled: VR 394-01-2. **Certification Standards for  
Building Inspection Personnel, Amusement Device  
Inspectors, Blasters, Plumbers, Electricians, and  
Building Related Mechanical Workers/1990.** The  
purpose of the proposed action is to amend existing  
regulations to establish certification standards for  
certain local building and fire inspectors.

Statutory Authority: §§ 15.1-11.4, 36-98.3, 36-137 and 27-97  
of the Code of Virginia.

Contact: Norman R. Crumpton, Program Manager, 501 N.  
2nd St., Richmond, VA 23219-1321, telephone (804)  
371-7170.

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October 12, 1993 - 10 a.m. - Public Hearing  
General Assembly Building, 910 Capitol Square, House  
Room C, Richmond, Virginia.

November 8, 1993 - Written comments may be submitted  
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Board of Housing and  
Community Development intends to amend regulations  
entitled: VR 394-01-4. **Amusement Device  
Regulations/1990.** The purpose of the proposed action  
is to amend existing regulations to add standards for  
gravity rides.

Statutory Authority: §§ 36-98 and 36-98.3 of the Code of  
Virginia.

Contact: Norman R. Crumpton, Program Manager, 501 N.  
2nd St., Richmond, VA 23219-1321, telephone (804)  
371-7170.

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October 12, 1993 - 10 a.m. - Public Hearing  
General Assembly Building, 910 Capitol Square, House  
Room C, Richmond, Virginia.

November 8, 1993 - Written comments may be submitted  
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Board of Housing and  
Community Development intends to amend regulations  
entitled: VR 394-01-6. **Virginia Statewide Fire  
Prevention Code/1990.** The purpose of the proposed  
action is to update to 1993 National Model Fire  
Prevention Code.

# Calendar of Events

Statutory Authority: § 27-97 of the Code of Virginia.

**Contact:** Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

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**October 12, 1993 - 10 a.m. - Public Hearing**  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

**November 8, 1993 - Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code - Volume I - New Construction Code/1990.** The purpose of the proposed action is to amend existing regulation to update to 1993 National Model Building Code.

Statutory Authority: § 36-98 of the Code of Virginia.

**Contact:** Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

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**October 12, 1993 - 10 a.m. - Public Hearing**  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

**November 8, 1993 - Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code - Volume II - Building Maintenance Code/1990.** The purpose of the proposed action is to amend existing regulation to update to 1993 National Model Building Code.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

**Contact:** Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

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**October 12, 1993 - 10 a.m. - Public Hearing**  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

**November 8, 1993 - Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-31. Virginia Industrialized Building and Manufactured Home Safety Regulations/1990.** The purpose of the proposed action is to amend existing regulation to update to 1993 National Model Building Code.

Statutory Authority: §§ 36-73 and 36-85.7 of the Code of Virginia.

**Contact:** Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

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† **October 12, 1993 - 10 a.m. - Public Hearing**  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

**November 19, 1993 - Written comments may be submitted through this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-200. Virginia Private Activity Bond Regulations.** The purpose of the proposed amendments is to change year-end carryforward allocation priorities.

Statutory Authority: § 15.1-1399.15 of the Code of Virginia.

**Contact:** Charles Gravatt, Financial Assistance Coordinator, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7025.

## COUNCIL ON INFORMATION MANAGEMENT

† **September 24, 1993 - 9 a.m. - Open Meeting**  
1100 Bank Street, Room 204, Richmond, Virginia. ☒

The council will meet jointly with the advisory committee on mapping, surveying and land information systems.

**Contact:** Linda Hening, Administrative Staff Specialist, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622.

## VIRGINIA INTERAGENCY COORDINATING COUNCIL (VICC) EARLY INTERVENTION

**September 22, 1993 - 9:30 a.m. - Open Meeting**

# Calendar of Events

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Chesterfield County Public Library, 9501 Lori Road, Chesterfield, Virginia. (Interpreter for the deaf provided upon request)

The Virginia Interagency Coordinating Council (VICC), according to PL102-119, Part H early intervention program for disabled infants and toddlers and their families is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency and the other state agencies involved in Part H in the implementation of a statewide early intervention program.

**Contact:** Michael Fehl, Director, Mentally Retarded Children/Youth Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

## ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

† **October 18, 1993 - 1 p.m.** – Open Meeting  
Marriott Hotel, Richmond, Virginia.

The regular meeting of the advisory commission will be held in conjunction with the annual conference of the Virginia Municipal League. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission's office at (804) 786-6508 or (804) 786-1860 TDD by October 8, 1993.

† **November 8, 1993 - 1 p.m.** – Open Meeting  
The Homestead, Hot Springs, Virginia.

The regular meeting of the advisory commission will be held in conjunction with the annual conference of the Virginia Association of Counties. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission's office at (804) 786-6508 or (804) 786-1860 TDD by October 29, 1993.

**Contact:** Robert H. Kirby, Secretary, 702 8th Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

## DEPARTMENT OF LABOR AND INDUSTRY

### Migrant and Seasonal Farmworkers Board

† **October 6, 1993 - 10 a.m.** – Open Meeting  
State Capitol, House Room 1, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A regular meeting of the board. The election of officers will take place at this meeting.

**Contact:** Marilyn Mandel, Director, Office of Planning and Policy Analysis, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2385 or (804) 786-2376/TDD ☎

## STATE COUNCIL ON LOCAL DEBT

**October 20, 1993 - 11 a.m.** – Open Meeting  
**November 17, 1993 - 11 a.m.** – Open Meeting  
**December 15, 1993 - 11 a.m.** – Open Meeting  
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☎

A regular meeting, subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to meeting date to ascertain whether or not the meeting is to be held as scheduled.

**Contact:** Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4928.

## COMMISSION ON LOCAL GOVERNMENT

**September 27, 1993 - 11 a.m.** – Open Meeting  
Purcellville Town Hall, 130 East Main Street, Purcellville, Virginia.

Oral presentations regarding the Town of Purcellville - Loudoun County Agreement defining annexation rights.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by September 13, 1993.

**September 27, 1993 - 7 p.m.** – Public Hearing  
Purcellville Town Hall, 130 East Main Street, Purcellville, Virginia.

Public hearing regarding the Town of Purcellville - Loudoun County Agreement defining annexation rights.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by September 13, 1993.

**September 28, 1993 - 9 a.m.** – Open Meeting  
Purcellville Town Hall, 130 East Main Street, Purcellville, Virginia.

Regular meeting of the Commission on Local Government to consider such matters as may be presented.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or

# Calendar of Events

interpreter services should contact the commission's offices by September 13, 1993.

**November 4, 1993 - 9 a.m. - Open Meeting**  
Department of Social Services, 730 East Broad Street, Lower Level, Meeting Room 3, Richmond, Virginia.

Oral presentations - Town of Colonial Beach - Westmoreland County. Arbitration of school funding issue at request of localities.

Persons desiring to participate in the Commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by October 21, 1993.

† **November 5, 1993 - 9 a.m. - Open Meeting**  
Richmond area (site to be determined).

A regular meeting to consider such matters as may be presented. Persons desiring to participate in the commission's meeting and requiring special accommodations or interpreter services should contact the commission's offices.

**Contact:** Barbara Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

## LONGWOOD COLLEGE

### Executive Committee

† **October 14, 1993 - 5 p.m. - Open Meeting**  
† **December 2, 1993 - 5 p.m. - Open Meeting**  
Longwood College, Ruffner Building, Farmville, Virginia. ☒

A meeting to conduct routine business.

**Contact:** William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909-1899, telephone (804) 395-2001.

### Board of Visitors

† **October 29, 1993 - 10 a.m. - Open Meeting**  
Longwood College, Ruffner Building, Farmville, Virginia. ☒

A meeting to conduct routine business.

**Contact:** William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909-1899, telephone (804) 395-2001.

## STATE LOTTERY BOARD

**September 27, 1993 - 10 a.m. - Open Meeting**  
2201 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular monthly meeting. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

**Contact:** Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106 or (804) 367-3000/TDD ☎

## MANUFACTURED HOUSING BOARD

† **October 12, 1993 - 9 a.m. - Public Hearing**  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

**November 19, 1993 -** Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Manufactured Housing Board intends to amend regulations entitled: **VR 449-01-01. Public Participation Guidelines.** The purpose of the proposed amendments is to comply with statutory changes by establishing procedures for soliciting input of interested parties in the formation and development of regulations.

Statutory Authority: §§ 9-6.14:7.1 and 36-85.18 of the Code of Virginia.

**Contact:** Curtis L. McIver, Associate Director, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7160.

\* \* \* \* \*

† **October 12, 1993 - 9 a.m. - Public Hearing**  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

**November 19, 1993 -** Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Manufactured Housing Board intends to adopt regulations entitled: **VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.** The purpose of the proposed amendments is to provide increased consumer protection for buyers and users of manufactured homes through mandatory licensing and regulation of manufactured home manufacturers, dealers, brokers and salespeople, statutorily mandated warranties, and a Transaction Recovery Fund. The regulation will be used in the administration and enforcement of the Manufactured Housing Licensing Law and Recovery Fund.

Statutory Authority: §§ 36-85.18 and 36-85.36 of the Code of Virginia.

# Calendar of Events

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**Contact:** Curtis L. McIver, Associate Director, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7160.

## ADVISORY COMMITTEE ON MAPPING, SURVEYING AND LAND INFORMATION SYSTEMS

**September 23, 1993 - 10 a.m. - Open Meeting**  
1100 Bank Street, Suite 901, Richmond, Virginia.

A regularly scheduled meeting. GIS comprehensive data project to be discussed.

**Contact:** Chuck Tyger, Computer Systems Chief Engineer, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 786-8169 or (804) 225-3624/TDD ☎

## MARINE RESOURCES COMMISSION

**September 28, 1993 - 9:30 a.m. - Open Meeting**  
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for the 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 12 noon. Items to be heard are as follows: 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:** Sandra S. Schmidt, Secretary to the Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646, or (804) 247-2292/TDD ☎

## MATERNAL AND CHILD HEALTH COUNCIL

**September 22, 1993 - 1 p.m. - Open Meeting**  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The meeting will focus on improving the health of the Commonwealth's mothers and children by promoting and improving programs and service delivery systems related to maternal and child health, including prenatal care, school health, and teenage pregnancy.

**Contact:** Nancy C. Ford, MCH Nurse Consultant, Virginia Department of Health, Division of Child and Adolescent Health, 1500 E. Main St., Suite 137, Richmond, VA 23218-2448, telephone (804) 786-7367.

## Subcommittee on Teen Pregnancy Prevention

† **October 28, 1993 - 10 a.m. - Open Meeting**  
The Belmont Recreation Center, 1600 Hilliard Road, Richmond, Virginia. ☒

A regularly scheduled quarterly business meeting.

**Contact:** Jeanne McCann, Coordinator, Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Prevention and Children's Resources, 109 Governor St., 10th Floor, Richmond, VA 23219, telephone (804) 786-1530.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Drug Utilization Review Board

**September 23, 1993 - 3 p.m. - Open Meeting**  
600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

A regular meeting of the DMAS DUR Board. Routine business will be conducted.

**Contact:** Carol B. Pugh, Pharm. D., DUR Program Consultant, Quality Care Assurance Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820.

## BOARD OF MEDICINE

**October 7, 1993 - 8 a.m. - Open Meeting**  
**October 8, 1993 - 8 a.m. - Open Meeting**  
**October 9, 1993 - 8 a.m. - Open Meeting**  
**October 10, 1993 - 8 a.m. - Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

The Board of Medicine will meet on Thursday, October 7, 1993, in open session to conduct general board business, receive committee and board reports, and discuss any other items which may come before the board. The board will also meet on Thursday, Friday, Saturday and Sunday to review reports, interview licensees, and make case decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will

entertain public comments during the first 15 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 622-7197/TDD

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October 27, 1993 - 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 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture. The proposed amendments address misleading or deceptive advertising, pharmacotherapy for weight loss, examinations for licensure in medicine and osteopathy, licensure for endorsement, examination fee, and delete a statement lacking statutory authority.

Statutory Authority: §§ 54.1-100 through 54.1-114, 54.1-2400, 54.1-2914 of the Code of Virginia.

Written comments may be submitted until October 27, 1993, to Hilary H. Connor, M.D., Executive Director, 6606 West Broad Street, 4th Floor, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

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October 25, 1993 - 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 proposed amendments address traineeship and examination after inactive practice when seeking physical therapist and physical therapist assistant licensure. In addition, a process fee is established for withdrawal of applications.

Statutory Authority: §§ 54.1-2400, 54.1-2943 and 54.1-2946 of the Code of Virginia.

Written comments may be submitted until October 25, 1993, to Hilary H. Connor, M.D., Executive Director, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

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October 25, 1993 - 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 465-05-1. Regulations Governing the Practice of Physicians' Assistants. The purpose of the proposed amendments is to establish requirements granting prescriptive authority to physicians' assistants to prescribe and administer Schedule VI controlled substances and devices, and establish a clear and concise definition of the academic study required for prescriptive authority.

Statutory Authority: §§ 54.1-2400 and 54.1-2952.1 of the Code of Virginia.

Written comments may be submitted until October 25, 1993, to Hilary H. Connor, M.D., Executive Director, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

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October 25, 1993 - 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 465-08-1. Regulations for the Certification of Occupational Therapists. The proposed amendments address English proficiency by foreign-trained occupational therapists and examination criteria for certification.

Statutory Authority: §§ 54.1-2400, 54.1-2956.1 and 54.1-2956.4 of the Code of Virginia.

Written comments may be submitted until October 25, 1993, to Hilary H. Connor, M.D., Executive Director, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

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† October 22, 1993 - 10 a.m. - Public Hearing 6606 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.

November 24, 1993 - Written comments may be submitted until this date.



# Calendar of Events

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to adopt regulations entitled: **VR 465-11-1. Licensed Acupuncturists.** The proposed initial regulations address the reenactment of the statutes pertaining to licensed acupuncturists and include: general provisions for acupuncturists, requirements for licensure, scope of practice, renewal and reinstatement of licensure, and fees. The regulations are promulgated through the Acupuncture Advisory Committee and the Board of Medicine. The public hearing is being held at a location that is accessible to the disabled.

Statutory Authority: §§ 54.1-100 through 54.1-114, 54.1-2400, and 54.1-2956.9 through 54.1-2956.11 of the Code of Virginia.

Written comments may be submitted until November 24, 1993, to Hilary H. Connor, M.D., Executive Director, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

## Credentials Committee

**October 8, 1993 - 8:15 p.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23233, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

## Advisory Board on Occupational Therapy

**NOTE: CHANGE IN MEETING DATE AND TIME.**  
**November 1, 1993 - 10 a.m. – Open Meeting**  
6606 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to (i) review regulations relating to foreign educated therapists to consider additional requirement or alternatives to ensure minimal competency to practice occupational therapy with safety to the public; and (ii) to review public comments on proposed regulations and other issues which may come before the board. The chairperson will entertain public comments during the first 15 minutes of the meeting.

**Contact:** Eugenia Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

## Advisory Board on Physical Therapy

† **November 4, 1993 - 9 a.m. – Open Meeting**  
6606 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ☒

A meeting to receive specific reports from officers and staff; review and evaluate traineeship evaluation forms; review requirements for facilities to employ foreign educated trainees and related forms; clarify decision to allow foreign educated therapist to sit for the examination during the traineeship; clarify, by regulation, the period for license requirements in another state to be eligible for waiver of the required traineeship for foreign applicants; review § 6.1 of the regulations; review passing score for licensure examination and the use of storage of schedule VI drugs; and conduct such other business which may come before the advisory board. The advisory board will also review the public comments on proposed regulations and make recommendations to the Board of Medicine. The chairperson will entertain public comments during the first 15 minutes on any agenda items.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD OF)

† **October 6, 1993 - 1 p.m. – Open Meeting**  
Omni Hotel, Norfolk Waterside, Norfolk, Virginia. ☒

A regular monthly meeting. Agenda to be published on September 29, 1993. Agenda can be obtained by calling Jane Helfrich.

Tuesday: Informal session 8 p.m.  
Wednesday: Committee meetings 9 a.m.  
Regular session 10 a.m.

**Contact:** Jane V. Helfrich, Board Administrator, Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

## State Human Rights Committee

**October 1, 1993 - 9 a.m. – Open Meeting**  
New River Valley Community Services Board, 210 3rd Avenue, 2nd Floor, Radford, Virginia. ☒

A regular meeting of the committee to discuss business relating to human rights issues.

**Contact:** Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23219, telephone (804) 786-3988.

## MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

**October 7, 1993 - 7 p.m. – Open Meeting**  
1845 Orange Road, 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 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, 1845 Orange Rd., Culpeper, VA 22701, telephone (703) 825-4562.

## VIRGINIA MILITARY INSTITUTE

### Board of Visitors

† **October 23, 1993 - 8:30 a.m. – Open Meeting**  
Virginia Military Institute, Smith Hall, Board Room, Lexington, Virginia. ☒

A regular meeting. Committee reports will be received.

**Contact:** Colonel Edwin L. Dooley, Jr., Secretary to the Board, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Board of Examiners

† **October 12, 1993 - 10 a.m. – Open Meeting**  
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to receive public comment regarding the Board of Examiners' intent to promulgate the Board of Examiners Certification Regulation, VR 480-04-2.1.

**Contact:** Harry Childress, Chairman, Board of Examiners, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8100.

## DEPARTMENT OF MOTOR VEHICLES

### Medical Advisory Board

† **October 13, 1993 - 1 p.m. – Open Meeting**  
2300 West Broad Street, Richmond, Virginia.

A regular business meeting open to the public.

**Contact:** Karen Ruby, Manager, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-0481.

## VIRGINIA MUSEUM OF FINE ARTS

### Collections Committee

**September 21, 1993 - 2 p.m. – Open Meeting**  
Meeting location to be announced.

A meeting to consider proposed gifts, purchases and loans of art works.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

### Finance Committee

**September 23, 1993 - 11 a.m. – Open Meeting**  
Virginia Museum of Fine Arts Conference Room, Richmond, Virginia. ☒

A meeting to conduct budget review and approval.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

### Board of Trustees

**September 23, 1993 - Noon – Open Meeting**  
Virginia Museum of Fine Arts Auditorium, Richmond, Virginia. ☒

First meeting FY 1993-94 of the full Board of Trustees to receive reports from committees and staff; conduct budget review; and conduct acquisition of art objects.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

## BOARD OF NURSING

**September 21, 1993 - 8:30 a.m. – Open Meeting**  
**September 24, 1993 - 8:30 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

# Calendar of Events

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A panel of the board will conduct formal hearings. Public comment will not be received.

**September 22, 1993 - 9 a.m. – Open Meeting**  
**September 23, 1993 - 9 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting of the board to consider matters relating to nursing education programs, discipline of licensees, licensure by examination and endorsement and other matters under the jurisdiction of the board. Public comment will be received during an open forum session beginning at 11 a.m. on Wednesday, September 22. A public hearing on proposed Board of Nursing Regulations, VR 495-01-1, will be held at 2 p.m. on Wednesday, September 22, 1993.

† **September 28, 1993 - 10 a.m. – Open Meeting**  
Williamsburg Regional Library, 515 Scotland Street, Room B, Williamsburg, Virginia.

A meeting to conduct a formal hearing with certified nurse aides. Public comment will not be received.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

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**September 22, 1993 - 2 p.m. – Public Hearing**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**November 5, 1993 –** 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 Nursing intends to amend regulations entitled: **VR 495-01-1. Board of Nursing Regulations.** The proposed amendments will adjust fees as required to cover expenditures, simplify and clarify regulations and to proposed requirements for the approval of medication administration program.

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

**Contact:** Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9909.

## Special Conference Committee

† **October 1, 1993 - 8:30 a.m. – Open Meeting**  
† **October 18, 1993 - 8:30 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☒

(Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences with licensees to determine what, if any, action should be recommended to the Board of Nursing. Public comment will not be received.

† **October 20, 1993 - 8:30 a.m. – Open Meeting**  
Eastern Shore Community College, 29300 Lankford Highway, Conference Room, Melfa, Virginia. (Interpreter for the deaf provided upon request)

† **October 20, 1993 - Noon – Open Meeting**  
Virginia Employment Commission, 5145 East Virginia Beach Boulevard, Employer Room, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct an informal conference with certified nurse aides to determine if any action should be recommended to the Board of Nursing. Public comment will not be received.

**Contact:** Corinne F. Dorsey, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

## BOARD OF NURSING HOME ADMINISTRATORS

† **December 1, 1993 - 9:30 a.m. – Open Meeting**  
6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A regularly scheduled board meeting.

**Contact:** Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9907.

## BOARD FOR OPTICIANS

**October 12, 1993 - 9 a.m. – Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct board business and any other matters which may require board action.

**Contact:** Mr. Geralde W. Morgan, Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

## BOARD OF OPTOMETRY

† **October 20, 1993 - 8 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Informal conference committee meetings. Public comment will not be received.

† October 20, 1993 - 8 a.m. - Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A formal hearing. Public comment will not be received.

† October 20, 1993 - 10 a.m. - Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general board meeting. Public comment will not be received.

Contact: Carol Stamey, Administrative Assistant, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9910.

**VIRGINIA OUTDOORS FOUNDATION**

† September 28, 1993 - 2 p.m. - Open Meeting  
† September 29, 1993 - 8 a.m. - Open Meeting  
Upper Brandon, Prince George, Virginia.

A strategic planning session.

† October 5, 1993 - 10 a.m. - Open Meeting  
State Capitol, House Room 1, Richmond, Virginia. ☒

A general business meeting. Agenda available on request.

Contact: Tyson R. Van Auken, Executive Director, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-5539 or (804) 786-2121/TDD ☎

**BOARD OF PHARMACY**

September 22, 1993 - 8:45 a.m. - Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

Informal conferences.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

**DEPARTMENT OF STATE POLICE**

† November 19, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to amend regulations entitled: **VR 545-00-01. Regulations Relating to Public Participation Policy.** This amendment to the agency's public participation guidelines identifies specific public participation procedures consistent with recent changes to the Administrative Process Act. The policy will now provide for use of ad hoc advisory groups, standing advisory committees or consultation with groups and individuals registering interest in assisting with drafting or formation of regulation under given circumstances.

Statutory Authority: §§ 9-6.14:7.1, 18.2-295, 18.2-308.2:2, 46.2-1165, 52-8.4, 52-25.1, and 54.1-4009 of the Code of Virginia.

Contact: Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

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† November 19, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to amend regulations entitled: **VR 545-01-07. Motor Vehicle Safety Inspection Rules and Regulations.** These proposed changes to the regulations are made to be consistent with recent changes in state law, federal regulations, nationally accepted standards and automotive practices. Minor technical and administrative changes are included.

Statutory Authority: §§ 46.2-909, 46.2-1002, 46.2-1018, 46.2-1022, 46.2-1023, 46.2-1024, 46.2-1025, 46.2-1052, 46.2-1053, 46.2-1056, 46.2-1058, 46.2-1063, 46.2-1065, 46.2-1070, 46.2-1090.1, 46.2-1093, 46.2-1163, 46.2-1164, 46.2-1165, and 46.2-1171 of the Code of Virginia.

Contact: Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

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† November 19, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to adopt regulations entitled: **VR 545-01-13. Regulations Relating to Standards and Specifications for Regrooved or Regroovable Tires.** This regulation establishes specifications which define standards for regroovable or regrooved tires.

Statutory Authority: § 46.2-1042 of the Code of Virginia.

# Calendar of Events

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**Contact:** Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

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† **November 19, 1993** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to adopt regulations entitled: **VR 545-01-14. Regulations Relating to Standards and Specifications for Warning Stickers or Decals for All-Terrain Vehicles.** This regulation establishes standards and specifications for the warning stickers or decals required to be placed on all-terrain vehicles sold by retailers in the Commonwealth.

Statutory Authority: §§ 46.2-915.1 of the Code of Virginia.

**Contact:** Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

\* \* \* \* \*

† **November 19, 1993** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to adopt regulations entitled: **VR 545-01-15. Regulations Relating to Standards and Specifications for Back-Up Audible Alarm Signals.** This regulation establishes specifications for the back-up audible alarm signals required on garbage and refuse collection and disposal vehicles and certain vehicles used primarily for highway repair and maintenance.

Statutory Authority: § 46.2-1175.1 of the Code of Virginia.

**Contact:** Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

\* \* \* \* \*

† **November 19, 1993** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to adopt regulations entitled: **VR 545-01-16. Regulations Relating to Standards and Specifications for Overdimensional Warning Lights.** This regulation establishes standards and specifications for warning lights used in the escorting or towing of overdimensional materials, equipment, boats or manufactured housing units by authority of a highway

permit issued pursuant to § 46.2-1139 of the Code of Virginia.

Statutory Authority: § 46.2-1026 of the Code of Virginia.

**Contact:** Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

\* \* \* \* \*

† **November 19, 1993** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to adopt regulations entitled: **VR 545-01-17. Regulations Relating to Standards and Specifications for the Safety Lights for Farm Tractors in Excess of 108 Inches in Width.** This regulation establishes specifications for safety lights used on farm tractors and multi-purpose drying units in excess of 108 inches in width which are hauled, propelled, transported or moved on the highway.

Statutory Authority: § 46.2-1102 of the Code of Virginia.

**Contact:** Captain W. Gerald Massengill, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

## POLYGRAPH EXAMINERS ADVISORY BOARD

**September 21, 1993 - 10 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☒

The meeting is for the purpose of administering the Polygraph Examiners Licensing Examination to eligible polygraph examiner interns and to consider other matters which may require board action.

**Contact:** Mr. Gerald W. Morgan, Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

## BOARD OF PROFESSIONAL COUNSELORS

† **October 28, 1993 - 9 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia. ☒

A meeting of the informal conference committee.  
Public comment will not be heard.

**Contact:** Evelyn B. Brown, Director, or Bernice Parker Administrative Assistant, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717,

telephone (804) 662-7328.

## Task Force on Substance Abuse Certification

† **October 18, 1993 - 10 a.m.** – Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia. ☒

A meeting to promulgate regulations governing the practice of certification for substance abuse counselors.

**Contact:** Evelyn B. Brown, Director, or Bernice Parker, Administrative Assistant, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7328.

## BOARD OF PROFESSIONAL AND OCCUPATIONAL REGULATION

† **October 18, 1993 - 10 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☒

A regular quarterly meeting. Agenda items are likely to include approval of final reports of legislative studies, continuing professional education, strategic planning and legislation.

**Contact:** Joyce K. Brown, Secretary to the Board, 3600 W. Broad St., Richmond, VA 23220-4917, telephone (804) 367-8564 or (804) 367-9753/TDD ☒

## PROJECT ASSIST (AMERICAN STOP SMOKING INTERVENTION STUDY)

**September 21, 1993 - Noon** – Open Meeting  
Captain's Deck Restaurant, P.O. Box 703, Nassawadox,  
Virginia.

**September 23, 1993 - 3 p.m.** – Open Meeting  
New River Valley Assist Coalition, Radford, Virginia  
(location to be announced).

**September 30, 1993 - Noon** – Open Meeting  
Southwest Virginia Community College, Richlands, Virginia.

Meetings to discuss and develop projects that will promote smoking cessation.

**Contact:** Grace Cooke, Office Services Assistant, 1500 East Main Street, Room 240, Richmond, Virginia 23218, telephone (804) 371-4076.

## BOARD OF PSYCHOLOGY

**October 25, 1993** – 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 Psychology intends to amend regulations entitled: **VR 565-01-02. Regulations Governing the Practice of Psychology.** The proposed amendments increase license renewal fees for psychologists and school psychologists and increase application fees for clinical psychologists. The proposed amendments also increase examination fees. The proposed regulations conform to § 54.1-113 of the Code of Virginia.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

**Contact:** Evelyn B. Brown, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

## RAPPAHANNOCK-RAPIDAN DIVISION OF COURT SERVICES EXECUTIVE BOARD

**September 20, 1993 - 5:30 p.m.** – Open Meeting  
1300 Sunset Lane, Suite 3110, Culpeper, Virginia. ☒  
(Interpreter for the deaf provided upon request)

A quarterly business meeting of the District Nine Virginia Alcohol Safety Action Program. Items for review include program deficit, program activities and personnel.

**Contact:** R. Dean Irvine, Director, 1300 Sunset Lane, Suite 3110, Culpeper, VA 22701, telephone (703) 829-7379.

## REAL ESTATE APPRAISER BOARD

**September 28, 1993 - 10 a.m.** – Open Meeting  
Department of Professional and Occupational Regulation,  
3600 W. Broad Street, Richmond, Virginia.

A general business meeting.

† **October 13, 1993 - 2 p.m.** – Open Meeting  
Department of Professional and Occupational Regulation,  
3600 W. Broad St., Richmond, Virginia.

A meeting to conduct regulatory review.

**Contact:** Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039.

## REAL ESTATE BOARD

**September 28, 1993 - 9 a.m.** – Open Meeting  
Department of Alcoholic Beverage Control, 3023 Peters Creek Road, Roanoke, Virginia.

A formal administration hearing in regards to the

# Calendar of Events

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Real Estate Board v. William C. Triplett, File No. 92-00881.

**September 28, 1993 - 1 p.m. - Open Meeting**  
Department of Alcoholic Beverage Control, 3023 Peters Creek Road, Roanoke, Virginia.

A formal administration hearing in regards to the Real Estate Board v. Donald W. Hall, File Nos. 92-01372, 92-00453, 92-01889, 92-00259 and 92-00354.

† **October 1, 1993 - 9 a.m. - Open Meeting**  
Department of Alcoholic Beverage Control, 3023 Peters Creek Road, Hearings Room, Roanoke, Virginia.

A formal administrative hearing in regard to the Real Estate Board v. Comer Jack Askew, Sr., File No. 91-01341.

**Contact:** Stacie Camden, Legal Assistant, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393.

## BOARD OF REHABILITATIVE SERVICES

**September 23, 1993 - 10 a.m. - Open Meeting**  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia.

A meeting to conduct regular monthly business meeting of the board.

**Contact:** Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5019 or (804) 367-0315/TDD ☎

## VIRGINIA RESOURCES AUTHORITY

**October 12, 1993 - 9:30 a.m. - Open Meeting**  
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

A meeting to approve minutes of the meeting of September 14, 1993, to review the authority's operations for the prior months, and to consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

**November 9, 1993 - 9:30 a.m. - Open Meeting**  
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

A meeting to approve minutes of the meeting of October 12, 1993, to review the authority's operations for the prior months, and to consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available

at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Jr., Mutual Building, 909 E. Main St., Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or fax (804) 644-3109.

## SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† **October 6, 1993 - 10 a.m. - Open Meeting**  
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☒

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia and VR 355-34-02.

**Contact:** Constance G. Talbert, Secretary to the Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

## SMALL BUSINESS ADVISORY BOARD

† **October 7, 1993 - 8:30 a.m. - Open Meeting**  
Sunset Beach Inn, 32246 Lankford Highway, Cape Charles, Virginia.

A regular meeting.

**Contact:** David V. O'Donnell, Director of Small Business and Financial Services, Department of Economic Development, Office of Small Business and Financial Services, 1021 East Cary St., 11th Floor, Richmond, VA 23219, telephone (804) 371-8260.

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

**September 22, 1993 - 1:30 p.m. - Open Meeting**  
**September 23, 1993 - 2 p.m. - Open Meeting** (if necessary)  
Holiday Inn Oceanside, 2101 Atlantic Avenue, Virginia Beach, Virginia. ☒

A general work session and business meeting.

**Contact:** Phyllis Sisk, Special Assistant to the Commissioner, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, toll-free 1-800-552-7096 or toll-free 1-800-552-7096/TDD ☎

\* \* \* \* \*

**November 8, 1993 -** 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 State Board of Social Services intends to amend regulations entitled: **VR 615-45-3. Child Protective Services Release of Information to Family Advocacy Representatives of the United States Armed Forces.** These regulations will establish guidelines for local departments of social services on sharing with the Family Advocacy Program information on founded child protective services complaints involving military families.

Statutory Authority: § 63.1-248.6 of the Code of Virginia.

Written comments may be submitted until November 8, 1993, to Suzanne Fountain, CPS Program Consultant, 730 East Broad Street, Richmond, Virginia 23219.

**Contact:** Margaret Friedenberg, Legislative Analyst, Bureau of Governmental Affairs, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1820.

## BOARD OF SOCIAL WORK

**September 24, 1993 - 9 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☒  
(Interpreter for the deaf provided upon request)

An informal fact-finding conference.

**September 30, 1993 - 9 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. ☒

A formal hearing with a business meeting to follow, to consider general board business.

† **September 30, 1993 - 11 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

An informal conference committee meeting. Public comment will not be heard.

**October 1, 1993 - 9 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. ☒

A board meeting to discuss training curriculum for supervisors, and to consider amending regulations related to examination scheduling and standards of practice.

† **October 22, 1993 - 9 a.m. – Open Meeting**  
† **October 23, 1993 - 9 a.m. – Open Meeting**  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A formal hearing. Public comment will not be heard.

**Contact:** Evelyn B. Brown, Executive Director, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9914.

## BOARD FOR PROFESSIONAL SOIL SCIENTISTS

**September 20, 1993 - 10 a.m. – Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A general board meeting.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

## VIRGINIA SOIL AND WATER CONSERVATION BOARD

**September 28, 1993 - 7 p.m. – Open Meeting**  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to receive views and comments and answer questions of the public concerning the intended regulatory actions to amend VR 625-02-00, Erosion and Sediment Control Regulations, and to promulgate VR 625-02-01, Erosion and Sediment Control Regulations.

The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. App at the address below or telephone at (804) 786-4570 or (804) 786-2121/TDD. Persons needing interpreter services for the deaf must notify Mr. App no later than Monday, September 13, 1993.

**Contact:** Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141, or (804) 786-2121/TDD ☎

## TRANSPORTATION SAFETY BOARD

**September 27, 1993 - 9 a.m. – Open Meeting**  
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☒

The board will meet to determine which projects in Virginia will receive grants from federal 402 funds.

**Contact:** Bill Dennis, Executive Assistant, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-2666.



# Calendar of Events

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## TREASURY BOARD

**October 20, 1993 - 9 a.m.** – Open Meeting  
**November 17, 1993 - 9 a.m.** – Open Meeting  
**December 15, 1993 - 9 a.m.** – Open Meeting  
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia.

A regular meeting of the board.

**Contact:** Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011.

## VIRGINIA VETERANS CARE CENTER

### Board of Trustees

† **October 1, 1993 - 2 p.m.** – Open Meeting  
American Legion Post 176, 6520 Amherst Avenue, Springfield, Virginia. ☒

A quarterly meeting to review the operations of the Virginia Veterans Care Center and to adopt necessary policies for its operation.

**Contact:** John T. Plichta, Executive Director, P.O. Box 6334, Roanoke, VA 24017-0334, telephone (703) 857-6974.

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Advisory Committee on Services

**October 2, 1993 - 11 a.m.** – Open Meeting  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee meets quarterly to advise the Virginia Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

**Contact:** Barbara G. Tyson, Executive Secretary Senior, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155 or (804) 371-3140/TDD ☎

## VIRGINIA VOLUNTARY FORMULARY BOARD

† **October 22, 1993 - 10 a.m.** – Public Hearing  
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

The purpose of this hearing is to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on

February 17, 1993, and the most recent supplement to that Formulary. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on October 22, 1993, will be made a part of the hearing record.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

## VIRGINIA WAR MEMORIAL FOUNDATION

† **September 29, 1993 - 7:30 p.m.** – Public Hearing  
621 Belvidere Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A public hearing on use of the War Memorial.

**Contact:** Peggy R. Robertson, Assistant for Administration, Division of Engineering and Buildings, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD ☎

## STATE WATER CONTROL BOARD

† **September 27, 1993 - 7 p.m.** – Public Hearing  
Little Theatre of Graham Middle School, #1 Academic Circle, Bluefield, Virginia.

A public hearing to receive comments on the board's proposed decision to deny a Virginia Water Protection Permit for Ms. Catherine Seyler for a proposed project located off the terminus of Wintercreek Drive in the Town of Bluefield.

**Contact:** Chester C. Bigelow, III, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5061.

**September 27, 1993 - 7 p.m.** – Open Meeting  
Norfolk City Council Chambers, City Hall Building, 810 Union Street, 11th Floor, Norfolk, Virginia.

**September 28, 1993 - 7 p.m.** – Open Meeting  
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

**September 29, 1993 - 2 p.m.** – Open Meeting  
McCourt Building, 4859 Davis Ford Road, One County Complex, Prince William County Administration Center, Prince William, Virginia.

**September 30, 1993 - 2 p.m.** – Open Meeting  
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

The staff of the Department of Environmental Quality will convene public meetings to receive comments from the public on the board's intent to adopt a General Virginia Water Protection Permit for minor road crossings, associated fills and channel modifications.

**Contact:** Martin Ferguson, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5030.

**September 30, 1993 - 7 p.m. - Open Meeting**  
Henry County Administration Building, Kings Mountain Road, Board Room, Collinsville, Virginia.

The staff of the Department of Environmental Quality will convene a public meeting to receive comments from the public on the proposed amendment of the Roanoke River Basin Water Quality Management Plan, and the proposed adoption of a new Smith-Dan Subarea Water Quality Management Plan.

**Contact:** Wellford Estes, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 562-3666.

† **October 25, 1993 - 7:30 a.m. - Open Meeting**  
Eastern Shore Community College, 29300 Lankford Highway, Lecture Hall, Melfa, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **October 26, 1993 - 2 p.m. - Open Meeting**  
James City County Board of Supervisors Room, 101 C. Mounts Bay Road, Building C, Williamsburg, Virginia. ☒ (Interpreter for the deaf provided upon request)

The staff of the Department of Environmental Quality will convene two public meetings to receive comments from the public on the proposed amendments to the Ground Water Withdrawal Regulation, VR 680-13-07. A question and answer session on the proposed action will be held one-half hour prior to the beginning of both of these meetings.

**Contact:** Terry D. Wagner, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5203.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**September 23, 1993 - 8:30 a.m. - Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct regular board business and other matters which may require board action.

**Contact:** Geralde W. Morgan, Board Administrator, Department of Professional and Occupational Regulation,

3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

## COLLEGE OF WILLIAM AND MARY

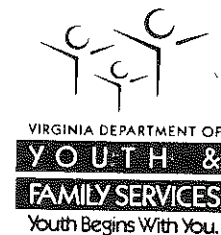
**November 5, 1993** - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the College of William and Mary intends to adopt regulations entitled: **Motor Vehicle Parking and Traffic Rules and Regulations**. The proposed regulation regulates traffic and parking on the campus of the College of William and Mary.

Statutory Authority: § 23-9.2:3 of the Code of Virginia.

Written comments may be submitted until November 5, 1993, to Mark Gettys, Parking Services, College of William and Mary, P.O. Box 8795, Williamsburg, Virginia 23187-8795.

**Contact:** Nancy S. Nash, Assistant to the Vice President for Administration and Finance, P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2743.



## BOARD OF YOUTH AND FAMILY SERVICES

**October 14, 1993 - 8:30 a.m.**

700 Centre, 7th and Franklin Streets, 4th Floor, Richmond, Virginia. ☒

Committee meeting to be held from 8:30 - 10 a.m.; the general meeting will begin at 10 a.m. to review programs recommended for certification or probation, and to consider adoption of draft policies and other matters that may come before the board.

**Contact:** Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0692.

# Calendar of Events

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## LEGISLATIVE

### JOINT SUBCOMMITTEE STUDYING THE NEED FOR ACADEMIC PREPARATION, FINANCIAL AID, AND INCENTIVE PROGRAMS TO ENCOURAGE MINORITIES TO PURSUE POSTSECONDARY EDUCATION AND TRAINING

† **September 22, 1993 - 10 a.m.** – Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

The subcommittee will meet for the purpose of a work session. HJR 638.

**Contact:** Brenda Edwards, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### HOUSE COMMITTEE ON AGRICULTURE

† **October 13, 1993 - 9 a.m.** – Open Meeting  
Eastern Shore of Virginia Chamber of Commerce, 19056 Parkway, Melfa, Virginia.

The committee will meet to discuss agricultural policy. At 1:30 p.m., a ribbon-cutting ceremony for the Farmers Market will take place.

**Contact:** Martin G. Farber, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### JOINT SUBCOMMITTEE STUDYING CIRCUIT COURT CLERKS' FEES

**September 23, 1993 - 10 a.m.** – Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

The subcommittee will meet for the purpose of an organizational meeting.

**Contact:** Mary Geisen, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### STUDY COMMITTEE REVIEWING CRASH-DAMAGED MOTOR VEHICLES

**October 7, 1993 - 10 a.m.** – Open Meeting  
State Capitol, House Room 4, Richmond, Virginia.

The third meeting in a series to discuss possible recommendations to the 1994 General Assembly. HJR 455.

**Contact:** Dr. Alan Wambold, Division of Legislative

Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### JOINT SUBCOMMITTEE STUDYING PROCEDURAL ASPECTS OF THE TRIAL, APPEAL AND COLLATERAL PROCEEDINGS OF CAPITAL CASES

**September 28, 1993 - 10 a.m.** – Open Meeting  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

The subcommittee will meet to hear Capital Study Group recommendations. HJR 402.

**Contact:** Frank Ferguson, Staff Attorney, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### JOINT SUBCOMMITTEE STUDYING VEHICLES POWERED BY CLEAN FUELS

**October 20, 1993 - 10 a.m.** – Open Meeting  
James Madison University, Hall of Fame Room, Convocation Center, Harrisonburg, Virginia.

The subcommittee will meet to receive testimony and discuss legislative recommendations regarding clean fuels. HJR 100.

**Contact:** Dr. Alan Wambold, Division of Legislative Services, 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

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

† **September 28, 1993 - 1 a.m.** – Open Meeting  
† **September 29, 1993 - 9 a.m.** – Open Meeting  
Virginia Beach Resort Hotel and Conference Center, Virginia Beach, Virginia. ☒

The Commission on VASAP will hold its first scheduled meeting for 1993-94.

**Contact:** William T. McCollum, Executive Director, 701 E. Franklin St., Suite 1110, Richmond, VA 23219, telephone (804) 786-5895.

### VIRGINIA CODE COMMISSION

**October 20, 1993 - 9:30 a.m.**  
Speaker's Conference Room, General Assembly Building, 910 Capitol Square, Richmond, Virginia.

A general business meeting to award contract for the Virginia Administrative Code.

**Contact:** Joan W. Smith, Registrar of Regulations, General Assembly Bldg, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

## VIRGINIA COMMISSION ON YOUTH

**September 29, 1993 - 1 p.m.** - Public Hearing  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

A public hearing on confidentiality of juvenile records, SJR 205.

**Contact:** Joyce Huey, Virginia Commission on Youth, General Assembly Bldg., #517B, Richmond, VA 23219, telephone (804) 371-2481.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### September 20

Emergency Planning Committee, Local - Prince William County, Manassas City, and Manassas Park City  
Governor's Job Training Coordinating Council  
Professional Soil Scientists, Board for Rappahannock-Rapidan Division of Court Services Executive Board

#### September 21

Contractors, Board for  
- Recovery Fund Committee  
- Regulatory/Statutory Review Committee  
Museum of Fine Arts, Virginia  
- Collections Committee  
Nursing, Board of  
Polygraph Examiners Advisory Board  
Project Assist

#### September 22

† Academic Preparation, Financial Aid, and Incentive Programs to Encourage Minorities to Pursue Postsecondary Education and Training, Joint Subcommittee Studying the Need for  
† Conservation and Recreation Foundation  
Environmental Quality, Department of  
- Work Group on Detection/Quantitation Levels  
Hazardous Materials Training Committee  
Historic Preservation Foundation, Virginia  
Interagency Coordinating Council Early Intervention, Virginia  
Maternal and Child Health Council  
Nursing, Board of  
Pharmacy, Board of

Social Services, State Board of

#### September 23

Aging, Department for the  
- Long-Term Care Ombudsman Program Advisory Council  
† Arts, Virginia Commission for the Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
Circuit Court Clerks' Fees, Joint Subcommittee Studying  
Mapping, Surveying and Land Information Systems, Advisory Committee on  
Medical Assistance Services, Department of  
- Drug Utilization Review Board  
Museum of Fine Arts, Virginia  
- Finance Committee  
- Board of Trustees  
Nursing, Board of  
Project Assist  
Rehabilitative Services, Board of  
Social Services, State Board of  
Waterworks and Wastewater Works Operators, Board for

#### September 24

Chesapeake Bay Local Assistance Board  
- Southern Area Review Committee  
† Conservation and Recreation, Board of  
† Information Management, Council on  
Nursing, Board of  
Social Work, Board of

#### September 27

Local Government, Commission on  
Lottery Department, State  
Transportation Safety Board  
Water Control Board, State

#### September 28

† Cosmetology, Board for  
† Environmental Quality, Department of  
- Joint Ad Hoc Advisory Committee  
Local Government, Commission on  
Marine Resources Commission  
† Nursing, Board of  
† Outdoors Foundation, Virginia  
Procedural Aspects of the Trial, Appeal and Collateral Proceedings of Capital Cases, Joint Subcommittee Studying  
Real Estate Appraiser Board  
Real Estate Board  
Soil and Water Conservation Board, Virginia  
† Virginia Alcohol Safety Action Program (VASAP),  
Commission on the  
Water Control Board, State

#### September 29

Agriculture and Consumer Services, Board of  
Alcoholic Beverage Control Board  
Chesapeake Bay Local Assistance Board

# Calendar of Events

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- Central Area Review Committee
- † Education, Board of
- † Virginia Alcohol Safety Action Program (VASAP), Commission on the Water Control Board, State

## September 30

- Agriculture and Consumer Services, Department of
  - Pesticide Control Board
- Dentistry, Board of
- † Education, Board of
- Project Assist
- Social Work, Board of
- Water Control Board, State

## October 1

- Dentistry, Board of
- Mental Health, Mental Retardation and Substance Abuse Services, Department of
  - State Human Rights Committee
- † Nursing, Board of
  - Special Conference Committee
- † Real Estate Board
- Social Work, Board of
- † Veterans Care Center, Virginia
  - Board of Trustees

## October 2

- Dentistry, Board of
- Visually Handicapped, Department for the
  - Advisory Committee on Services

## October 4

- † Air Pollution Control Board, State
- † Barbers, Board for

## October 5

- † Executive Mansion, Citizens' Advisory Council on Furnishing and Interpreting the
- † Hopewell Industrial Safety Council
- † Outdoors Foundation, Virginia

## October 6

- † Criminal Justice Services Board
  - Committee on Training
- † Emergency Planning Committee, Local - Winchester Environmental Quality, Department of
- † Labor and Industry, Department of
  - Migrant and Seasonal Farmworkers Board
- † Mental Health, Mental Retardation and Substance Abuse Services Board
- † Sewage Handling and Disposal Appeals Review Board

## October 7

- Crash-Damaged Motor Vehicles, Study Committee Reviewing
- Environmental Quality, Department of
- Medicine, Board of
- Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board
- † Small Business Advisory Board, Virginia

## October 8

- Medicine, Board of
  - Credentials Committee

## October 9

- Medicine, Board of

## October 10

- Medicine, Board of

## October 12

- † Mines, Minerals and Energy, Department of
  - Examiners, Board of
- Opticians, Board for
- Resources Authority, Virginia

## October 13

- † Agriculture, House Committee on Alcoholic Beverage Control Board
- † Motor Vehicles, Department of
  - Medical Advisory Board
- † Real Estate Appraiser Board

## October 14

- † Longwood College
  - Executive Committee
- Youth and Family Services, Board of

## October 15

- Interdepartmental Regulation of Children's Residential Facilities, Coordinating Committee for

## October 18

- † Intergovernmental Relations, Advisory Commission on
- † Nursing, Board of
  - Special Conference Committee
- † Professional Counselors, Board of
  - Task Force on Substance Abuse Certification
- † Professional and Occupational Regulation, Board of

## October 20

- Local Debt, State Council on
- † Nursing, Board of
  - Special Conference Committee
- † Optometry, Board of
- Treasury Board
- Virginia Code Commission

## October 21

- Fire Services, Board of
  - Fire/EMS Education and Training
  - Fire Prevention and Control
  - Legislative/Liaison Committee

## October 22

- Fire Services Board, Virginia
- † Social Work, Board of

## October 23

- † Military Institute, Virginia

# Calendar of Events

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- Board of Visitors
- † Social Work, Board of

## October 25

- Alcoholic Beverage Control Board
- † Water Control Board, State

## October 26

- Health Services Cost Review Council, Virginia
- † Water Control Board, State

## October 28

- † Education, Board of
- † Maternal and Child Health Council
- Subcommittee on Teen Pregnancy Prevention
- † Professional Counselors, Board of

## October 29

- † Longwood College
- Board of Visitors

## November 1

- Medicine, Board of
- Advisory Board on Occupational Therapy

## November 2

- † Hopewell Industrial Safety Council

## November 4

- Audiology and Speech-Language Pathology, Board of
- Local Government, Commission on
- † Medicine, Board of
- Advisory Board on Physical Therapy

## November 5

- † Local Government, Commission on

## November 8

- Alcoholic Beverage Control Board
- † Intergovernmental Relations, Advisory Commission on

## November 9

- Resources Authority, Virginia

## November 17

- † Education, Board of
- Local Debt, State Council on
- Treasury Board

## November 18

- † Education, Board of

## November 19

- † Geology, Board for

## November 22

- Alcoholic Beverage Control Board

## November 23

- † Health Services Cost Review Council, Virginia

## December 1

- † Nursing Home Administrators, Board of

## December 2

- † Longwood College
- Executive Committee

## December 7

- † Hopewell Industrial Safety Council

## December 15

- Local Debt, State Council on
- Treasury Board

## PUBLIC HEARINGS

## September 22

- Nursing, Board of

## September 27

- Local Government, Commission on
- † Water Control Board, State

## September 29

- Criminal Justice Services, Department of
- † War Memorial Foundation, Virginia
- Youth, Virginia Commission on

## October 6

- Criminal Justice Services, Department of

## October 12

- Housing and Community Development, Board of
- † Manufactured Housing Board

## October 14

- † Health Professions, Board of

## October 15

- † Health Professions, Board of

## October 18

- † Health Professions, Board of

## October 21

- Fire Services Board, Virginia

## October 22

- † Medicine, Board of
- † Voluntary Formulary Board, Virginia

## December 3

- † Education, State Board of

## Calendar of Events

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