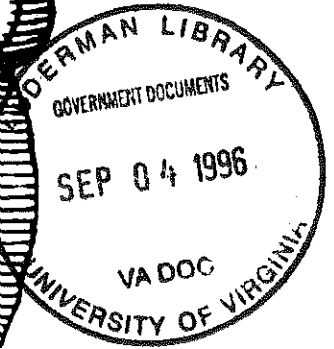
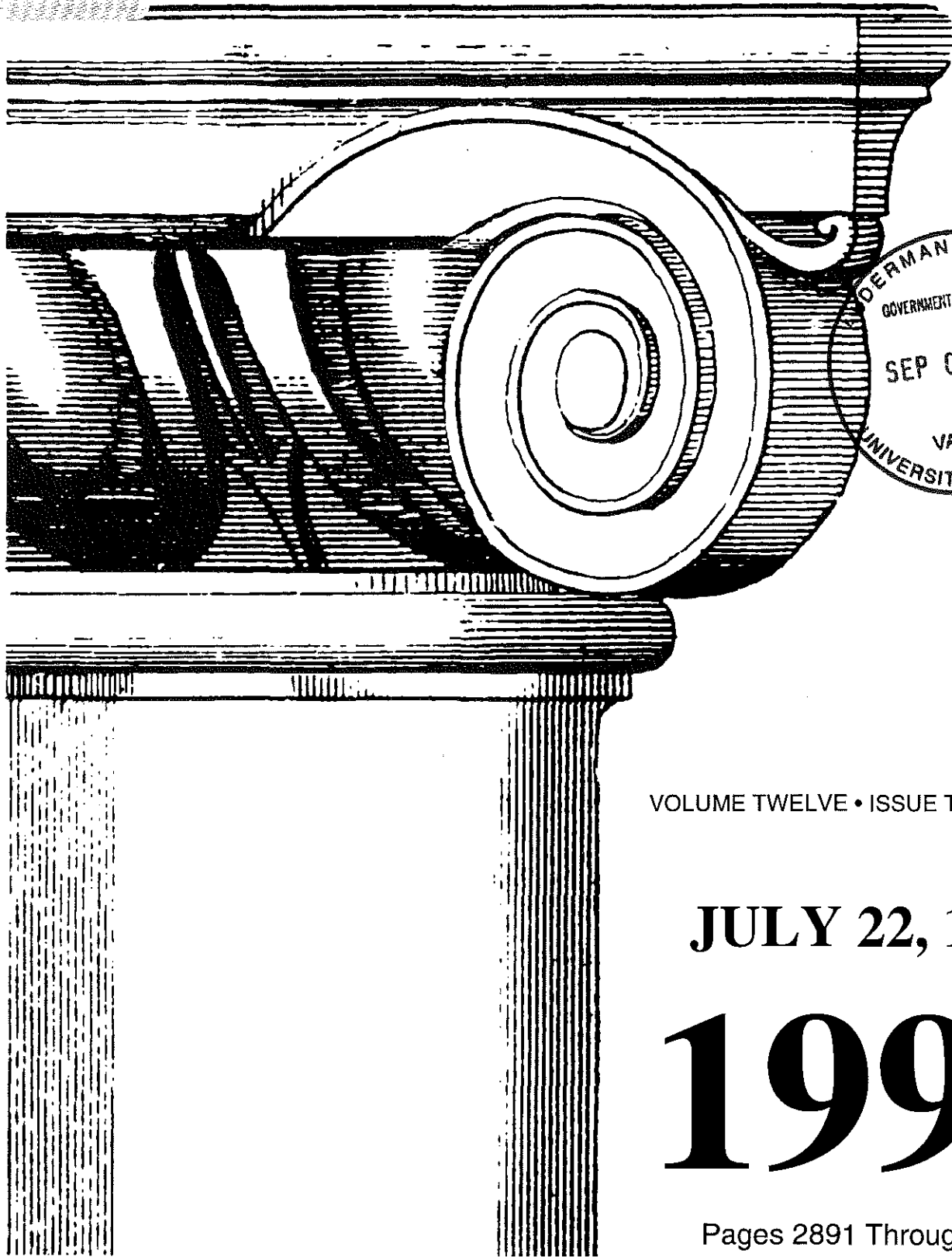


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THE VIRGINIA REGISTER

OF REGULATIONS

VA
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JULY 22, 1996

1996

Pages 2891 Through 3060

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 new and amended sections of regulations, both as proposed and as finally adopted, 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 and executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of 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 intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

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 Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 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 agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate standing committees and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-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 21-day extension period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period.

Proposed regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

EMERGENCY REGULATIONS

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt 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 to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) deliver the Notice of Intended Regulatory Action to the Registrar in time to be published within 60 days of the effective date of the emergency regulation; and (ii) deliver the proposed regulation to the Registrar in time to be published within 180 days of the effective date of the emergency regulation. If the agency chooses not 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 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **12:8 VA.R. 1096-1106 January 8, 1996**, refers to Volume 12, Issue 8, pages 1096 through 1106 of the *Virginia Register* issued on January 8, 1996.

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DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **2 VAC 5-180-10 et seq. Rules and Regulations Governing Pseudorabies in Virginia.** Pseudorabies is a disease that exacts a high death toll among the animals it infects, many of which are domesticated animals. Among the animals that can be infected with pseudorabies are cattle, sheep, dogs, cats, and notably, swine. There is no known evidence that humans can contract pseudorabies. Most kinds of animals infected with pseudorabies die before they can infect other animals (death usually occurs within 72 hours after infection). Swine are a different matter. Although pseudorabies can kill swine (the younger the swine, the higher the rate of mortality), they can also recover from the disease and spread it to other swine and to other kinds of animals. Virginia's regulations to eradicate pseudorabies from swine are part of a national program designed to rid the nation of pseudorabies. This regulation provides rules to govern the program for the eradication of pseudorabies from swine in Virginia. The purpose of the contemplated regulatory action is to review the regulation for effectiveness and continued need including, but not limited to, a proposal to allow Virginia to participate in the national program to eradicate pseudorabies at whatever stage its circumstances at a particular time would allow -- whether stage 1 or stage 5, or any stage in between. 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) a consultant with groups, (iv) a consultant with individuals, or (v) any combination thereof. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until 8:30 a.m. on August 26, 1996, to Dr. W. M. Sims, Jr., Department of Agriculture and Consumer Services, Division of Animal Industry Services, P.O. Box 1163, Richmond, VA 23218-1163.

Contact: T. R. Lee, Program Supervisor, Department of Agriculture and Consumer Services, Office of Veterinary Services, P.O. Box 1163, Richmond, VA 23218-1163, telephone (804) 786-2483.

VA.R. Doc. No. R96-388; Filed May 28, 1996, 2:30 p.m.

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **9 VAC 5-500-10 et seq. Exclusionary General Permit for Federal Operating Permit Program.** The purpose of the proposed action is to develop a general permit that will become a legally enforceable mechanism for stationary sources subject to the federal operating permit program (Article 1 of 9 VAC 5-80-10 et seq.) to be excluded from the program provided they maintain their actual annual emissions at a specified level that is less than the potential to emit applicability thresholds for the federal operating permit program. A public meeting will be held by the department in the Training Room, Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, at 10 a.m. on August 7, 1996, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development. The department will form a technical advisory committee to assist in the development of the regulation. If you desire to be on the committee, notify the agency contact in writing by 4:30 p.m. on August 8, 1996, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the technical advisory committee will be sent to all applicants. If you wish to be on the committee, you are encouraged to attend the public meeting mentioned above. The primary function of the committee is to develop a recommended regulation for department consideration through the collaborative approach of regulatory negotiation and consensus. After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation drafted pursuant to this notice.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on August 8, 1996, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA, 23240.

Contact: Robert A. Mann, Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA, 23240, telephone (804) 698-4419, toll-free (800) 592-5482, FAX (804) 698-4510, or (804) 698-4021/TDD ☎

Notices of Intended Regulatory Action

DEPARTMENT OF EDUCATION (STATE BOARD OF)

† Notice of Intended Regulatory Action

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 consider amending regulations entitled: **8 VAC 20-130-10 et seq., Regulations Establishing Standards for Accrediting Public Schools in Virginia.** The purpose of the proposed action is to ensure improved compliance with the Standards of Quality which require the Board of Education to promulgate regulations establishing standards for accrediting public schools in Virginia. The board seeks to amend the existing standards of accreditation to focus the accreditation and evaluation of schools more strongly on student academic achievement and school level progress toward meeting the academic objectives in the standards of learning recently adopted by the board. The Board of Education will hold preliminary public hearings in August to receive suggestions from the public for revisions to the accrediting standards. The specific dates, times, and location will be published in a future issue of the Virginia Register, as well as announced at the July 25 Board of Education meeting and advertised through the state media. Speakers are requested to provide their comments in writing, if possible, at the time they speak. Comments will also be received by mail at the Board of Education, P.O. Box 2120, Richmond, Virginia 23218-2120. In addition to these preliminary public hearings, the board will hold additional hearings following publication of the proposed revisions to the regulations.

Statutory Authority: §§ 22.1-16, 22.1-19 and 22.1-253.13:3 B of the Code of Virginia.

Public comments may be submitted until September 30, 1996.

Contact: Lin Corbin-Howerton, Policy Director, Department of Education, P.O. Box 2120, Richmond, VA, 23218-2120, telephone (804) 225-2543, toll free (800) 292-3820 or FAX (804) 225-2053.

DEPARTMENT OF ENVIRONMENTAL QUALITY

† Withdrawal of Notice of Intended Regulatory Action

The Department of Environmental Quality has **withdrawn** the Notice of Intended Regulatory Action for the promulgation of the regulation entitled "VR 304-03-01, Regulation for the Early Retirement of Older Motor Vehicles," which was published in 10:11 VA.R. 2825-2826 February 21, 1994.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to consider amending regulations entitled: **12 VAC 5-585-10 et**

seq. Biosolids Use Regulations. The purpose of the proposed action is to revise the current version of the Biosolids Use Regulations in accordance with the recommendations of the Biosolids Use Regulations Advisory Committee. The Biosolids Use Regulations were most recently published in the Virginia Register of Regulations on August 21, 1995. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 32.1-164, 32.1-164.5 and 62.1-44.19 of the Code of Virginia.

Public comments may be submitted until July 26, 1996.

Contact: C. M. Sawyer, Division Director, Department of Health, Division of Wastewater Engineering, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 786-5567.

VA.R. Doc. No. R96-387; Filed May 23, 1996, 1:25 p.m.

STATE BOARD OF JUVENILE JUSTICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-40-10 et seq. Predispositional and Postdispositional Group Home Standards.** The purpose of the proposed action is to provide an integrated approach to the regulation of juvenile residential facilities by repealing these standards for predispositional and postdispositional group homes, to be replaced by a new, consolidated regulation governing all classes of juvenile residential facilities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-309.9 and 66-10 of the Code of Virginia.

Written comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-429; Filed June 14, 1996, 1:19 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider amending regulations entitled: **6 VAC 35-60-10 et seq. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grants Programs.** The purpose of the proposed action is to update this existing regulation to reflect changes in the focus of offices on youth, and to give such offices on youth greater flexibility in achieving program goals. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 66-10 and 66-30 of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-422; Filed June 14, 1996, 1:18 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-70-10 et seq. Learning Center Standards (Juvenile Correctional Center Standards)**. The purpose of the proposed action is to provide an integrated approach to the regulation of juvenile residential facilities by terminating these learning center standards and other separate regulations, to be replaced by a new, consolidated regulation governing all classes of juvenile residential facilities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 66-10 of the Code of Virginia.

Written comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-428; Filed June 14, 1996, 1:19 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-80-10 et seq. Holdover Standards**. The purpose of the proposed action is to terminate this regulation which governs "holdover" operations that are intended to provide short-term placement for juveniles who do not meet the criteria for detention. To the extent that standards are necessary for such operations, they will be provided through a consolidated regulation governing nonresidential programs and services for juveniles in the community. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 66-10 of the Code of Virginia.

Written comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-424; Filed June 14, 1996, 1:18 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-90-10 et seq. Standards for Postdispositional Confinement for Secure Detention and Court Service Units**. The purpose of the proposed action is to provide an

integrated approach to the regulation of juvenile residential facilities by repealing these standards for postdispositional confinement of juveniles, and other separate regulations, and issuing in their place a new, consolidated regulation governing all classes of juvenile residential facilities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-284.1 and 66-10 of the Code of Virginia.

Written comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-426; Filed June 14, 1996, 1:19 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-100-10 et seq. Standards for Secure Detention**. The purpose of the proposed action is to provide an integrated approach to the regulation of juvenile residential facilities by repealing these standards for secure detention, along with other separate regulations, to be replaced by a new, consolidated regulation governing all classes of juvenile residential facilities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-284.1 and 66-10 of the Code of Virginia.

Written comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-425; Filed June 14, 1996, 1:19 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-120-10 et seq. Standards for Family Group Homes**. The purpose of the proposed action is to provide an integrated approach to the regulation of juvenile residential facilities by terminating these standards for family group homes and other separate regulations, to be replaced by a new, consolidated regulation governing all classes of juvenile residential facilities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-309.9 and 66-10 of the Code of Virginia.

Written comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

Notices of Intended Regulatory Action

VA.R. Doc. No. R96-427; Filed June 14, 1996, 1:19 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider repealing regulations entitled: **6 VAC 35-130-10 et seq. Standards for Outreach Detention.** The purpose of the proposed action is to provide a comprehensive regulatory approach to nonresidential programs and services for juveniles before the court, by repealing these standards for outreach detention as a separate regulation, and incorporating their essential provisions into expanded standards for court services. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-311 and 66-10 of the Code of Virginia.

Written comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-421; Filed June 14, 1996, 1:18 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Juvenile Justice intends to consider promulgating regulations entitled: **6 VAC 35-140-10 et seq. Standards for Juvenile Residential Facilities.** The purpose of the proposed action is to consolidate in one regulation simplified standards governing the operation of all types of juvenile residential facility overseen by the Board of Juvenile Justice. This new regulation will replace standards for secure detention; standards for postdispositional confinement for secure detention and court service units; predispositional and postdispositional group home standards; standards for family group homes; and standards for juvenile correctional centers, formerly known as learning center standards. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-284.1, 16.1-309.9 and 66-10 of the Code of Virginia.

Written comments may be submitted until August 9, 1996.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA, 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R96-423; Filed June 14, 1996, 1:18 p.m.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Safety and Health Codes Board intends to consider promulgating regulations entitled: **16 VAC 25-35-10 et seq. Regulations Concerning Certified Lead Contractor Notification, Lead Project Permits and Permit Fees.** The purpose of the proposed action is to implement the lead project notification and permit requirements of § 40.1-51.20 of the Code of Virginia. The notification and permit requirements will enable the Department of Labor and Industry to monitor lead contractors' compliance with state and federal requirements for the safe removal and disposal of lead through onsite inspection of lead projects. In addition, the regulation will provide lead contractors with detailed instructions regarding the required notification of the department and payment of lead project permit fees.

During the 1995 session, the General Assembly amended § 40.1-51.20 of the Code of Virginia to require certified lead contractors to comply with the same notification and permitting requirements as those of licensed asbestos contractors. The amendment to the Code was in response to interim draft regulations of the U.S. Environmental Protection Agency (EPA) (40 CFR Part 745).

The board approved the promulgation of an emergency regulation to comply with § 40.1-51-20 of the Code of Virginia regarding lead notification. The emergency regulation was developed in accordance with the Administrative Process Act (APA) and Governor's Executive Order Number 14 (94) and is effective June 26, 1996. Please include in any comments submitted on this proposed regulatory action, responses to the following questions regarding the emergency regulation.

1. If you represent a lead abatement contractor, what is the approximate size (in contract dollar value) of the average lead abatement project which you performed in calendar year 1995? What is the approximate size of the average lead abatement project you anticipate performing in calendar year 1996?
2. If you represent a lead abatement contractor, what was the total dollar volume of lead abatement work you performed in calendar year 1995? What total dollar volume of lead abatement work do you anticipate performing in calendar year 1996?
3. If you represent a lead abatement contractor, how many lead abatement projects do you project your company will conduct during calendar year 1996? Of these, how many do you anticipate will have a dollar value of \$2,000 or more? How many of these projects would be in residential buildings (as defined in the department's Emergency Regulation Concerning Certified Lead Contractor Notification, Lead Project Permits and Permit Fees, VR 425-03-185), where the

Notices of Intended Regulatory Action

dollar value of the contract would not exceed \$2,000? How many of these projects would be in residential buildings, where the dollar value of the contract equals or exceeds \$2,000?

4. The department's Emergency Regulation Concerning Certified Lead Contractor Notification, Lead Project Permits and Permit Fees contains a lead project permit fee based upon a percentage of the contract price (*i.e.*, lead abatement projects with a contract value of \$2,000 or more will be charged a notification fee of the greater of \$100 or 1.0% of the contract price, with a maximum fee of \$500; projects involving residential buildings must comply with the notification requirement but will be exempted from the fee requirement). We are seeking suggestions on how to develop a permit fee based on the amount of lead abated (*e.g.*, square footage or some other measure), instead of a percentage of the contract. Please describe any suggestions you have. Would a system similar to the method used in the department's Asbestos Notification Regulation be feasible?

5. The department's Emergency Regulation Concerning Certified Lead Contractor Notification, Lead Project Permits and Permit Fees contains requirements for amending lead project notifications which are identical to the current requirements for amending asbestos notifications. Other than this amendment process, what alternate means would you recommend for apprising the Department of Labor and Industry in a reliable and timely manner of changes in the project schedule?

6. The department's Emergency Regulation Concerning Certified Lead Contractor Notification, Lead Project Permits and Permit Fees contains requirements for blanket notifications which are identical to the current blanket notification procedures for asbestos notifications. Should the department maintain the proposed provisions for blanket notifications? Why or why not?

7. The department's Emergency Regulation Concerning Certified Lead Contractor Notification, Lead Project Permits and Permit Fees contains requirements for emergency notifications which are identical to the current emergency notification procedures for asbestos notifications. Should the department maintain the proposed provisions for emergency notifications? Why or why not?

8. If you represent a lead abatement contractor, please estimate the economic impact that complying with the department's Emergency Regulation Concerning Certified Lead Contractor Notification, Lead Project Permits and Permit Fees would have on your business. Please express the impact in terms of the number of average dollars per lead project notification. (Note: the regulation does not apply to projects under \$2,000 in value, and projects involving residential buildings are exempt from the fee). For your estimate to be used in our evaluation, please also provide the background data upon which you base your calculation.

9. The department may wish to contact individuals providing comments to seek clarification of comments or to request additional information on the impact the

proposed regulation may have on lead abatement contractors or lead abatement employees. If you wish to make yourself available for such contact, please provide your name, business address and business telephone number.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 40.1-51.20 of the Code of Virginia.

Public comments may be submitted until July 24, 1996.

Contact: Clarence H. Wheeling, Director of Occupation Health Compliance, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-0574, FAX (804) 786-8418, or (804) 786-2376/TDD ☎

VA.R. Doc. No. R96-406; Filed June 5, 1996, 11:46 a.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **4 VAC 25-150-10 et seq. Gas and Oil Regulation**. The purpose of the proposed action is to amend the Department of Mines, Minerals and Energy's (DMME) regulations governing permitting, operations, plugging, and site restoration of gas and oil exploration and development wells, gathering pipelines and associated facilities. The regulations are necessary to protect the public health and safety from adverse effects of gas and oil exploration and production activities. The amendments will implement the recommendation identified during DMME's regulation review under Executive Order Fifteen (94). The recommendations will streamline the regulatory process, eliminate unnecessary regulatory requirements, clarify language, and implement changes based on DMME, gas and oil operator, and citizen experience implementing the regulation since it was promulgated in 1991. Copies of the regulatory review report are available at the DMME, Division of Gas and Oil in Abingdon and DMME office in Richmond. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 45.1-161.3 and 45.1-361.27 of the Code of Virginia.

Written comments may be submitted until August 7, 1996.

Contact: B. Thomas Fulmer, Oil and Gas Inspector, Department of Mines, Minerals and Energy, Division of Gas and Oil, 230 Charwood Drive, P.O. Box 1416, Abingdon, VA, 24212, telephone (540) 676-5423, FAX (540) 676-5459, or (800) 828-1120 (VA Relay Center)/TDD ☎

Notices of Intended Regulatory Action

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Public Telecommunications Board intends to consider repealing regulations entitled: **VR 410-01-02, Master Plan for Public Telecommunications, 1973**. The purpose of the proposed action is to repeal the 1973 plan. The revised version adopted in 1991 is not a regulation. The agency intends to hold a public hearing on the proposed repeal of the regulation after publication.

Statutory Authority: § 2.1-563.25 of the Code of Virginia.

Public comments may be submitted until September 30, 1996.

Contact: Suzanne J. Piland, Public Telecommunications Branch Manager, Department of Information Technology, 110 South 7th Street, Richmond, VA, 23219, telephone (804) 371-5544 or FAX (804) 371-5556.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Chapter 717 of the 1995 Acts of Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

Notice is given in compliance with § 9-6.14:7.1 of the Code of Virginia that the following public hearings and public comment periods regarding proposed state agency regulations are set to afford the public an opportunity to express their views.

DEPARTMENT OF HEALTH (STATE BOARD OF)

August 21, 1996 - 10 a.m. -- Public Hearing
3600 Centre, 3600 West Broad Street, 3rd Floor Conference Room, Richmond, Virginia.

September 20, 1996 -- Public 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 Health intends to **repeal** regulations entitled: **12 VAC 5-370-10 et seq., Rules and Regulations for the Licensure of Nursing Homes**, and **adopt** regulations entitled: **12 VAC 5-371-10 et seq., Regulations for the Licensure of Nursing Homes**. The proposed regulations constitute a comprehensive revision of the Commonwealth's existing regulations addressing nursing homes, which were adopted in 1980. This area of the health care field has changed dramatically since then and the proposed regulation is intended to address current conditions, while assuring safe, adequate, and efficient nursing home operations and promoting health safety and adequate care of nursing home residents.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Contact: Nancy R. Hofheimer, Director, Office of Health Facilities Regulations, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2102 or FAX (804) 367-2149.

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 HEALTH (STATE BOARD OF)

Title of Regulation: 12 VAC 5-370-10 et seq. Rules and Regulations for the Licensure of Nursing Homes (REPEALING).

VA.R. Doc. No. R96-470; Filed July 2, 1996, 3:34 p.m.

Title of Regulation: 12 VAC 5-371-10 et seq. Rules and Regulations for the Licensure of Nursing Homes.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Public Hearing Date: August 21, 1996 - 10 a.m.

Public comments may be submitted until September 20, 1996.

(See Calendar of Events section for additional information)

Basis: Section 32.1-12 of the Code of Virginia authorizes the State Board of Health to "make, adopt, promulgate and enforce such regulations...as may be necessary to carry out the provisions of [Title 32.1 of the Code] and other laws of the Commonwealth administered by it, the Commissioner or the Department."

Section 32.1-123 of the Code of Virginia defines a nursing home as "any facility or any identifiable component of any facility...in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities."

Section 32.1-125 of the Code of Virginia provides that "no person shall own, establish, conduct, maintain, manage or operate in the Commonwealth" any nursing home unless such nursing home is licensed.

Section 32.1-126 authorizes the commissioner to issue a license for a nursing home "which after inspection is found to be in compliance" with state laws and regulations.

Section 32.1-127 of the Code of Virginia authorizes regulations to carry out nursing home licensing that are "in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety." This section requires that nursing home regulations include minimum standards for (i) the construction and maintenance of nursing homes and certified nursing facilities to assure the environmental protection and the life safety of its patients and employees and the public; (ii) the operation, staffing and equipping of nursing homes and certified nursing facilities; (iii) qualifications and training of staff of nursing homes and

certified nursing facilities, except those professionals licensed or certified by the Department of Health professions; and (iv) conditions under which a nursing home may provide medical and nursing services to patients in their places of residences.

Purpose: The purpose of the regulation is to protect and promote public health, safety and welfare through the establishment and enforcement of regulations which set minimum standards in the construction, maintenance and operation of nursing homes. The regulation is intended by the department to assure safe, adequate and efficient nursing home operation and to promote health, safety and adequate care of patients in nursing homes. It is also the purpose of the regulation to assure quality health care through appropriate and nonduplicative review and inspection while protecting the health and right to privacy of patients without unreasonably interfering with the operation of the nursing home.

Substance: Virginia's citizens look to state licensing as their assurance that nursing home providers are held accountable for maintaining high standards of quality care. Inspection and licensing are mechanisms that ensure consistency in the services provided. The proposed regulation includes minimum standards for (i) the construction and maintenance of nursing homes and certified nursing facilities to assure the environmental protection and life safety of its patients and employees and the public; (ii) the operation, staffing and equipping of nursing homes and certified nursing facilities; and (iii) qualifications and training of staff of nursing homes and certified nursing facilities.

Issues: The health and safety of the public is safeguarded through a regulatory program governing the activities or facilities of persons owning, establishing, conducting, maintaining, managing or operating a nursing home. Because of the vulnerability of citizens receiving services by a nursing home, regulatory oversight of a nursing home is an important governmental function.

The nursing home regulation has not been revised since it was first promulgated in 1980, though an effort at revision was initiated in 1988. The department, in collaboration with a diverse group of individuals that included nursing home administrators, advocacy groups, and other health professionals, has been working to revise the current regulation since 1994. The approach used in developing the proposed regulation was to strive for simplicity and to avoid being burdensome, while meeting the requirements of the legislation. Enhancements made to the regulation include:

1. Elimination of standards that have been superseded by the regulatory authority mandated to other state agencies. For example, the current regulation contains building and architectural standards that have been superseded by the Statewide Uniform Building Code of the Department of Housing and Community Development;

2. Incorporation of mandated requirements as specified by statute;
3. Ensuring that the regulation is clearly understandable by updating the language and eliminating ambiguities;
4. Elimination of duplicative standards within the regulation itself;
5. Coordination of standards with federal certification (Medicaid/Medicare) requirements; and
6. Reorganization of the regulation with a more user friendly format. The new arrangement is logical and orderly, easing use of the regulation.

Every effort has been made to ensure that the regulation protects the health and safety of nursing home patients while allowing providers to be more responsive to the needs of their patients. Implementing this regulation will result in no disadvantage to the Commonwealth or to the public.

Estimated Impact: Currently, the Department of Health licenses 257 nursing homes, located statewide, serving approximately 29,870 patients. The proposed regulation governs the licensure of nursing homes unless specifically exempt from licensure under § 32.1-124 of the Code.

The proposed revised regulation does not alter existing nursing home procedural requirements and does not establish a higher standard than required in the current licensure regulation. A legislative mandate does require nursing homes to disclose admission policies to applicants for admission and to the Board of Health. In addition, nursing homes are expected to report to the board, on a quarterly basis, (i) the number of patients admitted by payment sources, (ii) the number of Medicaid patients, and (iii) information on its waiting lists. This requirement should not significantly affect the provider cost to implementing this regulation. Therefore, the department believes there should be a minimal difference in cost for compliance to the regulation by a service provider.

The Department of Health employs 28 full-time inspectors to conduct the annual licensure inspections of nursing homes, process Medicare certification, and investigate complaints filed against nursing homes. State general funds and licensure service fees fund the annual nursing home licensure program. Costs for conducting inspections for licensure, certification, and complaints of nursing homes was \$1,147,222 in 1995. Licensure service fees, established in 1979, average \$49,000 annually. While it is anticipated that enforcement of the regulation, which does not establish a higher standard than required by the current regulation, requires no more resources at present, future revisions could very likely result in the need for additional inspection staff and an increase in licensure service charges.

Small businesses or organizations under contract with a nursing home would be impacted by the revised regulation, as they would be expected to comply with the regulation when doing business with a nursing home. However, since the regulation does not establish a higher standard than the current regulation, any increase in cost to small businesses or organizations is expected to be minimal.

The public benefits from a licensure program that assures that publicly promulgated minimum standards of health and safety are maintained in nursing homes. The state licensure program provides a low cost quality assurance program that assures the public that nursing home providers are maintaining quality assurance standards. Failure to implement the proposed regulation would cause the current regulation, which is outdated and contradictory, to remain in effect. In addition, the department believes that the regulation meets its statutory obligation and is the least burdensome alternative available for adequately protecting the health and safety of patients in nursing homes.

No particular locality is affected more than another by this regulation.

Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic affects.

Summary of the Proposed Regulation. This is the first revision of the regulations governing the licensure of nursing homes in Virginia since their promulgation in 1980. The proposed amendments modify the current regulations so as to:

- 1) make certain organizational and other housekeeping changes;
- 2) delete standards that have been superseded by the regulatory authority mandated to other state agencies;
- 3) specify the administrative sanctions that can be imposed in cases of noncompliance;
- 4) require that nursing homes submit quarterly reports containing certain admissions and Medicaid data to the Board of Health;
- 5) require certain policies and procedures regarding financial records;
- 6) require certain policies and procedures regarding financial controls and resident funds;
- 7) require certain policies and procedures regarding quality assessment and assurance;
- 8) require certain policies and procedures regarding infection control;
- 9) specify professional qualifications for Resident Social Services Coordinators; and

Proposed Regulations

10) specify professional qualifications for Resident Activities Coordinators.

Estimated Economic Impact

Items 1 and 2

The general reorganization of the regulation and the elimination of duplicative standards are both expected to benefit regulated entities and the public by streamlining the regulation and making it more comprehensible. The economic consequences of these amendments are unlikely to be significant however. As a result, they are not expected to have a measurable economic impact.

Item 3

The portion of the proposed regulation that specifies the administrative sanctions that can be imposed in cases of noncompliance simply restates existing sections of the Code of Virginia.¹ Beyond encouraging legitimate compliance with the regulation, these provisions are not expected to have significant economic consequences, and are therefore, not expected to have a measurable economic impact.

Item 4

The requirement that nursing homes submit quarterly reports to the Board of Health regarding certain admissions information is a restatement of a long existing section of the Code of Virginia.² This requirement increases the costs incurred by nursing homes in complying with the proposed regulation. Because of the limited nature of the reporting requirements, however, the magnitude of this increase is likely to be negligible.

Items 5 through 8

The requirements regarding policies and procedures for: financial records, financial controls and resident funds, quality assessment and assurance, and infection control are largely codifications of existing procedures. These requirements are also anticipated to have economic consequences.

First, they will provide a certain level of quality assurance to nursing home patients. One of the more commonly accepted rationales for government regulation is to overcome informational asymmetries between buyers and sellers and insure that consumers have accurate information on which to base their choices. For the most part, the proposed requirements appear designed to achieve this end by guaranteeing that accepted procedures are followed in areas where it would be difficult for patients to independently assess the adequacy of those procedures.

Second, the required procedures may increase the regulatory compliance costs incurred by nursing homes. Because these procedures are already standard practice in most nursing homes, however, it is likely that any increase in compliance costs would be small and would only affect those institutions not currently following accepted "best practice."

Items 9 and 10

The specification of minimum professional qualifications for Resident Social Services Coordinators and Resident Activities Coordinators is anticipated to have two economic effects: (i) it will likely enhance the quality of social services and activities provided to nursing home residents in Virginia by guaranteeing that the individuals managing these services have met minimum standards of professional education and experience; and (ii) it will likely increase the costs associated with entering the occupations of nursing home resident social services coordinator and resident activities coordinator in Virginia.

Prior to these proposed minimum requirements, it was possible for anyone to qualify as a nursing home resident social services coordinators or resident activities coordinators regardless of whether they had education or training in those occupations. The primary benefit of the proposed requirement is that it guarantees that the individuals filling these positions have the requisite training to adequately perform their duties.

The other economic effect of the proposed minimum requirements is that they will increase the minimum costs associated with becoming a nursing home social services coordinator or resident activities coordinator in Virginia. Currently, entry costs for these occupations could presumably be zero, although it is likely that employer preferences toward hiring the most qualified applicants would induce most individuals to invest in an appropriate level of education or training anyway, even in the absence of the proposed regulation. In the wake of the proposed requirements, however, the costs of entering these two occupations must at least include the tuition and, or, other expenses necessary to obtain the specified education or training. For example, one of the proposed alternative minimum requirements for social services coordinators is that they have a bachelor's degree in social work. For a Virginia resident, graduating from a major Virginia University in 1995, the cost of such a degree would have been approximately \$16,716.³

Businesses and Entities Particularly Affected. The proposed regulation will particularly affect the 257 nursing homes licensed to operate in Virginia, their employees, and approximately 29,870 nursing home patients.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. The proposed amendments modify the current regulations governing the licensure of nursing homes in Virginia. These amendments can be generally

¹ See Sections 32.1-27.1, 32.1-127.01, and 32.1-135 of the Code of Virginia.

² See Section 32.1-127 of the Code of Virginia.

³ This figure is derived by summing the average in-state tuition reported for major Virginia Universities for the four-year period ending in school year 1994-95 (in constant 1995 dollars: 1991-92, \$3,654; 1992-93 \$4,115; 1993-94, \$4,467; and 1994-95, \$4,480).

grouped into four categories: (i) general housekeeping changes; (ii) those necessitated by state and federal statutes; (iii) those requiring the establishment of various policies and procedures; and (iv) those that institute minimum professional requirements for certain nursing home employees. It is anticipated that these amendments will have two primary economic effects --- they will enhance the quality of services provided to residents of nursing homes in Virginia and they will generate a modest increase in the regulatory compliance costs borne by the nursing homes providing those services.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: The Department of Health concurs with the economic impact analysis of the proposed Regulations for the Licensure of Nursing Homes as developed by the Department of Planning and Budget.

Summary:

This regulation is a comprehensive revision of the Commonwealth's existing regulations addressing nursing homes, which were adopted in 1980. The proposed regulation includes minimum standards for (i) the construction and maintenance of nursing homes and certified nursing facilities to assure the environmental protection and life safety of its patients and employees and the public; (ii) the operation, staffing and equipping of nursing homes and certified nursing facilities; and (iii) qualifications and training of staff of nursing homes and certified nursing facilities. This area of the health care field has changed dramatically since 1980, and the proposed regulations are intended to assure safe, adequate and efficient nursing home operation and to promote health safety and adequate care of residents in nursing homes.

CHAPTER 371.

REGULATIONS FOR THE LICENSURE OF NURSING HOMES.

PART I.

GENERAL INFORMATION AND DEFINITIONS.

12 VAC 5-371-10. Definitions.

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

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish, or deprivation by an individual, including caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. This includes verbal, sexual, physical or mental abuse, and involuntary seclusion.

"Administrator" means the individual licensed by the Virginia Board of Nursing Home Administrators and who has the necessary authority and responsibility for management of the nursing home.

"Admission" means the process of acceptance into a nursing home, including orientation, rules and requirements,

and assignment to appropriate staff. Admission does not include readmission to the facility after a temporary absence.

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 of the Code of Virginia, or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provision of § 54.1-2983 of the Code of Virginia.

"Assessment" means the process of evaluating a resident for the purpose of developing a profile on which to base services. Assessment includes information gathering, both initially and on an ongoing basis, designed to assist the multi-disciplinary staff in determining the resident's need for care, and the collection and review of resident-specific data.

"Attending physician" means a physician currently licensed by the Virginia Board of Medicine and identified by the resident, or legal representative, as having the primary responsibility in determining the delivery of the resident's medical care.

"Board" means the Board of Health.

"Certified nurse aide" means the title that can only be used by individuals who have met the requirements to be certified, as defined by the Virginia Board of Nursing, and who are listed in the nurse aide registry.

"Chemical restraint" means a psychopharmacologic drug (a drug prescribed to control mood, mental status, or behavior) that is used for discipline or convenience and not required to treat medical symptoms or symptoms from mental illness or mental retardation that prohibit an individual from reaching his highest level of functioning.

"Clinical record" means the documentation of health care services, whether physical or mental, rendered by direct or indirect resident-provider interactions. An account compiled by physicians and other health care professionals of a variety of resident health information, such as assessments and care details, including testing results, medicines, and progress notes.

"Commissioner" means the State Health Commissioner.

"Comprehensive plan of care" means a written action plan, based on assessment data, that identifies a resident's clinical and psychosocial needs, the interventions to meet those needs, treatment goals that are measurable and that documents the resident's progress toward meeting the stated goals.

"Construction" means the building of a new nursing home or the expansion, remodeling, or alteration of an existing nursing home and includes the initial and subsequent equipping of the facility.

"Department" means the Virginia Department of Health.

"Dignity" means staff, in their interactions with residents, carry out activities which assist a resident in maintaining and enhancing the resident's self-esteem and self-worth.

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"Discharge" means the process by which the resident's services, delivered by the nursing home, are terminated.

"Discharge summary" means the final written summary of the services delivered, goals achieved and post-discharge plan or final disposition at the time of discharge from the nursing home. The discharge summary becomes a part of the clinical record.

"Drug" means (i) articles or substances recognized in the official United States "Drug" Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for the use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or other animal; and (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii). This does not include devices or their components, parts or accessories.

"Emergency preparedness plan" means a component of a nursing home's safety management program designed to manage the consequences of natural disasters or other emergencies that disrupt the nursing home's ability to provide care.

"Employee" means a person who performs a specific job function for financial remuneration on a full-time or part-time basis.

"Full-time" means a minimum of 35 hours or more worked per week in the nursing home.

"Guardian" means a person legally invested with the authority and charged with the duty of taking care of the resident, managing his property and protecting the rights of the resident who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the resident in need of a guardian has been determined to be incapacitated.

"Involuntary seclusion" means the confinement, against a resident's wishes, alone in a room, from which the resident is physically prevented from leaving, for an extended period of time.

"Medication" means any substance, whether prescription or over-the-counter drug, that is taken orally or injected, inserted, topically applied, or otherwise administered.

"Neglect" means a failure to provide timely and consistent services, treatment or care to a resident or residents which are necessary to obtain or maintain the resident or residents' health, safety or comfort; or a failure to provide timely and consistent goods and services necessary to avoid physical harm, mental anguish, or mental illness.

"Nursing home" means any facility or any identifiable component of any facility, as defined in § 32.1-123 (2) of the Code of Virginia, in which the primary function is the provision, on a continuous basis, of nursing services and health-related services for the treatment and inpatient care of

two or more nonrelated individuals over a period exceeding 24 hours.

"OHFR" means the Office of Health Facilities Regulation of the Virginia Department of Health.

"Person" means any individual, corporation, partnership, association, trust, or other legal entity, whether governmental or private, owning, managing, or operating a nursing home.

"Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's own body.

"Policy" means a written statement which describes the principles and guides and governs the activities, procedures and operations of the nursing home.

"Procedures" means a series of activities designed to implement program goals or policy, which may or may not be written, depending upon the specific requirements within this chapter. For inspection purposes, there must be evidence that procedures are actually implemented.

"Progress note" means a written statement, signed and dated by the person delivering the care, consisting of a pertinent, chronological report of the resident's care. A progress note is a component of the clinical record.

"Quality assurance" means systematic activities performed to determine the extent to which clinical practice meets specified standards and values with regard to such things as appropriateness of service assignment and duration, appropriateness of facilities and resources utilized, adequacy and clinical soundness of care given. Such activities should also assure changes in practice that do not meet accepted standards. Examples of quality assurance activities include the establishment of facility-wide goals for resident care, the assessment of the procedures used to achieve the goals, and the proposal of solutions to problems in attaining those goals.

"Readmission" means a planned return to the nursing home following a temporary absence for hospitalization, off-site visit or therapeutic leave, or a return stay or confinement following a formal discharge terminating a previous admission.

"Resident" means the primary service recipient, admitted to the nursing home, whether that person is referred to as a client, consumer, patient, or other term.

"Responsible person or party" means an individual authorized by the resident to act for him as an official delegate or agent. The responsible person may be a guardian, payee, family member or any other individual who has arranged for the care of the resident and assumed this responsibility. The responsible person or party may or may not be related to the resident. A responsible person or party is not a guardian unless so appointed by the court.

"Supervision" means the ongoing process of monitoring the skills, competencies and performance of the individual supervised and providing regular, face-to-face guidance and instruction.

"Volunteer" means a person who, without financial remuneration, provides services to the nursing home.

12 VAC 5-371-20. Responsibility of the department.

A. The Department of Health is charged with the responsibility for ensuring that licensed nursing homes provide residents with at least a minimum level of care according to standards prescribed by the Board of Health and any additional requirements that may be specified by the Code of Virginia.

B. The Office of Health Facilities Regulation (OHFR) acts as agent for the Department of Health in administering the licensing program. In addition, the OHFR also investigates complaints made by the public against nursing homes.

C. OHFR licensing representatives are available to answer questions and provide technical assistance throughout the licensing and inspection process.

D. The Code of Virginia requires the Board of Health to adopt standards and regulations for the licensure of nursing homes. The Department of Health is the authorized agent for the Board of Health.

E. In developing or revising standards for licensed nursing homes, the department adheres to the requirements of the Administrative Process Act (§ 9-6.14:1 of the Code of Virginia) and the public participation process.

F. The department solicits input from licensees, associations of licensees, experts in related fields, advocacy organizations, consumers and the general public in the development or revision of licensing standards through informal and formal comment periods and public hearings.

12 VAC 5-371-30. License.

A. A license to operate a facility is issued to a person or organization. An organization may be a partnership, association, corporation, or public entity.

B. Each license and renewal thereof shall be issued for one year. A nursing home shall operate within the terms of its license, which include the:

1. Name of the facility;
2. Name of the operator;
3. Physical location of the nursing home;
4. Maximum number of beds allowed; and
5. Date the license expires.

C. A separate license shall be required for nursing homes maintained on separate premises, even though they are owned or are operated under the same management.

D. Every nursing home shall be designated by a permanent and appropriate name. The name shall not be changed without first notifying the OHFR.

E. The number of resident beds allowed in a nursing home shall be determined by the department. Requests to increase beds must be made in writing and must include an approved Certificate of Public Need.

F. Nursing facility units located in and operated by hospitals shall be licensed under Rules and Regulations for the Licensure of Hospitals (12 VAC 5-410-10 et seq.). Approval for such units shall be included on the annual license issued to each hospital.

G. Any person establishing, conducting, maintaining, or operating a nursing home without a license shall be guilty of a Class 6 felony.

12 VAC 5-317-40. Licensing process.

A. Upon request, the OHFR will provide consultation to any person seeking information about obtaining a license. The purpose of such consultation is to:

1. Explain the standards and the licensing process;
2. Provide assistance in locating other sources of information;
3. Review the potential applicant's proposed program plans, forms, etc., as they relate to standards; and
4. Alert the potential applicant regarding the need to meet other state and local ordinances, such as fire and building codes and environmental health standards, where applicable.

B. Upon request, the OHFR will provide an application form for a license to operate a nursing home.

C. The OHFR shall consider the application complete when all requested information and the application fee is submitted with the form required. If the OHFR finds the application incomplete, the applicant will be notified of receipt of the incomplete application.

D. The applicant shall complete and submit the initial application to the OHFR at least 30 days prior to a planned opening date to allow the OHFR time to act on the application. A request for a license may be withdrawn at any time.

E. Prior to changes in operation which would affect the terms of the license, the licensee must secure a modification to the terms of the license from the OHFR.

F. Requests to modify a license must be submitted in writing, 30 working days in advance of any proposed changes, to the Director of the Office of Health Facilities Regulation.

G. The license shall be returned to the OHFR following a correction or reissuance when there has been a change in:

1. Address;
2. Operator;
3. Name; or
4. Bed capacity.

H. The OHFR will evaluate written information about any planned changes in operation which would affect either the terms of the license or the continuing eligibility for a license. A licensing representative may visit the facility during the process of evaluating a proposed modification.

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I. If a modification can be granted, the OHFR shall respond in writing with a modified license. In the event a new application is needed, the licensee will receive written notification. When the modification cannot be granted, the licensee shall be advised by letter.

J. The department shall send an application for renewal of the license to the licensee prior to the expiration date of the current license.

K. The licensee shall submit the completed renewal application form along with any required attachments and the application fee by the date indicated in the cover letter.

L. It is the licensee's responsibility to complete and return the application to assure timely processing. Should a current license expire before a new license is issued, the current license shall remain in effect provided the complete and accurate application was filed on time.

12 VAC 5-371-50. Functional design features.

A. In order to avoid costly errors and unnecessary redesign, applicants or licensees are required to present their building plans to the OHFR after acceptance of the final plan layout by the owner. Precontract document approval of the plan ensures acceptance of the basic architectural footprint and serves as the basis for approval of "fast track" construction for nursing homes pursuing this approach.

The applicant or licensees shall notify the OHFR of deviations in the contract documents from the approved preliminary plans. Contract documents containing deviations from approved preliminary plans are required to comply with these regulations and will be reviewed again to ensure compliance. Variances for out of compliance conditions as a result of deviations from the approved preliminary documents will not be granted.

B. When an application is for licensure of a building which has not previously been used for a nursing home, or when renovations are made to an existing building, the OHFR shall approve the functional design features of the building according to applicable regulations.

C. Prior to beginning construction or renovation, the applicant or licensee shall submit to the OHFR for approval floor plans which clearly indicate the use of space and other plans for compliance with all requirements for the physical environment contained in the regulations. In addition, the transmittal letter shall contain the estimate of construction start, finish, and the desired occupancy date. Construction shall not begin without approval from the OHFR.

D. The OHFR will notify the applicant or licensee of the receipt of the contract documents.

E. Upon completion of the review, the OHFR will issue a letter indicating approval or disapproval of the plan, citing the regulation determining the "out of compliance" condition.

F. A valid Certificate of Use and Occupancy and Certificate of Public Need are prerequisites for licensure.

12 VAC 5-371-60. On-site inspections.

A. The licensing representative shall make unannounced on-site inspections of the nursing home. The licensee shall be responsible for correcting any deficiencies found during any on-site inspection. Compliance with all standards will be determined by the OHFR.

B. The licensee shall make available to the licensing representative any necessary records.

C. The licensee shall also allow the licensing representative to interview the agents, employees, residents, family members, and any person under its custody, control, direction or supervision.

D. After the on-site inspection, the licensing representative shall discuss the findings of the inspection with the administrator of record or designee.

E. As applicable, the administrator of record shall submit an acceptable plan for correcting any deficiencies found during an on-site inspection.

F. The administrator of record will be notified whenever any item in the plan of correction is determined to be unacceptable.

G. The administrator of record shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.

12 VAC 5-371-70. Complaint investigation.

A. The OHFR has the responsibility to investigate any complaints regarding alleged violations of the standards or statutes and complaints of the abuse or neglect of persons in care.

B. Complaints may be received in written or oral form and may be anonymous.

C. When the investigation is complete, the licensee will be notified of the findings of the investigation.

D. As applicable, the facility's administrator of record shall submit an acceptable plan for correcting any deficiencies found during a complaint investigation.

E. The administrator of record will be notified whenever any item in the plan of correction is determined to be unacceptable.

F. The administrator of record shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.

12 VAC 5-371-80. Variances.

A. The OHFR can authorize variances only to its own licensing standards, not to regulations of another agency or to any requirements in federal, state, or local laws.

B. A nursing home may request a variance to a particular standard or requirement contained in this chapter when the standard or requirement poses a special hardship and when a variance to it would not endanger the safety or well-being of residents, employees, or the public.

C. Upon finding that the enforcement of one or more of the standards would be clearly impractical, the OHFR shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of these standards, provided safety, resident care and services are not adversely affected.

D. OHFR may rescind or modify a variance if (i) conditions change; (ii) additional information becomes known which alters the basis for the original decision; (iii) the facility fails to meet any conditions attached to the variance; or (iv) results of the variance jeopardize the safety, comfort, or well-being of residents, employees and the public.

E. Consideration of a variance is initiated when a written request is submitted to the Director of the Office of Health Facilities Regulation (OHFR). The OHFR may provide consultation in the development of the written request and throughout the variance process.

F. The request for a variance must describe the special hardship to the existing program or to a planned innovative or pilot program caused by the enforcement of the requirements. When possible, the request should include proposed alternatives to meet the purpose of the requirements which will ensure the protection and well-being of residents, employees, and the public.

G. The OHFR shall notify the facility of the receipt of the request for a variance. The OHFR may attach conditions to the granting of the variance in order to protect persons in care.

H. When the decision is to deny a request for a variance, the reason shall be provided in writing to the licensee.

I. When a variance is denied, expires, or is rescinded, routine enforcement of the standard or portion of the standard shall be resumed. The nursing home may at any time withdraw a request for a variance.

12 VAC 5-371-90. Administrative sanctions.

A. Nothing in this part shall prohibit the department from exercising its responsibility and authority to enforce the regulation, including proceeding directly to imposition of administrative sanctions, when the quality of care or the quality of life has been severely compromised.

B. The commissioner may impose such administrative sanctions or take such actions as are appropriate for violation of any of the standards or statutes or for abuse or neglect of persons in care. Such sanctions include:

1. Restricting or prohibiting new admissions to any nursing home;
2. Petitioning the court to impose a civil penalty or to appoint a receivership, or both; or
3. Revoking or suspending the license of a nursing home.

C. The following reasons may be considered by the department for the imposition of administrative sanctions or the imposition of civil penalties:

1. Failure to demonstrate or maintain compliance with applicable standards or for violations of the provisions of the Code of Virginia;

2. Permitting, aiding, or abetting the commission of any illegal act in the nursing home; or

3. Deviating significantly from the program or services for which a license was issued without obtaining prior written approval from the OHFR, or failure to correct such deviations within a specified time.

D. Violations which in the judgment of the OHFR jeopardize the health and safety of residents shall be sufficient cause for immediate imposition of this section.

E. The licensee will receive a notice of the department's intent to impose sanctions. The notice shall describe the reasons for imposing the sanction.

F. Upon receipt of the notice to impose a sanction, the licensee has the right and the opportunity to appeal according to the Administrative Process Act (§ 9.6-14:1 of the Code of Virginia). The procedures for filing an appeal shall be outlined in the notice.

12 VAC 5-371-100. Surrender of a license.

A. Upon revocation or suspension of a license, the licensee must surrender its license to a representative of the OHFR.

B. If a license is revoked, a new license may be issued by the commissioner after satisfactory evidence is submitted that the conditions upon which revocation was based have been corrected and after proper inspection has been made and compliance with this chapter and applicable state and federal law has been obtained.

C. Suspension of a license shall in all cases be for an indefinite time. The commissioner may completely or partially restore a suspended license when he determines that the conditions upon which suspension was based have been completely or partially corrected and that the interests of the public will not be jeopardized by resumption of operation.

D. Other circumstances under which a license must be surrendered include transfer of ownership and discontinuation of services. The licensee must notify the OHFR, in writing, 30 days before discontinuing services.

PART II. ADMINISTRATIVE SERVICES.

12 VAC 5-371-110. Management and administration.

A. No person shall own, establish, conduct, maintain, manage, or operate any nursing home, as defined in § 32.1-123 of the Code of Virginia, without having obtained a license.

B. The nursing home must comply with:

1. These regulations (12 VAC 5-371-10 et seq.);
2. Other applicable federal, state or local laws and regulations; and
3. Its own policies and procedures.

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C. The nursing home shall submit, or make available, reports and information necessary to establish compliance with these regulations and applicable statutes.

D. The nursing home shall submit, in a timely manner as determined by OHFR, and implement a written plan of action to correct any noncompliance with these regulations identified during an inspection. The plan shall include:

1. Description of the corrective action or actions to be taken;
2. Date of completion for each action; and
3. Signature of the person responsible for the operation.

E. The nursing home shall permit representatives from the OHFR to conduct inspections to:

1. Verify application information;
2. Determine compliance with this chapter;
3. Review necessary records; and
4. Investigate complaints.

F. The current license from the department shall be posted in a place clearly visible to the general public.

G. The nursing home shall not operate more resident beds than the number for which it is licensed.

H. The nursing home shall fully disclose its admission policies, including any preferences given, to applicants for admission and either the Board of Health or the commissioner.

I. The nursing home shall report to the Board of Health, on a quarterly basis:

1. The number of residents admitted by payment source;
2. The number of beds certified for Medicaid patients, if applicable; and
3. Information about its waiting list, including but not limited to, aggregate information by payment source.

J. The nursing home shall identify its operating elements and programs, the internal relationship among these elements and programs, and the management or leadership structure.

12 VAC 5-371-120. Governing body.

A. The nursing home shall have a governing body that is legally responsible for the management of the operation.

B. The governing body shall adopt written bylaws that describe the organizational structure and establish authority and responsibility in accordance with applicable laws, including a:

1. Statement of purpose;
2. Description of the functions of the governing body members, officers and committees;

3. Description of the method of adoption, implementation, and periodic review of policies and procedures; and

4. Description of the methods to be utilized to assure compliance with this chapter.

C. The governing body shall disclose the names and addresses of any individual or entity that holds 5.0% or more ownership interest in the operation of the nursing home.

D. When the governing body is not the owner of the physical plant, the governing body shall disclose the name and address of the individual or entity responsible for the alterations, modifications, maintenance and repairs to the building.

E. The governing body shall notify the OHFR in writing 30 days in advance of changes affecting the accuracy of the license. Changes affecting the accuracy of the license are:

1. Any proposed change in management contract or lease agreement to operate the nursing home;
2. Implementing any proposed addition, deletion, or change in nursing home services whether or not licensure is required;
3. Selling the facility; or
4. A change in ownership.

12 VAC 5-371-130. Administrator.

A. The governing body shall appoint an individual, on a full-time basis, to serve as its on-site agent, responsible for the day-to-day administration and management.

B. The governing body shall provide the OHFR with evidence that the individual appointed as administrator is:

1. Currently licensed by the Virginia Board of Nursing Home Administrators; or
2. Holds a current administrator's license in another state and has filed an application for license with the Virginia Board of Nursing Home Administrators.

C. Within five working days of the effective date of termination of the administrator's employment, the governing body shall notify OHFR, in writing, of the name and qualifications of the replacement administrator of record or the acting administrator.

D. The governing body shall appoint a qualified administrator within 90 days of the effective date of the termination of the previously qualified administrator, and shall provide OHFR with written notification of the administrator's name, license number, and effective date of employment.

An additional 30-day extension may be granted if a written request provides documentation that the individual designated as administrator is awaiting the final licensing decision of the Virginia Board of Nursing Home Administrators.

E. The governing body shall assure that administrative direction is provided at all times. The governing body, the administrator, or the chief executive officer shall designate, in

writing, a qualified individual to act as the alternate nursing home administrator in the absence of the administrator of record.

12 VAC 5-371-140. Policies and procedures.

A. The nursing home shall implement written policies and procedures approved by the governing body.

B. All policies and procedures shall be reviewed at least annually, with recommended changes submitted to the governing body for approval.

C. A written record of the annual policy review, including at least the review dates, participants, recommendations and action dates of the governing body, shall be maintained.

D. Administrative and operational policies and procedures shall include, but are not limited to:

1. Administrative records;
2. Admission, transfer and discharge;
3. Medical direction and physician services;
4. Nursing direction and nursing services;
5. Pharmaceutical services, including drugs purchased outside the nursing home;
6. Dietary services;
7. Social services;
8. Activities services;
9. Restorative and rehabilitative resident services;
10. Contractual services;
11. Clinical records;
12. Resident rights and grievances;
13. Quality assurance and infection control;
14. Safety and emergency preparedness procedures; and
15. Professional and clinical ethics, including:
 - a. Confidentiality of resident information;
 - b. Truthful communication with residents;
 - c. Observance of appropriate standards of informed consent and refusal of treatment; and
 - d. Preservation of resident dignity, with special attention to the needs of the aged, the cognitively impaired, and the dying.

E. Personnel policies and procedures shall include, but are not limited to:

1. Written job descriptions that specify authority, responsibility, and qualifications for each job classification;
2. An on-going plan for employee orientation, staff development, in-service training and continuing education;

3. An accurate and complete personnel record for each employee including:

- a. Verification of current professional license, registration, or certificate or completion of a required approved training course;
- b. Criminal record check;
- c. Verification that the employee has reviewed or received a copy of the job description;
- d. Orientation to the nursing home, its policies and to the position and duties assigned;
- e. Completed continuing education program approved for the employee;
- f. Annual employee performance evaluations; and
- g. Disciplinary action taken.

4. Separate, accurate, and confidential employee health records.

F. Financial record policies and procedures shall include, but not be limited to:

1. Admission agreements;
2. Methods of billing:
 - a. Services not included in the basic daily or monthly rate;
 - b. Services delivered by contractors of the nursing home; and
 - c. Third party payers;
3. Resident or designated representative notification of changes in fees and charges;
4. Correction of billing errors and refund policy;
5. Collection of delinquent resident accounts; and
6. Handling of resident funds.

G. Policies shall be made available for review, upon request, to residents and their designated representatives.

H. Policies and procedures shall be readily available for staff use at all times.

12 VAC 5-371-150. Resident rights.

A. The nursing home shall develop and implement policies and procedures that ensure resident's rights as defined in §§ 32.1-138 and 32.1-138.1 of the Code of Virginia.

B. The procedures shall:

1. Not restrict any right a resident has under law;
2. Provide staff training to implement resident's rights; and
3. Include grievance procedures.

C. The name and telephone number of the complaint coordinator of the OHFR and the toll-free telephone number for the State Ombudsman and any local or county program

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servicing the area shall be conspicuously posted in a public place.

D. Copies of resident rights policies and procedures shall be given to residents upon admittance to the facility and made available to residents currently in residence, to any guardians, next of kin, or sponsoring agency or agencies, and to the public.

E. The nursing home shall have a plan to review resident rights with each resident annually, or with the responsible family member or responsible agent at least annually, and have a plan to advise each staff member at least annually.

F. The nursing home shall certify, in writing, that it is in compliance with the provisions of §§ 32.1-138 and 32.1-138.1 of the Code of Virginia, relative to resident rights, as a condition of license issuance or renewal.

12 VAC 5-371-160. Financial controls and resident funds.

A. All financial records, including resident funds, shall be kept according to generally accepted accounting principles (GAAP).

B. Nursing homes choosing to handle resident funds shall:

1. Comply with § 32.1-138 A 6 of the Code of Virginia regarding resident funds;
2. Purchase a surety bond or otherwise provide assurance for the security of all personal funds deposited with the facility; and
3. Provide for separate accounting for resident funds.

C. In the event the facility is sold, the nursing home shall provide written verification that all resident funds have been transferred and shall obtain a signed receipt from the new owner. Upon receipt, the new owner shall provide an accounting of resident funds.

D. In the event of a resident's death or discharge with funds deposited with the facility, the nursing home shall, within 30 days, give a final accounting of those funds to the individual administering the resident's estate.

12 VAC 5-371-170. Quality assessment and assurance.

A. The nursing home shall maintain a quality assessment and assurance committee consisting of:

1. The director of nursing services;
2. A physician designated by the facility;
3. At least two other members of the facility staff; and
4. An individual with a demonstrated ability to represent the rights and concerns of residents, who may be a member of the facility staff, a resident, or a resident's family member.

B. In selecting members of this committee, consideration shall be given to candidates' abilities and sensitivity to issues relating to quality of care and services provided to residents.

C. The quality assessment and assurance committee shall:

1. Meet at least quarterly to identify issues which would improve quality of care and services provided to residents; and

2. Develop and implement appropriate plans of action to correct identified deficiencies.

D. The nursing home shall document compliance with these requirements.

12 VAC 5-371-180. Infection control.

A. The nursing home shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to prevent the development and transmission of disease and infection.

B. The infection control program shall encompass the entire physical plant and all services.

C. The infection control program shall include:

1. Surveillance, prevention and control of facility wide infections;
2. Procedures to isolate the infecting organism;
3. Access to handwashing equipment for staff;
4. Training of staff in proper handwashing techniques, according to accepted professional standards, to prevent cross contamination;
5. Implementation of universal precautions by direct care staff;
6. Prohibiting employees with communicable diseases or infections from direct contact with residents or their food, if direct contact will transmit disease;
7. Monitoring staff performance of infection control practices;
8. Handling, storing, processing and transporting linens, supplies and equipment in a manner that prevents the spread of infection;
9. Handling, storing, processing and transporting regulated medical waste in accordance with applicable regulations;
10. Maintaining an effective pest control program; and
11. Staff education regarding infection risk-reduction behavior.

12 VAC 5-371-190. Safety and emergency procedures.

A. A written emergency preparedness plan shall be developed, reviewed, and implemented when needed. The plan shall address responses to natural disasters, as well as fire or other emergency which disrupts the normal course of operations. The plan shall address provisions for relocating residents and also address staff responsibilities for:

1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation procedures including the evacuation of residents with special needs;

3. Using, maintaining and operating emergency equipment;

4. Accessing resident emergency medical information; and

5. Utilizing community support services.

B. All staff shall participate in periodic emergency preparedness training.

C. Staff shall be knowledgeable in and prepared to implement the emergency preparedness plan in the event of an emergency.

D. Fire prevention training shall be conducted quarterly on each shift to assure that personnel are capable of performing assigned tasks or duties.

E. At least one telephone shall be available in each area to which residents are admitted and additional telephones or extensions as are necessary to ensure availability in case of need.

F. In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety and well-being of residents, the organization shall notify the OHFR of the conditions and status of the residents and the licensed facility as soon as possible.

G. The nursing home shall have a policy on smoking in which consideration shall be given to the rights of nonsmoking residents and employees without unreasonably limiting the rights of smoking residents.

PART III.
RESIDENT SERVICES.

12 VAC 5-371-200. Director of nursing.

A. Each nursing home shall employ a full-time director of nursing to supervise the delivery of nursing services. The individual hired shall be a registered nurse licensed by the Virginia Board of Nursing.

B. The duties and responsibilities of the director of nursing shall include, but are not limited to:

1. Developing and maintaining (i) nursing service objectives, (ii) standards of practice, (iii) policy and procedure manuals, and (iv) job descriptions for each level of nursing personnel;

2. Recommending to the administrator the resources needed to carry out nursing service, including but not limited to, equipment and supplies and the number and level of nursing personnel to be employed;

3. Participating in the employment of nursing personnel, including (i) recruitment, (ii) selection, (iii) position assignment, (iv) orientation, (v) in-service education, (vi) supervision, (vii) evaluation, and (viii) termination;

4. Participating with the medical director in developing and implementing policies for resident care;

5. Assuring that the plan of care is maintained in conjunction with other disciplines;

6. Coordinating nursing services with other services such as medical, rehabilitative, and social services and the resident activity program;

7. Participating in quality assurance committee meetings to identify issues and to develop and implement appropriate plans of action to correct identified problems;

8. Making daily rounds on resident floors, unless this duty has been delegated to another licensed nurse; and

9. Recommending and coordinating the training needs of nursing staff with the individual responsible for in-service training.

C. A registered nurse, designated in writing by the administrator, shall serve in the temporary absence of the director of nursing so there is the equivalent of a full-time director of nursing on duty for a minimum of five days a week.

D. The director of nursing shall not function as a charge nurse in facilities with 60 or more beds.

E. The nursing home shall notify the OHFR, in writing, within five days of a vacancy in the director of nursing position. The written notice shall give the name and Virginia license number of the individual appointed to serve as director of nursing, and whether the appointment is permanent or temporary.

F. The director of nursing position shall not be held by a temporary designate for more than 90 days. Temporary agency personnel shall not be utilized to fill the director of nursing position.

G. Written notification, giving the name and license number of the individual, shall be sent to the OHFR when a permanent appointment is made.

H. A license for a new nursing home or an increase in bed size in an existing nursing home shall not be issued if the director of nursing position is vacant.

12 VAC 5-371-210. Nurse staffing.

A. A charge nurse, designated by the director of nursing, shall be assigned to each shift.

B. The charge nurse shall be responsible for supervising all nursing activities in the facility, or in the section to which assigned, including:

1. Making daily visits to assess resident physical, mental, and emotional status and implementing any required nursing intervention;

2. Reviewing medication records for completeness, accuracy in the transcription of physician orders, and adherence to stop-order policies;

3. Reviewing resident plans of care for appropriate goals and approaches, and making revisions based on individual needs;

4. Assigning to the nursing staff responsibility for nursing care;

5. Supervising and evaluating performance of all nursing personnel on the unit; and

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6. Keeping the director of nursing services, or director of nursing designee, informed of the status of residents and other related matters.

C. The nursing home shall provide qualified nurses and certified nurse aides on all shifts, seven days per week, in sufficient number to meet the assessed nursing care needs of all residents.

D. Nursing personnel, including registered nurses, licensed practical nurses, and certified nurse aides shall be assigned duties consistent with their education, training and experience.

E. Provisions shall be made for relief personnel during vacations, sick leave and other periods of temporary absence of permanent personnel.

F. Nursing personnel shall be assigned to each unit based on the needs of the residents.

G. Weekly time schedules shall be maintained and shall indicate the number and classification of nursing personnel who worked on each unit for each shift. Schedules shall be retained for one year.

H. Direct resident care duties shall not be performed by non-nursing employees.

I. Before allowing a nonlicensed individual to perform resident care duties, the nursing home shall verify that the individual is:

1. A certified nurse aide in good standing;
2. Enrolled full-time in a nurse aide education program approved by the Virginia Board of Nursing; or
3. Has completed a nurse aide education program or competency testing, but has not yet been placed on the nurse aide registry.

J. Any person employed to perform the duties of a nurse aide on a permanent full-time, part-time, hourly, or contractual basis must be certified as a nurse aide within 120 days of employment.

K. Nurse aides employed or provided by a temporary personnel agency shall be certified to deliver nurse aide services.

L. The services provided or arranged with a temporary personnel agency shall meet professional standards of practice and be provided by qualified staff according to each resident's comprehensive plan of care.

12 VAC 5-371-220. Nursing services.

A. Each nursing home shall implement written resident care policies and procedures which support an active program of nursing care directed toward assisting all residents to achieve outcomes consistent with their highest level of self-care and independence.

B. All medications and treatments will be administered as prescribed in the resident's medical plan.

C. Services shall be provided to prevent clinically avoidable complications, including, but not limited to:

1. Pressure ulcer development;
2. Contracture;
3. Loss of continence;
4. Dehydration; and
5. Malnutrition.

D. Each resident shall be given proper daily personal attention and care, including skin, nail, hair and oral hygiene, in addition to any specific care ordered by the attending physician. Provision of daily personal care shall be documented in the clinical record.

E. Each resident shall be dressed in clean clothing and be free of odors. Each resident shall be encouraged to wear day clothing when out of bed.

F. Each resident shall receive tub or shower baths as often as needed, but not less than twice weekly. Residents whose medical conditions prohibit tub or shower baths shall have a sponge bath daily.

G. Residents who are incontinent shall have a partial bath, clean clothing and linens each time their clothing or bed linen is soiled.

H. The attending physician, nurse practitioner or physician assistant shall be notified of any changes in a resident's condition which indicate a need to alter medical treatment.

12 VAC 5-371-230. Medical direction.

A. Each nursing home shall have a written agreement with one or more physicians licensed by the Virginia Board of Medicine to serve as medical director.

B. The duties of the medical director shall include, but are not limited to:

1. Advising the administrator and the director of nursing on medical issues, including the criteria for residents to be admitted, transferred or discharged from the nursing home;
2. Advising on the development and execution of policies and procedures that have a direct effect upon the quality of medical and nursing care delivered to residents;
3. Acting as liaison and consulting with the administrator and the attending physician on matters regarding medical and nursing care policies and procedures of the nursing home;
4. Advising and providing consultation to the nursing home staff regarding communicable diseases, infection control and isolation procedures, and serving as liaison with local health officials;
5. Providing temporary physician services when the admitting physician is not the attending physician, in order to assure that the resident has temporary medical orders;

6. Providing physician services in case of emergency in the event that the resident's attending physician cannot be reached; and

7. Advising on the development and execution of an employee health program, which shall include provisions for determining that employees are free of communicable diseases according to current acceptable standards of practice.

12 VAC 5-371-240. Physician services.

A. Each resident shall be under the care of a physician licensed by the Virginia Board of Medicine. Nurse practitioners and physician assistants licensed to practice in Virginia may provide care in accordance with their practice agreements.

B. Prior to, or at the time of admission, each resident, his designated representative, or the entity responsible for his care shall designate an attending physician.

C. A complete medical plan of care must be provided at the time of admission, or within 48 hours after admission. The plan shall include:

1. Primary diagnosis;
2. Identification of resident problems;
3. Medical history and physical exam;
4. Orders for medications;
5. Treatments;
6. Restorative services;
7. Activity levels;
8. Diet;
9. Special procedures recommended for health and safety of the resident;
10. Advance directives, if known; and
11. Plans for continuing care.

D. The medical plan of care shall be prescribed and signed by the attending physician. Subsequent medical plans of care for the same resident may be prescribed and signed by the nurse practitioner or physician assistant according to their practice agreements.

E. The physician, nurse practitioner or physician assistant shall review the resident's treatment plan at each visit and write a progress note.

F. Each resident shall be seen by his attending physician and the resident's total program of care shall be reviewed and appropriately revised as necessary.

G. All verbal orders shall be immediately recorded and signed by the individual receiving them, and shall be countersigned by the prescribing person within 72 hours.

12 VAC 5-371-250. Resident assessment and care planning.

A. The nursing home shall conduct an initial and periodic assessment of each resident's needs. The assessment shall

accurately describe the resident's capability to perform daily life functions and significant impairments in functional capacity. This comprehensive assessment shall include, but is not limited to:

1. Medically defined conditions and prior medical history;
2. Medical status;
3. Physical and mental functional status;
4. Sensory and physical impairments;
5. Nutritional status and requirements;
6. Special treatments or procedures;
7. Psychosocial status;
8. Discharge potential;
9. Dental condition;
10. Activities potential;
11. Rehabilitative potential;
12. Cognitive status; and
13. Drug therapy.

B. The nursing home shall conduct a complete assessment:

1. No later than 14 days after the date of admission;
2. Promptly after a significant change in the resident's physical or mental condition; and
3. In all cases, at least once every 12 months.

C. The nursing home shall review each resident's assessment at least once every three months and shall update the plan of care as indicated.

D. Each assessment shall be coordinated by a registered nurse who signs, dates and certifies completion of the assessment.

E. Each assessment shall be conducted or coordinated with the participation of health professionals, who shall sign and date that portion of the assessment.

F. The nursing home shall use the results of the assessment to develop, review, and revise the resident's comprehensive plan of care.

G. A comprehensive plan of care shall be developed for each resident. The plan shall include measurable objectives and timetables to meet the resident's medical, nursing, nutritional, and psychosocial needs identified in the comprehensive assessment. The plan shall also describe the services that are to be furnished to maintain or improve the resident's physical, mental, and psychosocial status.

H. The comprehensive plan of care shall be developed within seven days of completion of the comprehensive assessment.

I. The plan of care shall be prepared by an interdisciplinary team initiated from the physician's orders.

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The interdisciplinary team shall include a registered nurse, the attending physician, to the extent practicable, and other staff in disciplines as determined by the resident's needs. The resident, the resident's family or legal representative shall also be provided an opportunity to participate in the care planning.

J. A resident's treatment plan shall contain at least the following, as relevant to the resident:

1. Diagnosis, prognosis and rehabilitative potential;
2. Orders for:
 - a. Specialized therapeutic or nursing services;
 - b. Necessary medical supplies and equipment;
 - c. Necessary medications and treatment;
 - d. Nutritional needs;
 - e. Medical diagnostic tests;
3. Activity levels; and
4. Any known advance directives.

12 VAC 5-371-260. Staff development and inservice training.

A. All full-time, part-time and temporary personnel shall receive orientation to the facility commensurate with their function or job-specific responsibilities.

B. All resident care staff shall receive annual inservice training, commensurate with their function or job-specific responsibilities, in at least the following:

1. Special needs of residents as determined by the facility staff;
2. Prevention and control of infections;
3. Fire prevention or control and emergency preparedness;
4. Safety and accident prevention;
5. Alternatives to physical and chemical restraints;
6. Confidentiality of patient information;
7. Understanding the needs of the aged and disabled;
8. Resident rights, including personal rights, property rights and the protection of privacy, and procedures for handling complaints;
9. Care of the cognitively impaired; and
10. Basic principles of cardiopulmonary resuscitation for licensed nursing staff and the Heimlich maneuver for nurse aides.

C. The nursing home shall have an ongoing training program that is planned and conducted for the development and improvement of skills of all personnel.

D. The nursing home shall maintain written records indicating the content of and attendance at each orientation and inservice training program.

E. The nursing home shall provide inservice programs, based on the outcome of annual performance evaluations, for nurse aides.

F. Nurse aide inservice training shall consist of at least 12 hours per anniversary year.

12 VAC 5-371-270. Social services.

A. The nursing home shall provide a full-time social services program.

B. There shall be at least one designated staff member responsible for coordinating resident social services.

C. This individual shall have:

1. A bachelor's degree in social work;
2. A bachelor's degree in human services, such as sociology, special education, rehabilitation counseling, and psychology; or
3. Two years direct social work experience.

D. This individual shall be:

1. Trained in recognizing and assessing the emotional and social needs of residents; and
2. Knowledgeable of community agencies and resources available to meet those needs.

E. The social services coordinator shall assess each resident and participate in the development and implementation of the comprehensive plan of care.

F. Documentation of social services shall be included in the resident's clinical record.

12 VAC 5-371-280. Resident activities.

A. The nursing home shall provide activities, on a regularly scheduled basis, specifically suited to the needs and interests of each resident based on his comprehensive plan of care.

B. There shall be at least one staff member responsible for coordinating resident activities. The individual shall:

1. Be a qualified therapeutic recreation specialist or an activities professional;
2. Be eligible for certification as a therapeutic recreation specialist or activities professional by a recognized accrediting body;
3. Have two years experience in a social or recreational program within the last five years, one of which was full-time in a patient activities program in a health care setting;
4. Be a qualified occupational therapist or occupational therapy assistant; or
5. Have completed 90 hours training in group activities and recognizing and assessing the activity needs of residents.

C. The activities coordinator shall assess each resident and participate in the development and implementation of the comprehensive plan of care.

D. The activities program shall make the fullest possible use of community social and recreational opportunities, including the involvement of volunteers and community groups.

E. Documentation of activities shall be included in the resident's clinical record.

12 VAC 5-371-290. Special rehabilitative services.

A. The nursing home shall provide, or arrange for under written agreement, specialized rehabilitative services, such as physical therapy, speech-language pathology services and occupational therapy.

B. Specialized rehabilitative services shall be provided in accordance with accepted standards of practice by qualified therapists, or by trained assistants under the supervision of a licensed or certified therapist.

C. Rehabilitative services shall be authorized by the attending physician and a written plan of care developed in consultation with the appropriate therapist.

12 VAC 5-371-300. Pharmaceutical services.

A. Provision shall be made for the procurement, storage, dispensing, and accounting of drugs and other pharmacy products. This may be by arrangement with an off-site pharmacy, but must include provisions for 24-hour emergency service.

B. The nursing home shall comply with the Virginia Board of Pharmacy regulations related to pharmacy services in nursing homes.

C. Each nursing home shall develop and implement policies and procedures for the handling of drugs and biologicals, including procurement, storage, administration, self-administration and disposal of drugs.

D. Each nursing home shall have a written agreement with a qualified pharmacist to provide consultation on all aspects of the provision of pharmacy services in the facility.

E. The consultant pharmacist shall make regularly scheduled visits, at least monthly, to the nursing home for a sufficient number of hours to carry out the function of the agreement.

F. Each prescription container shall be individually labeled by the pharmacist for each resident or provided in an individualized unit dose system.

G. No drug or medication shall be administered to any resident without a written, dated and signed order from a physician, dentist or podiatrist, nurse practitioner or physician assistant, licensed in Virginia.

H. Verbal orders for drugs or medications shall only be given to a licensed nurse, pharmacist or physician.

I. Drugs and medications not limited as to time or number of doses when ordered shall be automatically stopped,

according to the written policies of the nursing home, and the attending physician shall be notified.

J. Each resident's medication regimen shall be reviewed by a pharmacist licensed by the Virginia Board of Pharmacy. Any irregularities identified by the pharmacist shall be reported to the physician and the director of nursing, and their response documented.

K. Medication orders shall be reviewed at least every 60 days by the attending physician, nurse practitioner, or physician's assistant.

L. Prescription and nonprescription drugs and medications may be brought into the nursing home by a resident's family, friend or other person under the following conditions:

1. The drug or medication is obtained from a pharmacy licensed by the state or federal authority;
2. The individual delivering the resident's drugs and medications shall assure timely delivery in accordance with the nursing home's written policies, so that the resident's prescribed treatment plan is not disrupted;
3. Each drug or medication shall be in an individual container;
4. Each container shall be labeled by a licensed pharmacist indicating:
 - a. Prescription number, when applicable;
 - b. Resident's name;
 - c. Drug name and strength;
 - d. Number of dosage units;
 - e. Date filled;
 - f. Physician's name; and
 - g. Expiration date;
5. Each container shall be securely sealed, consistent with the policies of the nursing home, by a licensed pharmacist; and
6. In no instance shall delivery be made directly to the individual resident.

12 VAC 5-371-310. Diagnostic services.

A. The nursing home shall provide, or arrange for under written agreement, laboratory, x-ray and other diagnostic services, as ordered by a physician.

B. The nursing home shall notify the attending physician of the results of diagnostic services.

12 VAC 5-371-320. Dental services.

A. Provisions shall be made to assist residents to obtain routine and emergency dental care.

B. Each nursing home shall make arrangements with a qualified dentist to provide consultation and recommend oral hygiene policies and practices for the care of residents.

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12 VAC 5-371-330. Restraint usage.

A. A resident shall be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

B. Restraints shall only be used:

1. In accordance with the comprehensive assessment and plan of care, which includes a schedule or plan of rehabilitation training enabling the progressive removal or the progressive use of less restrictive restraints when appropriate; and

2. As a last resort, after completing, implementing, and evaluating the resident's comprehensive assessment and plan of care, when the nursing home has determined that less restrictive means have failed.

C. If a restraint is used in a nonemergency, the nursing home shall:

1. Explain the use of the restraint, including potential negative outcomes of restraint use, to the resident or his legal representative, as appropriate;

2. Explain the resident's right to refuse the restraint;

3. Obtain written consent of the resident. If the resident has been declared incompetent, obtain written consent from the legal representative; and

4. Include the use of restraint in the plan of care.

D. Restraints shall not be ordered on a standing or PRN basis.

E. Restraints shall be applied only by staff trained in their use.

F. At a minimum, for a resident placed in a restraint, the nursing home shall:

1. Check the resident at least every 30 minutes;

2. Provide an opportunity for motion, exercise and elimination for not less than 10 minutes each hour in which a restraint is applied; and

3. Document restraint usage, including outcomes, in accordance with facility policy.

G. Emergency orders for restraints shall not be in effect for longer than 24 hours and must be confirmed by a physician within one hour of application. Each application of emergency restraint shall be considered a single event and shall require a separate physician's order.

H. Temporary restraints shall be used only when necessary to conduct a medical or surgical procedure.

I. Chemical restraint shall only be ordered in an emergency situation when necessary to ensure the physical safety of the resident or other individuals.

J. Orders for chemical restraint shall be in writing, signed by a physician, specifying the dose, frequency, duration and circumstances under which the chemical restraint is to be used. Verbal orders for chemical restraints shall be implemented when an emergency necessitates parenteral

administration of psychopharmacologic drugs, but only until a written order can reasonably be obtained.

K. Emergency orders for chemical restraints shall:

1. Not be in effect for more than 24 hours; and

2. Be administered only if the resident is monitored continually for the first 15 minutes after each parenteral administration (or 30 minutes for nonparenteral administration) and every 15 minutes thereafter, for the first hour, and hourly for the next eight hours to ensure that any adverse side effects will be noticed and appropriate action taken as soon as possible.

L. The nursing home shall notify a resident's legal representative, if any, or an interested family member, if known, within 12 hours when a chemical restraint is used.

PART IV. SUPPORT SERVICES.

12 VAC 5-371-340. Dietary program.

A. The dietary service and all food service personnel shall meet all applicable sections of the Rules and Regulations Governing Restaurants (12 VAC 5-420-10 et seq.).

B. There shall be a qualified staff member responsible for the full-time management and supervision of the dietary service. The individual's qualifications, authority and duties shall be defined in a written job description approved by the administrator.

C. The food service supervisor shall be:

1. A registered dietitian who meets the American Dietetic Association qualification standards;

2. A graduate of an accredited college or university with a baccalaureate degree with major studies in food and nutrition and at least two years of experience in a health care food or nutrition service;

3. An individual who has completed an approved program in food service supervision which includes major course work in food and nutrition;

4. An individual who meets the Board of Dietary Managers certification with major course work in food and nutrition;

5. An individual who has successfully completed a U.S. Armed Services course in food service supervision with an emphasis in nutrition; or

6. An individual who has documented evidence of at least two years satisfactory work experience in food service supervision and who is in an approved program within 60 days of accepting responsibility for the position and shall successfully complete the program within 12 months of the date of enrollment.

D. If the food service supervisor is not a registered dietitian who meets the American Dietetic Association qualification standards (subdivision C 1 of this section) or is not a graduate of an accredited college or university with a baccalaureate degree with major studies in food and nutrition and at least two years experience in a health care food or

nutrition service (subdivision C 2 of this section), the nursing home shall have a written agreement for ongoing consultation from an individual who meets the qualifications to provide guidance to the food service supervisor on methods for maintaining the dietary service, nutritionally balanced meals, and assessing the dietary needs of individual residents.

E. When the current food service supervisor is enrolled in an approved program and completing related course work, the registered dietitian serving as a preceptor must increase the consulting hours to include the number of hours dedicated to preceptor responsibilities.

F. The dietary program shall include the following:

1. Developing all menus, including therapeutic diets prescribed by a resident's physician;
2. Developing, revising, and annually reviewing dietary policies, procedures and job descriptions;
3. Assisting in planning and conducting regularly scheduled inservice training that includes, but is not limited to:
 - a. Therapeutic diets;
 - b. Food preparation requirements; and
 - c. Principles of sanitation; and
4. Visiting residents on a regular basis to discuss nutritional problems, depending upon their needs and level of care, and recommending appropriate solutions.

G. Menus shall meet the dietary allowances of the Food and Nutritional Board of the National Research Council, as adjusted for age, sex, and activity.

H. A copy of a diet manual containing acceptable practices and standards for nutrition must be kept current and on file in the dietary department.

12 VAC 5-371-350. Food service.

A. Food service shall be staffed for not less than 12 hours during the day and evening. Duty schedules shall be retained for at least 30 days.

B. At least three meals, served at regular intervals, shall be provided daily to each resident, unless contraindicated as documented by the attending physician in the resident's clinical record.

C. A between meal snack of nutritional value shall be available upon request to each resident or in accordance with their plan of care.

D. Therapeutic diets shall be prepared and served as prescribed by the attending physician.

E. Food shall be served in a palatable and attractive manner, with proper equipment provided, so that hot food will be hot (140°F or more) and cold food cold (41°F or less) when it leaves the kitchen or steam table.

F. Visitors or employees assigned to other duties in the nursing home shall not be allowed in the food preparation

area during food preparation and resident meal service hours, except in cases of emergency.

G. Weekly menus, including therapeutic diets, substitutes, and copies of menus, as served, shall be retained on file for 12 months.

H. Each nursing home shall have sufficient quantities of trays, glassware, dishes and flatware for individual resident use.

I. Disposable dinnerware or tableware shall be used only for emergencies, for infection control, as part of special activities, or as indicated in a resident's plan of care.

J. All trays set up in advance of mealtime must be covered.

K. Suitable tray racks shall be provided.

12 VAC 5-371-360. Clinical records.

A. The nursing home shall maintain an organized clinical record system in accordance with recognized professional practices. Written policies and procedures shall be established specifying content and completion of clinical records.

B. Clinical records shall be confidential. Only authorized personnel shall have access as specified in § 8.01-413 of the Code of Virginia.

C. Records shall be safeguarded against destruction, fire, loss or unauthorized use.

D. Overall supervisory responsibility for assuring that clinical records are maintained, completed and preserved shall be assigned to an employee of the nursing home. The individual shall have work experience or training which is consistent with the nature and complexity of the record system and be capable of effectively carrying out the functions of the job.

E. An accurate and complete clinical record shall be maintained for each resident and shall include, but not be limited to:

1. Resident identification;
2. Designation of attending physician;
3. Admitting information, including recent resident history, physical examination and diagnosis;
4. Physician orders, including all medications, treatments, diets, restorative and special medical procedures required;
5. Progress notes written at the time of each visit;
6. Documented evidence of assessment of resident's needs, establishment of an appropriate treatment plan, and interdisciplinary plan of care;
7. Nurse's notes written in chronological order and signed by the individual making the entry;
8. All symptoms and other indications of illness or injury, including date, time, and action taken on each shift;

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9. Medication and treatment record, including all medications, treatments and special procedures performed;

10. Copies of radiology, laboratory and other consultant reports; and

11. Discharge summary.

F. Verbal orders shall be immediately documented in the clinical record by the individual authorized to accept the orders, and shall be countersigned within 72 hours by the person initiating the order.

G. Clinical records of discharged residents shall be completed within 30 days of discharge.

H. Clinical records shall be kept for a minimum of five years after discharge or death, unless otherwise specified by state or federal law.

I. Permanent information kept on each resident shall include:

1. Name;
2. Social security number;
3. Date of birth;
4. Date of admission and discharge;
5. Name and address of guardian, if any.

J. Clinical records shall be available to residents and legal representatives, if they wish to see them.

K. When a nursing home closes, the owners shall make provisions for the safekeeping and confidentiality of all clinical records.

12 VAC 5-371-370. Maintenance and housekeeping.

A. The nursing home shall be maintained and equipped to provide a functional, sanitary, safe, and comfortable environment.

B. A written preventive maintenance program shall be established to ensure that equipment is operative and that the interior and exterior of the buildings are maintained in good repair and free from hazards and litter.

C. The administrator shall designate an employee responsible for carrying out these functions and for training and supervising housekeeping and maintenance personnel.

D. Hot water accessible to residents shall be maintained within a range of 100° F to 120° F.

E. The heating, ventilation and air conditioning (HVAC) system shall maintain temperatures in the range of 70° F to 80° F throughout resident areas.

F. The nursing home shall have an effective pest control program provided either by maintenance personnel or by contract with a pest control company.

G. The nursing home shall provide adequate space, equipment and supplies for any special services to be offered.

H. All furniture shall be kept clean and safe for use.

I. Over bed tables shall be available as needed.

J. Stretchers and wheelchairs shall be stored out of the path of normal traffic.

K. A sufficient number of wheelchairs and chairs shall be provided for residents whose physical conditions indicate a need for such equipment.

L. Refuse containers shall be cleaned and emptied at frequent intervals.

M. A separate room with appropriate equipment for hair care and grooming shall be provided.

N. Hazardous cleaning solutions, compounds and substances shall be labeled, stored and kept under lock in a safe place separate from other materials.

12 VAC 5-371-380. Laundry services.

A. A quantity of linens shall be available at all times to provide for proper care and comfort of residents.

B. Linens and other laundry must be handled, stored and processed to control the spread of infection.

C. Clean linen shall be stored in a clean and dry area accessible to the nursing unit.

D. Soiled linen shall be stored in covered containers in separate, well ventilated areas and shall not accumulate in the facility.

E. Soiled linen shall not be sorted, laundered, rinsed or stored in bathrooms, resident rooms, kitchens or food storage areas.

F. Soiled linen shall not be placed on the floor.

G. Arrangement for laundering resident's personal clothing shall be provided. If laundry facilities are not provided on premises, commercial laundry services shall be utilized.

12 VAC 5-371-390. Transportation.

A. Provisions shall be made to obtain appropriate transportation in cases of emergency.

B. The nursing home shall assist in obtaining transportation when it is necessary to obtain medical, psychiatric, dental, diagnostic or other services outside the facility.

12 VAC 5-371-400. Unique design solutions.

A. All unique design solutions shall be described with outcome measures. This shall be reviewed in cooperation with the OHFR.

B. The description and outcome measures shall be a part of the material used to review the design solution at the time of the facility survey.

C. All unique design solutions, unless specifically excluded by contract, shall comply with Parts II (12 VAC 5-371-110 et seq.) and III (12 VAC 5-371-200 et seq.) of this chapter.

PART V.
PHYSICAL ENVIRONMENT.

12 VAC 5-371-410. Architectural plans and specifications.

A. All construction of new buildings and additions, renovations or alterations of existing buildings for occupancy as a nursing home shall comply with applicable state and federal laws and regulations.

B. The nursing home shall be constructed and renovated in a manner that will minimize noise, steam, odors, hazards and unsightliness to resident bedrooms, dining rooms, and lounge areas.

C. Architectural drawings and specifications for all new construction or for additions, alterations or renovations to any existing building, shall be submitted to the OHFR for approval. Construction shall not commence prior to approval. Additional approval may include a Certificate of Public Need.

D. The owner of a nursing home shall notify the OHFR in writing, not later than 10 days prior to the date construction of a new nursing home commences, and when 90% complete.

E. Upon completion of the construction, the nursing home shall maintain a complete set of legible "as built" drawings showing all construction, fixed equipment, and mechanical and electrical systems, as installed or built.

12 VAC 5-371-420. Building inspection and classification.

All buildings shall be inspected and approved as required by the appropriate building regulatory entity. Approval shall be a Certificate of Use and Occupancy indicating the building is classified for its proposed licensed purpose.

12 VAC 5-371-430. General physical plant requirements.

A. Nursing homes constructed prior to the effective date of this regulation shall remain subject to the regulations under which they were constructed. When alterations are considered which affect the structural integrity of an existing building, the functional operation of the facility, fire safety, or the addition or relocation of beds:

1. The OHFR shall be notified in writing of the proposed changes; and
2. Architectural drawings shall be submitted for alterations according to 12 VAC 5-371-410 C and the project approved in writing by the OHFR before the changes are made.

Alterations in existing nursing homes shall not be undertaken unless the changes meet the applicable standards of construction for new nursing homes.

B. Resident rooms, service rooms, or service areas shall not be used as passageways to other resident rooms, service areas or required exits.

C. Courtyard walls containing doors or windows of one or more resident rooms shall be 30 feet between facing walls.

D. Rooms containing heat-producing equipment, such as boiler or heater rooms and laundries, shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of 10° F above the ambient room temperature.

E. Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved.

Floors in areas used for food preparation for food assembly shall be water resistant and grease resistant. Joints in tile and similar material in these areas shall be resistant to food acids and shall have a nonslip surface.

F. Wall bases in kitchens and other areas which are frequently subject to wet cleaning methods shall be made integral and coved with the floor.

G. Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant.

H. Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed.

I. Ceilings throughout the building shall be cleanable.

Ceilings in the dietary and food preparation areas shall have a finished ceiling covering all overhead ductwork and piping.

Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces, unless required for fire-resistive purposes.

J. Noise absorption or noise reduction ceilings shall be provided in corridors in patient areas, nurses stations, dayrooms, recreation rooms, dining rooms, and waiting areas.

K. Windows or their openings shall be designed so that persons cannot accidentally fall out of them when they are open.

L. Facilities shall be provided to clean and sanitize carts serving the central supply, dietary, and laundry services.

M. All lounge, activity, dining and recreation areas shall be comfortable and suitably furnished.

N. Handrails shall be mounted 34 to 36 inches above the finished floor on both sides of all corridors used by residents.

O. Paper towel dispensers, soap dispensers, and waste receptacles shall be provided at all handwashing facilities.

P. There shall be storage areas for maintenance equipment to support and maintain the needs of the facility.

12 VAC 5-371-440. Elevators.

A. All buildings having facilities used by residents located on other than the main entrance floor shall have elevators.

B. At least one hospital-type elevator shall be installed where one to 60 resident beds are located on floors other than the main entrance floor, or where resident services are located on a floor other than those containing resident beds.

C. At least two hospital-type elevators shall be installed where 61 to 200 resident beds are located on floors other than the main entrance floor, or where resident services are located on a floor other than those containing resident beds.

D. At least three hospital-type elevators shall be installed where 201 to 350 resident beds are located on floors other

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than the main entrance floor, or where resident services are located on a floor other than those containing resident beds.

12 VAC 5-371-450. Janitor's closets.

A. Janitor's closets shall contain a floor receptor or service sink and storage for housekeeping supplies and equipment.

B. A janitor's closet shall be located in the following service areas:

1. Nursing unit;
2. Dietary or food service area; and
3. Laundry.

In addition, there shall be a sufficient number of janitor's closets located throughout the nursing home to assure a clean and sanitary environment.

12 VAC 5-371-460. Nursing units.

A. Resident rooms shall be located no more than 120 feet from the nurses' station, the clean workroom and the soiled workroom.

B. All resident corridors and open resident areas in the nursing unit shall be visible from the nurses' station or monitored by a suitable method or device.

C. The nursing unit shall contain the following service areas:

1. A nurses' station with space for nurses' charting, doctors' charting, storage for administrative supplies, and a handwashing lavatory, which may serve as the drug distribution station;
2. Nursing staff toilet rooms with a handwashing lavatory;
3. A clean utility room with a work counter, a handwashing lavatory, and storage facilities;
4. A soiled utility room with a clinical sink or equivalent flushing rim fixture, sink equipped for handwashing, work counter, sanitizer, waste receptacle, and linen receptacle;
5. A drug distribution station which may be a medicine preparation room, a self-contained unit, or other approved system. The facility medicine preparation room shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs;
6. A separate closet or designated area within the clean utility room for clean linen storage. If a cart system is used, storage may be in an alcove;
7. A nourishment station containing a sink equipped for handwashing, equipment for serving nourishment between scheduled meals, refrigerator, ice maker and storage cabinets;
8. An equipment storage room for I.V. stands, inhalators, air mattresses, and walkers; and

9. At least one bathing unit accessible by lift, door, or swivel type tub.

D. Night lights shall be provided in resident rooms and corridors.

E. The number of beds on a nursing unit shall not exceed 60, unless otherwise approved by the OHFR.

F. At least 60% of the beds shall be located in rooms designated for one or two beds.

G. At least two beds on each 60-bed unit shall be located in single bed rooms, each equipped with a private bath and toilet.

12 VAC 5-371-470. Resident rooms.

A. Minimum room areas exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, vestibules, door swings, heating units, columns or other projections shall be 100 square feet in single-bed rooms and 80 square feet per bed in multi-bed rooms. In multi-bed rooms, a clearance of 3 feet 8 inches shall be available at the foot of each bed to permit the passage of beds.

B. No more than four residents shall share a bedroom.

C. Visual privacy shall be provided for each resident in multi-bed rooms.

D. Multi-bed rooms shall be designed to permit no more than two beds side by side parallel to the window wall.

E. Each room shall be provided with natural light as a primary source of light. Windows shall be operable from the inside, without the use of special tools.

Window sills in resident rooms shall be above grade level and shall not be higher than three feet above the floor.

F. One handwashing lavatory shall be provided in each resident room except that it may be omitted from a single-bed room or a two-bed room, if a lavatory is located in an adjoining toilet room which serves that room only.

G. For each resident, the room shall contain:

1. A bed;
2. At least one pillow;
3. An enclosed bedside cabinet, with a drawer, hard surface and washable top;
4. A wardrobe, locker, or closet that is suitable for hanging full length garments and for storing personal effects; and
5. A bedside chair or geriatric chair.

12 VAC 5-371-480. Resident bathrooms.

A. There shall be one bathtub or shower for every 10 residents not otherwise served by bathing facilities within the resident rooms. Each resident shall have access to a toilet room with a water closet without entering the general corridor area.

B. Each tub or shower shall be in an individual room or enclosure which provides space for the private use of the

bathing fixture, for drying and dressing, and for a wheelchair and an attendant.

C. One toilet room shall serve no more than four beds and no more than four resident rooms.

D. Rooms containing bathtubs, showers, and water closets used by residents shall be equipped with doors and hardware which will permit access from the outside. When such rooms have only one opening or are small in size, the doors shall be capable of opening outward or be designed to be opened without pushing against a resident collapsed within the room.

E. Grab bars shall be provided at all resident toilets, showers, and tubs. The bars shall have 1½ inch clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of 250 pounds.

F. Soap dishes or soap dispensers shall be provided at showers and bath tubs.

G. Towel bars and robe hooks shall be provided at all bathing facilities.

H. A nurse's call button shall be provided for resident use at each resident toilet, bath, and shower room.

12 VAC 5-371-490. Resident dining.

A. A total of 20 square feet per bed with a minimum size of not less than 225 square feet for resident dining shall be provided.

B. Nursing homes with outpatient day care programs shall provide additional dining space to accommodate the additional number of persons to be served.

12 VAC 5-371-500. Nurses calling system.

A. General resident areas and each bedroom shall be served by at least one calling station. Each bed shall be provided with a call button. Two call buttons serving adjacent beds may be served by one calling station.

B. Calls shall register audibly and visibly at the nurses station, in the clean workroom, in the soiled workroom, and in the nourishment station of the nursing unit.

C. A visible signal shall register in the corridor at the resident room.

D. In multi-corridor nursing units, additional visible signals shall be installed at corridor intersections.

E. In rooms containing two or more calling stations, indicating lights shall be provided at each station.

F. Nurses calling systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating.

12 VAC 5-371-510. Food service facilities.

A. Food service facilities shall consist of an on-site conventional food preparation system, a convenience food service system, or an appropriate combination of the two.

B. The following facilities shall be provided in the size required to implement the type of food service selected:

1. Control station for receiving food supplies;
2. Storage space for three days supply of food including food requiring cold storage;
3. At least two cubic feet of refrigerated storage per bed and two square feet of dry food storage per bed;
4. Space and equipment for thawing, preparing, cooking, baking, and portioning;
5. Meal service facilities such as tray assembly and distribution space;
6. Potwashing facilities;
7. Sanitizing facilities and storage areas for cans, carts and mobile tray conveyors; and
8. Easily cleanable ice making facilities that may be in an area separate from food preparation but must be convenient to dietary facilities.

C. Handwashing lavatories shall be available in the food preparation area. Toilets with handwashing lavatories for dietary staff shall be conveniently accessible, but shall not open directly into food service areas.

D. The dietitian or food service supervisor shall have an office or suitable work space.

E. Warewashing space, located in a room or an alcove separate from the food preparation and serving area, shall contain:

1. Space for receiving, scraping, sorting, and stacking soiled tableware;
2. Space for transferring clean tableware to the using area; and
3. A handwashing lavatory.

F. Commercial type dishwashing equipment shall be provided.

12 VAC 5-371-520. Laundry facilities.

A. Laundry facilities shall include:

1. A soiled laundry receiving, holding, and sorting room with handwashing lavatory; and
2. A clean laundry storage, issuing, and holding room or area.

B. On-premise laundry service facilities shall include:

1. A laundry processing room with commercial-type equipment capable of processing seven days needs within a regularly scheduled work week and a handwashing lavatory;
2. A storage space for laundry supplies; and
3. A clean laundry inspection and mending room or area.

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12 VAC 5-371-530. Waste processing services.

A. Space and facilities shall be provided for the sanitary handling, storage and disposal of waste. Disposal may be by incineration, mechanical destruction, compaction, containerization, removal, contractual arrangement or by a combination of these techniques.

B. Waste storage facilities shall be located in a separate room which is outside or easily accessible to the outside for direct pickup or disposal.

C. The use of an incinerator shall require a permit from the Department of Environmental Quality.

12 VAC 5-371-540. Resident recreation.

A. A total of 10 square feet per bed with a minimum of not less than 225 square feet shall be provided.

B. In multi-story buildings, a minimum of 225 square feet shall be provided on each floor.

C. Storage space shall be provided for equipment and supplies.

D. Nursing homes with outpatient day care programs shall provide additional recreational space. Day care space will not infringe upon inpatient services.

E. Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated shall not be located directly over resident bed areas, unless special provisions are made to minimize such noise.

12 VAC 5-371-550. Physical and occupational therapy.

Therapy areas, required by the nursing home programs, shall include, but are not limited to:

1. Treatment and exercise areas with sufficient space and equipment for individual resident privacy;
2. Handwashing lavatory;
3. Facilities for the collection of soiled linen, supplies and waste products;
4. Storage for clean linen, supplies, and equipment;
5. Toilet rooms designed for the physically handicapped equipped with water closet and handwashing lavatory; and
6. Wheelchair and stretcher storage.

12 VAC 5-371-560. Administrative, public and employee facilities.

A. The entrance to the nursing home shall be at grade level, sheltered from the weather, and able to accommodate wheelchairs.

B. The following shall be available in areas accessible to the public:

1. Storage space for wheelchairs;
2. Reception and information counter or desk;
3. Seating space;

4. Public toilet facilities;

5. Public telephones;

6. Drinking fountain;

7. Space for private interviews;

8. General or individual offices; and

9. Storage for office equipment and supplies.

C. Facilities such as locker rooms, lounges, and toilet facilities shall accommodate the needs of all employees and volunteers.

NOTICE: The forms used in administering the Rules and Regulations for the Licensure of Nursing Homes (12 VAC 5-371-10 et seq.) are not being published due to the large number of pages; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health, Main Street Station, 1500 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

Application for License Renewal: Nursing Homes for Year Ending December 31, 1996

Annual Survey of Nursing Homes: 1995

Application for License: Hospitals and Nursing Homes

VA.R. Doc. No. R96-471; Filed July 2, 1996, 3:34 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 regulation.

CHARITABLE GAMING COMMISSION

REGISTRAR'S NOTICE: Pursuant to § 18.2-340.38 of the Code of Virginia, the initial regulations adopted by the Charitable Gaming Commission are not subject to the Administrative Process Act (§ 9-6.14:1 et seq.) during the first 24-month period following the earliest effective date of any portion of Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia. Thereafter, all regulations shall fully comply with the provisions of the Administrative Process Act. The following regulations are effective until replacement regulations are promulgated in accordance with the Administrative Process Act or no later than June 30, 1997.

Title of Regulation: 11 VAC 15-10-10 et seq. Interim Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1, 18.2-340.18, and 18.2-340.38 of the Code of Virginia.

Effective Date: July 1, 1996, through June 30, 1997.

Summary:

This regulation provides procedures to be used for soliciting input of interested persons in the formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act.

Agency Contact: Copies of the regulation may be obtained from Donna Pruden, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238. There is a charge of \$15 for all commission regulations.

CHAPTER 10.

INTERIM PUBLIC PARTICIPATION GUIDELINES.

11 VAC 15-10-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings 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.

"Approving authority" means the collegial body of the Virginia Charitable Gaming Commission consisting of seven members each being duly appointed by the Governor of Virginia.

"Charitable gaming" means the conduct of bingo, instant bingo and raffles.

"Charitable Gaming Law" means the provisions found in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia.

"Commission" means the Virginia Charitable Gaming Commission.

"Executive secretary" means the Executive Secretary of the Virginia Charitable Gaming Commission or his designee.

"Person" means an individual, corporation, partnership, unincorporated association, or any other legal entity.

11 VAC 15-10-20. General.

A. The procedures in this chapter shall be used for soliciting the input of interested persons in the formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This chapter does not apply to regulations exempted from the provisions of the Administrative Process Act (§ 9-6.14:4.1 B of the Code of Virginia) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C of the Code of Virginia). The procedures shall expire when final regulations are promulgated or no later than June 30, 1997.

B. The failure of any person to receive any notice or copies of any documents provided under this chapter shall not affect the validity of any regulation.

C. In developing any regulation governing charitable gaming, the commission is committed to obtaining comments from interested persons. These comments may be forwarded to the executive secretary at the commission's main business office.

11 VAC 15-10-30. Public participation procedures.

A. The Charitable Gaming Law established the commission effective July 1, 1995, and vested it with control of all charitable gaming in Virginia, with plenary powers to prescribe regulations and conditions under which such gaming is conducted in a manner consistent with the purpose for which it is permitted. Section 18.2-340.18 (4) of the Code of Virginia authorizes the commission to promulgate regulations and conditions under which charitable gaming shall be conducted.

B. The public participation procedures shall apply to regulations administered by the commission that are subject to the Administrative Process Act. These procedures shall not apply to regulations adopted on an emergency basis.

C. Any person may petition the commission concerning the adoption or amendment of regulations. 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 action with respect to regulations;

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5. Statement of need and justification for the proposed action;
6. Statement of impact of the proposed action on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The commission shall provide a written response to such petition within 180 days from the date the petition was received. The commission's decision to initiate or not initiate rule making in response to petitions is not subject to judicial review. The commission, at its discretion, may consider any regulation request or change.

D. The commission shall maintain a list of persons who provide written comments or petitions to the commission and mail to everyone on the list a copy of the Notice of Intended Regulatory Action.

E. The commission shall place on its agenda, whenever appropriate, a period for public participation during its regular meetings.

F. The commission will identify persons who either would be interested in or affected by proposed regulations. The methods for identifying interested parties shall include, but not be limited to, the following:

1. Using a list, compiled by the commission, of organizations which have been issued a permit to conduct charitable gaming activities.
2. Using commission files to identify people who have raised questions or expressed an interest in the regulations.
3. Using a list, compiled by the commission, of persons who previously participated in public meetings.
4. Obtaining from the Secretary of the Commonwealth a list of persons who have registered as lobbyists for the most recent General Assembly session. The list will be used to identify groups which may be interested in the subject matter of the proposed regulations.
5. Using a list compiled by the commission of appropriate officials of towns, cities, and counties to identify localities that may have an interest in proposed regulations.

G. The commission shall use, as necessary, advisory committees and interested individuals for developing proposed regulations. The commission shall use individuals with special expertise for professional input as required. Situations that may warrant the use of advisory committees may include, but are not limited to, analyzing electronic and mechanical gaming equipment, conducting special studies of charitable gaming as requested by the commission or the legislature, and commenting on current or proposed statutes, regulations, or operating rules and procedures.

H. Except for those regulations exempted by § 9-6.14:4.1 of the Code of Virginia, the commission shall provide the Registrar of Regulations with a Notice of Intended Regulatory Action (NOIRA) which describes the subject matter and intent of the planned regulation. At least 30 days shall be provided

for public comment after publication of the NOIRA. The commission shall not file proposed regulations with the Registrar of Regulations until the public comment period on the NOIRA has closed.

I. The methods of notifying interested persons shall include publishing the notice in the Virginia Register of Regulations (Virginia Register) and may also include the following:

1. Sending the notice to all persons identified as interested parties through the methods described in subsection F of this section; and
2. Requesting that groups, associations and organizations to whom the notice is sent, publish the notice in newsletters or journals or use other means available to them to inform their members.

J. After interested parties have had reasonable opportunity to respond to the notice, the commission shall determine the level of interest.

1. If sufficient interest exists, the commission may schedule informal meetings before the development of the proposed regulations. The purpose of the meetings will be to determine the specific areas of interest and concern and to gather factual information on the subject of the proposed regulations.

2. Instead of or in addition to informal meetings, the commission may ask for additional written comments, concerns or suggestions on the development of regulations from those who responded to the notice.

3. The commission may forego an informal meeting, provided sufficient information to develop regulations was acquired as a result of the notice.

K. After the initial public input on the intended regulatory action, the commission will develop proposed regulations for review, revision and adoption.

L. After the drafting process ends, the commission-approved regulations will be submitted to the Registrar of Regulations under the Administrative Process Act. The commission-approved regulations will be published as proposed regulations in the Virginia Register.

M. The commission shall furnish a copy of the regulations published in the Virginia Register to persons who make such a request. A copy of the "Notice of Comment Period" form may be sent with the copy of the regulations.

N. The commission shall state in the NOIRA whether it intends to hold a public hearing on the proposed regulations after it is published. The commission shall hold such public hearings if required by basic law. If the commission states an intent to hold a public hearing on the proposed regulation in the NOIRA, then it shall hold the hearing.

O. The commission shall adopt all final regulations. The final regulations shall be submitted for publication in the Virginia Register.

P. The commission shall order the printing of all adopted final regulations and make appropriate distribution.

Q. The distribution of any regulations shall be made with a goal of increasing public knowledge of the policies of the commission and of compliance with the commission's regulations.

VA.R. Doc. No. R96-454; Filed June 28, 1996, 1:39 p.m.

Title of Regulation: 11 VAC 15-20-10 et seq. Interim Rules and Regulations of the Charitable Gaming Commission.

Statutory Authority: §§ 18.2-340.18 and 18.2-340.38 of the Code of Virginia.

Effective Date: July 1, 1996, through June 30, 1997.

Summary:

These interim regulations are the result of changes to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia which established the Virginia Charitable Gaming Commission effective July 1, 1995. The regulations are effective July 1, 1996.

The regulations prescribe the conditions under which charitable gaming shall be conducted in the Commonwealth to ensure that it is conducted in a manner consistent with the purpose for which it is permitted.

Agency Contact: Copies of the regulation may be obtained from Donna Pruden, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238. There is a \$15 charge for a copy of the regulations.

CHAPTER 20. INTERIM RULES AND REGULATIONS OF THE CHARITABLE GAMING COMMISSION.

PART I. DEFINITIONS.

11 VAC 15-20-10. Definitions.

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

"Bingo" means a specific game of chance played with individual cards having randomly numbered squares ranging from 1 to 75, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random. Such cards shall have five columns headed respectively by the letters B, I, N, G, O, with each column having five randomly numbered squares, except the center column which shall contain one free space.

"Bingo card" means a card containing five rows of squares with 24 preprinted numbers and a free center space, and the letters B, I, N, G, O printed in order over the five columns.

"Board of directors" means the board of directors, managing committee or other supervisory body of a qualified organization.

"Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.

"Building" means a structure enclosed by continuous exterior walls regardless of the configuration of the interior walls.

"Calendar day" means the period of 24 consecutive hours commencing at 12:01 a.m. and concluding at midnight.

"Calendar week" means the period of seven consecutive calendar days commencing at 12:01 a.m. on Sunday and ending at midnight the following Saturday.

"Cash" means currency or coinage.

"Charitable gaming" or "charitable games" means bingo, raffles and games of chance explicitly authorized by Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia.

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games.

"Commission" means the Virginia Charitable Gaming Commission.

"Concealed face bingo card" means a nonreusable bingo card constructed to conceal the card face. This type of card is commonly referred to under trade names such as "Tear-open," "Bonanza Bingo," "Bullseye" and "Fortune Cards."

"Covering numbers" means daubing a square containing a number called with indelible ink or otherwise concealing the number on the card.

"Deal" means each separate package or series of packages consisting of one game of instant bingo or pull-tab raffle cards with the same serial number.

"Designator" means an object used in the number selection process, such as a ping pong ball, upon which bingo letters and numbers are imprinted.

"Disposable paper card" means a nonreusable, paper bingo card manufactured with pre-printed numbers.

"Door prize" means any prize awarded by the random drawing or random selection of a name or number taken from any entry or admission ticket.

"Electronic verification" means the verification of bingo by entering the free space number of the winning bingo card into computer equipment which has preprogrammed software used for this purpose.

"Exempt organization" means any organization that reasonably expects to realize gross receipts of \$25,000 or less in any 12-month period and a volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the political subdivision as being a part of the safety program of the political subdivision.

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"Fiscal year" or "annual reporting period" means the 12-month period beginning October 1st of any given year, and ending September 30th of the following year.

"501(c) organization" means any organization that is tax exempt under 26 USC § 501 (c) (3), (4), (8), (10) or (19).

"Flare" means a piece of paper or cardboard or similar material which bears printed information relating to the number of prizes to be awarded and the specific prize amounts in a particular deal of instant bingo, pull-tab cards or seal cards.

"Free space number," "perm number," "center number," or "card or face number" means the number generally printed in the center space of a bingo card that identifies the unique pattern of numbers printed on that card.

"Gross receipts" means the total amount of money received by an organization from charitable gaming before the deduction of expenses, including prizes.

"Immediate family" means one's spouse, mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law, father-in-law and step-child.

"Instant bingo" means a specific game of chance played by the random selection of one or more individually prepackaged cards made completely of paper or paper products with winners being determined by the preprinted appearance of concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses and may include the use of a seal card which conceals one or more numbers or symbols that have been designated in advance as prize winners.

"Interested parties" means the president or an officer of any qualified organization which is a permit applicant or holds a permit to conduct charitable gaming or, the owner, director, officer or partner of an entity engaged in supplying charitable gaming supplies to organizations.

"Jackpot" means a bingo game, exclusive of a "winner-take-all" bingo game, in which (i) all numbers on the card are covered, each number being selected at random, and with no more than one free space and (ii) the prize amount is greater than \$100.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation, or employee thereof, which owns and leases, or leases any premises devoted in whole or in part to the conduct of bingo games, and any person residing in the same household as the landlord.

"Management, operation or conduct" means the provision of oversight and supervision; deposit of proceeds of charitable gaming activities; check writing or approval authority; purchase authority for charitable gaming equipment or supplies; service as a volunteer worker or assistant; preparation of daily, quarterly or annual financial reports or negotiation of contracts or leases unless performed by nonmember professionals at reasonable costs; or involvement in charitable gaming activities in any manner other than as a player.

"Manufacturer" means a person who assembles from raw materials or subparts a completed piece of bingo or other charitable gaming equipment or supplies. "Manufacturer" also means a person who modifies, converts, adds to or removes parts from bingo or other charitable gaming equipment to further its promotion or sale for the conduct of charitable gaming.

"Operating costs" means charitable gaming fund disbursements for reasonable and proper expenses incurred in the conduct of charitable gaming, including costs of publicizing the time, date and location of charitable gaming, rent, prizes, professional fees, audit and permit fees and gaming supplies.

"Organization" means any one of the following:

- 1. A volunteer fire department, rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the political subdivision where the voluntary fire department or rescue squad is located as being a part of the safety program of such political subdivision;*
- 2. An organization operated exclusively for religious, charitable, community or educational purposes;*
- 3. An association of war veterans or auxiliary units thereof organized in the United States; or,*
- 4. A fraternal association or corporation operating under the lodge system.*

"Packet" means sheets of bingo assembled in order of games to be played. This may or may not include specials, winner-take-alls and jackpots.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation or other legal entity.

"Prize" means cash, merchandise, certificate or other item of value awarded to a winning player. All prizes shall be valued at fair market value.

"Pull-tabs" means individually prepackaged cards made completely of paper or paper products, with winners being determined by the appearance of preprinted concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses.

"Qualified organization" means any organization to which a valid permit has been issued by the commission to conduct charitable gaming or any organization which is exempt pursuant to § 18.2-340.23 of the Code of Virginia.

"Raffle" means a lottery in which the prize is won by (i) a random drawing or selection of the name or prearranged number of one or more persons purchasing chances or (ii) a random contest in which the winning name or preassigned number of one or more persons purchasing chances is determined by a race involving inanimate objects floating on a body of water, commonly referred to as a "duck race." For purposes of this chapter, "raffle" shall include the use of individually prepackaged cards made completely of paper or paper products, with winners being determined by the appearance of preprinted concealed letters, numbers or

symbols that must be exposed by the player to determine wins and losses, such cards being commonly referred to as "pull tabs."

"Random selection" or "randomly selected" means a process of selecting number designators to produce random numbers during a bingo game in which each designator or number in the remaining population has an equal chance or probability of being selected.

"Remuneration" means payment for goods provided, services rendered, or losses incurred.

"Seal card" means a board or placard used in conjunction with a deal of the same serial number, that contains one or more concealed areas that, when removed or opened, reveal a predesignated winning number, letter or symbol located on that board or placard.

"Selection device" means a device that is operated manually or mechanically to randomly select bingo numbers.

"Serial number" means a unique number printed by the manufacturer on each bingo card in a set or each card in a deal.

"Series number" means the number of unique card faces contained in a set of disposable bingo paper or bingo hard cards. A 9000 series, for example, has 9000 unique faces.

"Session" means a period of time in a calendar day during which one or more bingo games are conducted by a single qualified organization, or when approval for joint operation is obtained, by two or more qualified organizations that begins with the selection of the first ball for the first game and ends with the selection of the last ball for the last game.

"Set" means the bingo cards contained within each series number.

"Special permit" means a permit that may be granted to a qualified organization to allow the organization to conduct more frequent operation of bingo games during carnivals, fairs or other similar events within the jurisdiction in which the organization is permitted.

"Supplier" means any person who obtains, offers to sell, sells or otherwise provides gaming supplies to any qualified organization.

"Use of proceeds" means use of funds derived by an organization from its charitable gaming activities which are disbursed for those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized and expenses relating to the acquisition, construction, maintenance or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes.

"Verification book" means a book compiled by the manufacturer of bingo cards that lists the unique pattern of numbers on each card by free space number and is used to verify the authenticity of a winning card.

"Winner-take-all" means a bingo game in which all of the proceeds are paid to the winner or winners of the game.

PART II.

PERMITS, REGISTRATION CERTIFICATES.

11 VAC 15-20-20. Eligibility for permit; exemptions, where valid, permit requirements.

A. To be eligible for a permit to conduct charitable gaming, an organization shall:

1. Have been in existence and met on a regular basis in the county, city or town or in a county, city or town adjacent to the county, city or town wherein the organization proposes to conduct charitable gaming for a period of at least three years immediately prior to applying for a permit.

2. The requirements in subdivision 1 of this subsection shall not apply:

a. To any lodge or chapter of a national or international fraternal order or to a national or international civic organization which is exempt under § 501 (c) of the United States Internal Revenue Code and which has a lodge or chapter holding a charitable gaming permit issued under the provisions of this article anywhere within the Commonwealth;

b. To booster clubs which have been operating for less than three years and which have been established solely to raise funds for school-sponsored activities in public schools which are less than three years old;

c. To recently established volunteer fire and rescue companies or departments, after county, city or town approval; or

d. To an organization which relocates its meeting place on a permanent basis from one jurisdiction to another, and complies with subsection B of this section, and was the holder of a valid permit at the time of its relocation.

3. Be operating currently and have always operated as a nonprofit organization.

B. Organizations whose gross receipts from charitable gaming exceed or can be expected to exceed \$75,000 in any calendar year must be tax exempt under 26 USC § 501 (c) as defined in this chapter. If this exempt status is pending, the organization may elect to apply for the permit and submit a copy of all documentation supplied to the Internal Revenue Service (IRS) to the commission for a tax exempt status determination.

C. The commission shall upon review of this documentation, issue an interim determination of tax exempt status which shall be valid until IRS renders a decision, or for 18 months, whichever is earlier.

1. The organization shall be required, upon request of the commission, to provide written documentation as to the status of the tax exempt request or authorize the commission to obtain such information from the IRS. Failure to comply with this provision shall result in immediate revocation of the permit.

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2. A fee of \$500 shall be charged for the review of the tax exempt request submitted to the IRS. This fee is nonrefundable.

3. A permit shall be valid only for locations, days, dates and times as listed on the permit.

4. The commission shall require, as a condition of receiving a permit, that the applicant use a predetermined percentage of its gross receipts in each fiscal year for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance or repair or any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes.

The required minimum percentages are as follows:

For the fiscal year beginning October 1, 1996:

- For organizations with gross receipts less than \$150,000 3%
- For organizations with gross receipts between \$150,000 and \$500,000 4%
- For organizations with gross receipts over \$500,000 6%

For the fiscal year beginning October 1, 1997:

- For organizations with gross receipts less than \$150,000 4%
- For organizations with gross receipts between \$150,000 and \$500,000 6%
- For organizations with gross receipts over \$500,000 9%

For the fiscal year beginning October 1, 1998 and later fiscal years:

- For organizations with gross receipts less than \$150,000 5%
- For organizations with gross receipts between \$150,000 and \$500,000 10%
- For organizations with gross receipts over \$500,000 12%

D. Each organization shall have a minimum of 50% of its membership as residents of the Commonwealth. However, an organization that is tax exempt under 26 USC § 501(c)(3) and which does not have members, shall be exempt from this requirement.

11 VAC 15-20-30. Organizations exempt from permit, financial reporting and audit fee requirements.

The following organizations are exempt from permit, financial reporting and audit fee requirements as outlined in §§ 18.2-340.25 and 18.2-340.30 of the Code of Virginia.

1. Any organization that reasonably expects to realize gross receipts of \$25,000 or less in any 12-month period, and any volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the political subdivision where the volunteer fire department or rescue squad is located as being a part of the safety program of such political subdivision. However, if an organization (other than a volunteer fire department or rescue squad) exceeds \$25,000 in gross receipts, or expects to exceed these amounts at any time during a 12-month period, the organization shall apply for a permit as prescribed in this chapter within 30 days of the date that gross receipts have exceeded the respective amounts. Charitable gaming by such organization may continue until the commission renders a decision on the permit application or 60 days from the date a completed application for permit is received by the commission, whichever first occurs.

2. Each organization described in subdivision 1 of this section, in order to be exempt from permit, financial reporting, and audit fee requirements, must notify the commission 60 days in advance of conducting any charitable gaming, on a form prescribed by the commission, that it intends to conduct gaming activity and that it meets criteria to be exempt from permit, financial reporting and audit fee requirements. Such organizations shall file an annual resolution of its board of directors, on a form prescribed by the commission, stating that it has complied with the provisions in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia by the following dates:

- a. Within 60 days of the date reported to the commission for a one-time raffle or bingo event, or;
- b. December 1 in the case of all other bingo games and raffles.

3. Organizations exempt from permit, financial reporting and audit fee requirements are subject to audit and investigation with regard to compliance with all applicable provisions of Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia and the regulations of the commission.

11 VAC 15-20-40. Permit application process.

A. The conduct of any charitable gaming is a privilege which may be granted or denied by the commission. Except as provided in § 18.2-340.23 of the Code of Virginia, an organization shall obtain a permit from the commission prior to the commencement of the following authorized gaming activities:

1. Bingo.
2. Instant bingo, unless prohibited by local ordinance, sold during bingo games.
3. Raffles, including duck races and "pull-tab" devices.

B. Eligible organizations must complete a commission prescribed application to request issuance or renewal of an annual permit to conduct authorized charitable gaming. The

application shall be accompanied by a check payable to the Treasurer of Virginia in the amount of \$200. There shall be a \$100 fee for special permits.

The commission may issue permits for periods of less than one year. Fees for such permits shall be prorated, with fees rounded off to the nearest \$50.

C. The application for the permit shall be received no later than 60 days prior to the desired commencement date of gaming activities or 60 days prior to the expiration of a current permit. An organization shall obtain a permit prior to the sale of any raffle tickets.

D. Permits shall be valid for a period of one year from the date of issuance or for a period specified on the permit.

E. Completed applications shall be acted upon by the commission within 60 days of receipt.

F. Permits shall be granted only after a reasonable investigation to ensure public safety and welfare. The investigation may include, but is not limited to, the following:

1. A search of Virginia criminal history records for all officers of the organization, and members who serve as game managers. Information and authorization for the commission to conduct these records checks shall be provided in the permit application.
2. An inquiry as to whether the organization has been investigated or examined by the Internal Revenue Service in connection with charitable gaming activities during the last three years.
3. An inquiry as to whether the organization has entered into any contract with, or has otherwise employed for compensation, any person for the purpose of organizing, or managing, operating or conducting any charitable gaming activity.
4. An inquiry as to whether an organization which rents a facility has or will agree to pay a rent in excess of fair market rental value for such facility as determined under the statute and these regulations.
5. Inquiries into the finances and activities of an organization, and the sources and uses of funds.
6. Inquiries into the level of community support in fundraising and involvement in the membership and management of the organization.
7. An inquiry as to whether a landlord has or intends to (i) participate in the management, operation or conduct of any bingo games; (ii) sell, lease or otherwise provide to the organization for consideration any bingo supplies; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor or supplier of bingo supplies or equipment be used by the organization.
8. An inquiry as to whether a person participating in the management, operation or conduct of any charitable gaming has participated in the management, operation or conduct of any charitable game which was found by the commission or a court of competent jurisdiction to

have been operated in violation of state law, local ordinance or commission regulations.

G. The application for permit shall include:

1. A complete current membership list including name, address, and date each member joined. Membership lists furnished to the commission shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia). Members between the ages of 16 and 18, permitted by the commission to assist in the operation of charitable gaming, shall be identified as such and the membership list shall include their date of birth.
2. A copy of the articles of incorporation for new applicants.
3. A copy of the determination letter issued by the IRS under § 501(c) of the Internal Revenue Code, if appropriate.
4. A copy of the organization's most recent annual financial statement and balance sheet.
5. A copy of the lease or proposed lease agreement if the organization rents or intends to rent the facility where bingo is or will be conducted.
6. An authorization by an officer or other appropriate official of an organization to permit the commission to determine whether the organization has been investigated or examined by the Internal Revenue Service in connection with charitable gaming activities during the last three years. This authorization will allow appropriate tax authorities to provide information relating to open or closed criminal investigations, civil examinations, or other enforcement activity regarding the organization's involvement in charitable gaming, revocation of tax exempt status or other matters that may impact the issuance of a charitable gaming permit.

H. Permits issued by localities prior to July 1, 1996, for the conduct of charitable gaming shall be valid until December 31, 1996, or until voided by the commission.

I. Permit fees paid prior to July 1, 1996, to any locality on account of calendar year 1996 shall remain with the locality.

J. Copies of an annual balance sheet, operating statement or financial record of any individual or organization may be required by the commission prior to issuance of a permit, if deemed necessary in rendering a permit application decision.

K. Copies of any contracts in addition to lease agreements, with landlords or suppliers, to which the organization, is or may be a party, may be requested by the commission prior to rendering a permitting decision.

L. Copies of amendments to an organization's articles of incorporation and by-laws, as they occur, shall be submitted to the commission.

M. Copies of minutes of meetings held shall be made available to the commission upon request to verify the

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purpose, objectives and activities of the organization applying for a charitable gaming permit.

11 VAC 15-20-50. *Suppliers of charitable gaming supplies; qualifications, suspension, revocation or refusal to renew certificate; maintenance and production of records.*

A. *No supplier shall offer to sell, sell or otherwise provide charitable gaming supplies to any qualified organization in the Commonwealth for use in charitable gaming unless and until such supplier has applied for and has been issued a registration certificate by the commission.*

B. *Any supplier of charitable gaming supplies to any organization must apply for a registration certificate on a form prescribed by the commission 60 days prior to providing any supplies and submit a \$500 application fee payable to Treasurer of Virginia. Provisional registration certificates valid for no more than 180 days, may be issued by the commission if all necessary background investigation is not completed.*

C. *Except for provisional certificates, each registration certificate shall be valid for a period of one year from the date of issuance.*

D. *The commission may refuse to register a supplier if an officer, director or any person having ownership interest in the supplier of 10% or more:*

1. *Has been convicted of or pleaded nolo contendere to a felony in any federal or state court or has been convicted of any offense, which, if committed in the Commonwealth would be a felony;*
2. *Has been convicted of or pleaded nolo contendere to a crime involving gambling;*
3. *Has had any license, permit, certificate or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction;*
4. *Is delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth of Virginia; or*
5. *Is involved in the management, operation, or conduct of charitable gaming in this Commonwealth.*

E. *No supplier shall offer to sell, sell or otherwise provide charitable gaming supplies for use by anyone in this Commonwealth other than a qualified organization or another registered supplier. However, a supplier may sell bingo cards, or paper and related supplies such as daubers to persons or entities other than qualified organizations provided such supplies shall not be sold or otherwise provided for use in charitable gaming activities regulated by the commission or in other unlawful gambling activity. Payment for such individual sales in excess of \$50 shall be accepted in the form of a check. Suppliers shall maintain records of these sales and provide them to the commission upon request.*

F. *No supplier shall offer to sell, sell or otherwise provide charitable gaming supplies to any organization in the Commonwealth unless the charitable gaming supplies are purchased or obtained from a manufacturer or purchased or*

obtained from another supplier registered by the commission. No supplier shall accept a payment for the sale of charitable gaming supplies in this Commonwealth except by a check. This requirement shall not apply to sales of \$50 or less made under subsection E of this section.

G. *No person residing in the same household or a member of the supplier's immediate family may be involved in the management, operation, or conduct of charitable gaming of any customer of the supplier in this Commonwealth.*

H. *The commission shall conduct a reasonable investigation prior to the issuance of a certificate to any supplier. The investigation may include, but is not limited to, the following:*

1. *A search of the Virginia Criminal History Record Exchange (CCRE) of all officers, directors or persons who have an ownership interest in the supplier of 10% or more.*
2. *Verification of current compliance with state tax laws.*
- I. *Appropriate information and authorizations shall be provided to the commission to verify information cited in subsection H of this section.*
- J. *Suppliers shall document each sale of charitable supplies to an organization in the Commonwealth on an invoice which reflects the following:*

1. *Name, address, telephone number of the organization.*
2. *Date of sale.*
3. *Name or form and serial number of each deal or box of instant bingo or pull-tab raffle cards and the number in each deal.*
4. *Quantity of deals sold and the price per deal, ticket count per deal and price per card to the organization.*
5. *Serial number of the top sheet in each packet of disposable bingo paper, the number of sheets in each packet or pad, the cut and color and the number of pads sold.*
6. *Serial number for each series of uncollated bingo paper and the number of sheets sold.*
7. *Detailed information concerning the type, quantity and individual price of any other charitable gaming supplies or related items, including but not limited to concealed face bingo cards, hard cards, markers or daubers and refills. For concealed face bingo cards, the number of sets, the price per set, and the serial number of each set shall be included.*
8. *Type of any equipment, device, or product manufactured for or intended to be used in the conduct of charitable games including, but not limited to, designators, designator receptacles, number display boards, selection devices and verification devices.*

K. *Suppliers shall ensure that a copy of the detailed invoice or packing slip accompanies the delivery of the charitable gaming supplies to the purchaser.*

L. Suppliers shall maintain information relative to sales of charitable gaming supplies as described in subsection J of this section for a period of three years following the end of the calendar year in which the gaming supplies are sold.

M. Each supplier shall provide a report by December 1 of each year of sales of charitable gaming supplies to each organization operating charitable gaming in this Commonwealth. The reports will include the name and address of each organization, the sales (in dollars) of bingo paper, instant bingo cards, pull-tabs, seal cards, daubers, tape and other supplies. For sales of instant bingo cards, pull-tabs and seal cards, the records will also indicate the number of deals and serial numbers sold to each organization. This report may be provided in an alternative format acceptable to the commission on paper, computer disk or other commission approved media.

N. A supplier's records of sales of charitable gaming supplies to organizations in the Commonwealth shall be available to any designated agent or employee of the commission upon request during normal business hours.

O. Suppliers, persons residing in their household, or a member of the supplier's immediate family shall not make any loan to any organization, officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming of a supplier's customer located in this Commonwealth.

P. No supplier shall make, directly or indirectly, any rebate or provide any discount or refund to any person other than an organization which purchases supplies from the supplier. All such transactions shall be duly recorded on the supplier's books of account.

PART III.

CONDUCT OF GAMES, CONSTRUCTION STANDARDS, RULES OF PLAY.

11 VAC 15-20-60. Conduct of bingo games, instant bingo, raffles and special permits.

A. Upon the issuance of a permit, a qualified organization may hold bingo games no more frequently than two calendar days in one calendar week except when a special permit has been issued to the organization. The permit shall be prominently posted at all times on the premises where the charitable gaming is being conducted.

B. No person who participates in the management, operation or conduct of bingo games or raffles shall provide any information or engage in other conduct that alters or is intended to alter the outcome of any charitable game.

C. No individual under 18 years of age shall play bingo or participate in the management, operation or conduct of bingo games. Individuals under the age of 18 may sell raffle tickets for a qualified organization raising funds for activities in which they are active participants.

D. Exemptions may be requested from the commission by an organization to allow individuals between the ages of 16 and 18 to work in nonmanagement positions at bingo games being run by a qualified organization raising funds for activities in which the individuals are active participants. The

organization must establish that its goals are youth oriented, and will be furthered by these individuals working at bingo games.

Before using workers between the ages of 16 and 18, the organization shall obtain and have on file written parental consent and date of birth for each such worker.

E. No person, except a bona fide member of a qualified organization who has been a member of such organization for at least 90 days prior to such participation, shall participate in the management, operation or conduct of any bingo game or raffle except:

1. The spouse of a bona fide member provided a bona fide member is present;
2. A person who provides clerical assistance to a qualified organization composed of or for deaf or blind persons; and
3. Employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation or conduct of no more than one raffle per year.

F. All volunteer members, including nonmember spouses, will be required to have in their possession a picture identification, such as a driver's license, while participating in the management, operation or conduct of a bingo game.

G. At any time bingo is being played, there shall be a games manager or person in charge, and the name of that person shall be prominently posted at the location where the bingo game is being conducted.

H. A qualified organization shall accept only cash, or at its option, personal checks, money orders or travelers checks in payment of any charges or assessments for players to participate in bingo games or raffles. No organization shall accept postdated checks, extend lines of credit, or accept any credit or debit card or other electronic fund transfer in payment of charges or assessments for participation in bingo games or raffles.

I. A qualified organization may sell instant bingo as a part of such bingo game unless such sales are prohibited by local ordinance. Instant bingo cards may be sold only at such locations and at such times as specified in subsection O of this section. Instant bingo cards or pull-tab raffles may be dispensed by mechanical or electronic machines. Such machines shall be approved by the commission before they are used.

J. A qualified organization's receipts from the playing of instant bingo shall not exceed 50% of the gross receipts from its bingo operation for any reporting year. The organization shall monitor compliance with this limitation on a continual basis.

K. Any organization selling instant bingo or pull-tab raffles shall:

1. Maintain a copy of supplier invoices which reflect all deals in play, in storage or used at the location where instant bingo cards or pull-tab raffles are sold.

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2. Pay for instant bingo or pull-tab supplies only by a check drawn on the bingo account of the organization.

L. No qualified organization shall sell any instant bingo card to any individual under 18 years of age.

M. No person shall receive any remuneration for participating in the management, operation or conduct of any charitable games except that:

1. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed \$30 per event for providing clerical assistance in the conduct of charitable games only for such organizations;

2. Persons under the age of 19 who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization;

3. A volunteer worker may be provided an article of clothing to be worn during charitable gaming to identify that person as a volunteer worker; and

4. Off duty law-enforcement officers from the jurisdiction in which charitable games are played may receive remuneration for providing uniformed security for such games, not withstanding that the officer is a member of the organization, provided the remuneration paid is in accordance with an off duty law-enforcement personnel work policy and the member is not otherwise engaged in the management, operation or conduct of the bingo games of that organization.

N. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:

1. No bingo door prize shall exceed \$25;

2. No regular bingo or special bingo game prize shall exceed \$100;

3. No instant bingo prize for a single card shall exceed \$500;

4. No bingo jackpot of any nature whatsoever shall exceed \$1,000 nor shall the total amount of bingo jackpot prizes awarded in any one calendar day exceed \$1,000; and

5. No pull-tab device, when played as permitted in § 18.2-340.26 of the Code of Virginia, shall have a prize exceeding \$500.

The provisions of this section shall not apply to any bingo game in which all the gross receipts from players for that game are paid as prize money back to the players, provided there is no more than one such game per calendar day of play and the prize money from any such game does not exceed \$1,000, such games being commonly referred to as "winner-take-all" games. Prizes may not exceed gross receipts for a winner-take-all game for any given day.

O. Multiple bingo sessions shall be permitted in a single premises on the same day as long as the sessions are distinct from one another and are not used to advertise or to award more in prizes than is permitted for a single qualified

organization. Sessions on the same day at the same location, by different organizations, shall be separated by an interval of at least two hours and shall require separate admission fees. Sales of instant bingo tickets may take place no earlier than one-half hour before and no later than one-half hour after the session. All bingo and instant bingo sales must occur within the time specified on the charitable gaming permit. All permits to conduct charitable gaming in a single premises on a given day shall be separated by an interval of at least one hour.

P. No organization shall award a raffle prize valued at more than \$100,000 or, in the case of a pull-tab raffle, any prize valued in excess of \$500. This shall not apply to a raffle conducted no more than once per calendar year by an organization qualified as a tax-exempt organization pursuant to § 501 (c) (3) of the Internal Revenue Code, for a prize consisting of a lot improved by a residential dwelling where 100% of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as § 501 (c) (3) tax-exempt organizations. In the case of a progressive seal card, no single card prize may exceed \$500 but the total payout may accumulate until won.

Q. No qualified organization composed of or for deaf or blind persons, which employs a person, not a member, to provide clerical assistance in the conduct of charitable games, shall conduct such games unless it has in force fidelity insurance, as defined in § 38.2-120 of the Code of Virginia, written by an insurer licensed to do business in the Commonwealth.

R. No person shall participate in the management, operation or conduct of any charitable game if, within the preceding five years, he has been convicted of a felony or crime of moral turpitude. In addition, no person shall participate in the management, operation or conduct of any charitable game if that person, within the preceding five years, has participated in the management, operation, or conduct of any charitable game which was found by the commission or a court of competent jurisdiction to have been operated in violation of state law, local ordinance or commission regulation.

S. A qualified organization may conduct bingo games or raffles at the principal meeting place of the organization or any other site specified on the permit which is not in violation of local zoning ordinances.

T. No bingo game or raffle shall be held by any organization on premises, dates and at times, other than those which are specified on the organization's permit approved by the commission.

U. No organization shall conduct any bingo games not listed on a game program for that session. The program shall list all games and prize amounts. If the prize amounts are determined by attendance, the game program shall list the attendance required for the prize amount.

V. No organization shall sell instant bingo or pull-tab cards unless a flare is posted at the location where such cards are sold and which contains the following information:

1. Name of the game;
2. Manufacturer's name or logo;
3. Card count;
4. Prize structure that includes the number of winning cards by denomination, with their respective winning symbols or number combinations; and
5. Cost per play.

W. Only qualified organizations shall advertise a bingo game. All signs advertising bingo, instant bingo or raffles shall conform to local ordinances in the jurisdiction where the charitable gaming occurs. Providing players with information about bingo games via newspaper, shopping guide, organizational newsletter or other advertising is permitted, provided the name of the qualified organization shall be in a type size equal to or larger than the name of the premises or hall.

X. Qualified organizations may request special permits on a form prescribed by the commission in the following circumstances:

1. To conduct joint bingo games as permitted by § 18.2-340.29 of the Code of Virginia and 11 VAC 15-20-70.
2. To conduct bingo games more than two calendar days in a calendar week, during special events such as carnivals, fairs or similar events.
3. Requests for a special permit for activities described in subdivisions 1 and 2 of this subsection shall be received at least 60 days prior to the desired effective date of the permits.
4. Requests shall provide the following information:
 - a. Dates of proposed operation;
 - b. Location of charitable gaming; and
 - c. Reason for request.
5. A special permit may authorize a qualified organization to conduct charitable gaming at its principal meeting place or at other locations within the jurisdiction designated in its regular permit.

11 VAC 15-20-70. Joint operation of bingo games; written reports; special permit required.

A. Any two qualified organizations may jointly organize and conduct bingo games provided each is in full compliance with all applicable local, state and federal laws and this chapter.

B. Any two qualified organizations jointly conducting such games shall be subject to the same restrictions and prohibitions contained in these regulations that would apply to a single organization conducting bingo games.

C. The qualified organizations shall furnish a written report setting forth the location where such games will be held, the

division of manpower, costs, and proceeds for each game to be jointly conducted.

D. Upon a finding that the division of manpower and costs for each game bears a reasonable relationship to the division of proceeds, a special permit shall be issued.

E. No bingo games shall be conducted jointly prior to the issuance of a special permit.

11 VAC 15-20-80. Permit changes.

A. An organization wishing to change permanent dates, times or locations of its charitable gaming shall request a change in the permit. No more than three temporary changes in dates or times due to special events or holidays may be made in a permit year without a permanent change in the permit. Requests for all changes shall be made in writing at least 30 days in advance of the proposed effective date.

B. A fee of \$50 payable to the Treasurer of Virginia shall be enclosed with the request for the change in the permit. This fee will not be charged for a request for a temporary change as described in subsection A of this section.

11 VAC 15-20-90. Construction standards for bingo, instant bingo and pull-tabs and raffles.

A. No supplier shall knowingly sell or otherwise provide to an organization and no organizations shall knowingly use bingo materials unless they conform to the following standards of construction:

1. Disposable paper used shall be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading or bleeding through a packet thereby obscuring other numbers or cards.
2. Free space numbers shall be displayed in the center square of the card.
3. Numbers printed on the card shall be assigned by manufacturers to permit a maximum possible number of bingo numbers to be called without generating multiple winners, and to insure that numbers will appear on multi-faced sheets to enable the player to have a greater opportunity to daub each call.
4. Each sheet of cards shall be comprised of cards bearing the same serial number. No serial number shall be repeated on the same style, series and color of cards within a period of one year.
5. Cards assembled in books or packets shall not be separated except for single sheet specials.
6. Each carton of bingo cards shall have a label on the exterior listing the following information:
 - a. Type of product;
 - b. Number of booklets or loose sheets;
 - c. Series numbers;
 - d. Serial number of the top sheet;
 - e. Number of cases;
 - f. Cut of paper; and

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g. Color of paper.

B. No supplier shall sell instant bingo, pull-tab or seal cards to an organization unless they conform to the following standards of construction:

1. Cards shall be constructed so that concealed numbers, symbols or winner protection features cannot be viewed or determined from the outside of the card using a high intensity lamp of 500 watts, with or without utilizing a focusing lens.

2. The deal shall be designed, constructed, glued and assembled in a manner to prevent determination of a winning or losing ticket without removing the tabs or otherwise uncovering the symbols or numbers as intended.

3. Each card in a deal shall bear the same serial number. Only one serial number shall be used in a deal. No serial number used in a deal shall be repeated by the same manufacturer on that same manufacturer's form within a three-year period. The flare of a seal card shall have the same serial number as the pull-tabs in the deal.

4. The numbers or symbols on cards shall be fully visible in the window and shall be placed so that no part of a symbol or number remains covered when the tab is removed.

5. The window slits on each card shall be perforated on the three cut sides. All cards shall be glued on all four edges and between each window. The glue shall be of sufficient strength and type to prevent the undetectable separation or delamination of the card.

6. The following minimum information shall be printed on a card:

a. Break open, pull-tab, instant bingo tickets:

(1) The name of the manufacturer, or its distinctive logo;

(2) The name of the game;

(3) The manufacturer's form number;

(4) The price per individual card, unless accompanied by a flare with that information;

(5) The unique minimum five digit game serial number, printed on the game information side of the card; and

(6) The number of winners and respective winning number or symbols, and specific prize amounts, unless accompanied by a publicly-posted flare with that information.

b. Banded pull-tabs:

(1) Manufacturer;

(2) Serial number; and

(3) Number of winners and respective winning numbers or symbols and prize amounts, or a publicly-posted flare giving that information.

C. No organization shall use raffle tickets unless they conform to the following standards of construction:

1. Have a detachable section and shall be consecutively numbered.

2. The detachable section of the ticket shall bear a duplicate number corresponding to the number on the nondetachable stub. The stub shall provide space for the purchaser's name, complete address and telephone number.

3. The following information shall be printed on each detachable portion of the ticket:

a. The date(s) and time(s) of the drawing(s);

b. The location(s) of the drawing(s);

c. The name of the charitable organization conducting the raffle;

d. The price of the ticket;

e. Major prize to be awarded; and

f. Charitable Gaming Commission permit number.

4. The requirements of subdivision 2 and 3 of this subsection shall not apply when the raffle sales are initiated and concluded and all winners are selected at a bingo session.

D. In instances where a defect in packaging or in the construction of deals is discovered by or reported to the commission, the commission shall take immediate steps to notify the manufacturer of the game containing the alleged defect. Should the commission, in consultation with the manufacturer, determine that a defect actually exists, and should the commission determine that the defect affects game security or otherwise threatens public confidence in the game, the commission may, with respect to deals for use still located within the Commonwealth, require the supplier to:

1. Recall the deals affected that have not been sold to qualified organizations;

2. Issue a total recall of all affected deals.

E. In choosing and directing a particular recall, the commission shall be guided in each circumstance by any combination of the following factors:

1. The nature of the defect;

2. Whether the defect affected the game security;

3. Whether the defect affected game playability; or

4. Whether the defect was limited to a specific number of deals of a particular form number.

11 VAC 15-20-100. Randomization standards.

All instant bingo and pull-tab cards shall meet the following randomization standards:

1. The deal shall be assembled so that winning tickets are placed throughout the deal.

2. The deal shall be assembled and packaged in a manner which prevents isolation of winning cards from variations in size, the appearance of a cut edge, or other markings of the cards.

3. The deal shall be assembled and packaged in a manner which prevents detection of winning cards through variations in printing graphics or colors.

4. Winning cards shall be distributed and mixed among all other cards in a deal so as to eliminate any pattern between deals, or portions of deals, from which the location or approximate location of any winning card may be determined.

5. The deal shall be assembled so that no placement of winning or losing cards exists that allows the possibility of prize manipulation.

11 VAC 15-20-110. Rules of play.

A. An organization may adopt "house rules" regarding conduct of the game, provided such rules are consistent with the provisions of the law and these regulations. All "house rules" shall be conspicuously posted at the location where bingo cards are distributed and announced prior to the start of the first game or at an organization's option, printed on the game program.

B. The following rules of play govern the conduct of bingo games:

1. Except for braille cards intended for use by blind players, bingo cards shall not be reserved by the charitable organization for any player or players. Legally blind players may use their cards if the organization does not make braille cards available.

2. No two sets of disposable paper bingo cards shall be sold for use in the same game if they have the same series number.

3. Before selecting or calling the first number in a game, the bingo caller shall call out the amount of the game prize to be awarded or the said prize shall be listed in a game program.

4. Before selecting and calling the first number in a game, the bingo caller shall announce the pattern or arrangement of squares to be covered to win the game. This information shall also be posted in a conspicuous place or listed in a game program.

5. All floor sales of cards for that game must cease before the first number is called.

6. All selection equipment shall be free of defects.

7. After selecting each number, the bingo caller shall:

a. Display the ball or other device used as a designator in a manner allowing the players to see the number;

b. Clearly announce the number; and

c. Cause the designator to be placed in a receptacle so as to prevent it from being placed back in the selection pool.

8. The charitable organization shall not separate cards on one sheet.

9. All players shall be physically present at the location where the bingo game is held to play the game or to claim a prize offered. Seal card prizes that can only be determined after a seal is removed or opened must be claimed within 30 days of the game date. All other prizes must be claimed on the game date.

10. Winners are determined when the preannounced pattern of squares is covered by a player on a card.

11. It is the player's responsibility to notify the game operator or caller that the player has a winning bingo combination as announced. When a player declares a winning card, the following is required for winning verification:

A volunteer for the charitable organization shall take the winning card from the player, hold it in front of a neutral player, and call back the perm number if electronic verification or a verification book is used. If any other system is used, a volunteer for the charitable organization shall take the winning card from the player, hold it in front of a neutral player, and call back the winning combination.

C. The following rules of play shall govern the sale of instant bingo and pull-tab cards:

1. Cards shall not be sold to the public from the original packing box or container. The packaging shall be removed and the seal on the box shall be broken in full view of the customers.

2. No cards which have been marked, defaced, altered, tampered with or otherwise constructed in a manner which tends to deceive the public or affect the chances of winning or losing, shall be placed into play.

3. All winning cards shall have the winning symbol or number defaced or punched by an authorized representative of the charitable organization immediately after redemption.

4. An authorized representative of the charitable organization conducting the event at which cards are sold shall verify the serial numbers or winner protections for all winning cards redeemed.

5. If no winning cards remain in the deal, the organization may commingle unsold cards with no more than one additional deal. Only the organization which initiated the deal may complete play of the deal.

6. All cards in a deal shall be sold unless a deal is recalled or an organization ceases to conduct charitable gaming.

7. If a deal is not played to completion and there remain unsold cards, the organization conducting the gaming shall sell the remaining cards on the next appointed date for charitable gaming. If no future date is anticipated, the organization shall, after making diligent efforts to sell the entire deal, consider the deal closed or completed, and

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shall retain the unsold cards in accordance with 11 VAC 15-20-130.

8. If a seal card from a deal or deals is not played to completion, the organization shall sell the remaining cards necessary to play out the seal card on the next appointed date for charitable gaming. If no future date is anticipated, the organization shall, after making diligent efforts to sell the entire deal, consider the deal closed or completed, award all prizes and shall retain all unsold charity game tickets. The method of selecting prize winners shall be documented. Under no circumstances is an organization other than the organization which initiated the seal card from the deal to complete play of the deal or the seal card.

9. No individual involved in the management, operation or conduct of charitable gaming shall be permitted to play bingo or purchase instant bingo or pull-tab cards for any session they are working or have worked, or for which they have participated in the sale of any type of gaming supplies to include bingo, instant and pull-tab cards.

D. The following rules of play shall govern the conduct of raffles:

1. Any person holding a raffle ticket shall be permitted to observe the raffle drawing.
2. Each ticket seller shall return to the organization the stubs or other detachable sections of all tickets sold prior to the drawing.
3. Before drawing, the organization shall place each stub or other detachable section of each ticket sold into a receptacle from which the winning tickets are to be drawn. The receptacle shall be designed so that each ticket placed in it has an equal chance to be drawn.

PART IV.

BANK ACCOUNTS, RECORDKEEPING, FINANCIAL REPORTING, AUDITS, FEES.

11 VAC 15-20-120. Bank accounts.

A. A separate bank account for all bingo and raffle receipts and disbursements shall be maintained. All disbursements shall be made by check directly from a charitable gaming account or from a general fund account of the organization if funds are transferred to such an account.

B. Monthly bank statements and reconciliations shall be maintained for three years following the close of a fiscal year (September 30th of any given year).

C. All receipts from each session of bingo games and instant bingo shall be deposited on the first banking day following the session at which they were received.

D. Proceeds from raffles, including proceeds from the sale of pull-tab devices, shall be deposited at least weekly.

11 VAC 15-20-130. Recordkeeping.

A. Unless otherwise noted, all documentation pertaining to each bingo game or raffle must be maintained for a period of three years from the close of the fiscal year to which it

pertains. Information will be reported on forms and reports prescribed by the commission or in another approved format. Documentation consists of canceled checks (or equivalent), sales receipts, invoices, billing statements, game logs and all required forms and records to include:

1. An itemized record of all receipts and disbursements, including operating costs and use of proceeds;
2. A record of prizes paid;
3. A written record of the dates on which bingo games were played, the number of people in attendance on each date and the amount of gross receipts and prizes paid on each day; and
4. A list of unused charitable gaming supplies that were to be destroyed. The destruction must be witnessed by two officers of the qualified organization who shall sign and date the itemized list.

B. All qualified organizations conducting raffles shall have a recordkeeping system to account for raffle tickets purchased or sold and prizes awarded. The recordkeeping system shall be sufficiently detailed to provide a complete and accurate set of raffle records which support the cash receipts and cash disbursements for each raffle. All records shall be maintained for three years from the close of an annual reporting period. The recordkeeping system shall include:

1. Invoices for the purchase of raffle tickets which shall reflect the following information:
 - a. Name and address of supplier;
 - b. Name of purchaser;
 - c. Date of purchase;
 - d. Cost of each type ticket purchased;
 - e. Type of ticket purchased;
 - f. Sequential numbers of tickets; and
 - g. Quantity purchased.

No raffle supplies shall be purchased for cash or from a member of the organization conducting the raffle.

2. A form, prescribed by the commission, to record cash receipts from raffle ticket sales by tracking the total number of tickets available for sale, the number issued to sellers, the number returned and the number sold, and reconciliation of all raffle sales to receipts.

3. An invoice reflecting the fair market value of prizes. Donated prizes with a value in excess of \$100 must be documented with a letter from the donor.

4. Winning raffle tickets for prizes exceeding \$50.

5. Sequentially numbered tickets which shall state the name, address and telephone number of the organization, the prize or prizes to be awarded, the date of the prize drawing or selection; the selling price of the raffle ticket; and the charitable gaming permit number.

6. Receipts for all raffle prizes valued at \$500 or more, on which prize winners must provide printed name, residence address, the amount and description of the prize received.

7. Deposit records of the required minimum weekly deposits.

8. Unsold tickets.

C. Pull-tab cards used as part of a raffle as defined may be sold only upon the premises owned or exclusively leased by an organization and at such times as the portion of the premises in which the pull-tabs are sold is open only to members and their guests. The organization must maintain a complete set of records for each deal sold and a reconciliation of cash to determine gross receipts and prizes paid. The reconciliation must be performed at the close of each deal unless pull-tab cards are sold for the same price. In this event a reconciliation shall be performed at least every seven calendar days. In addition, the following records must be maintained:

1. Winning pull-tab cards for prize amounts of \$50 or higher, except minimal payouts and free plays;

2. A pull-tab inventory log; and

3. A separate inventory sheet shall be used for each type and price class of card to record the date, type and quantity of pull-tab cards purchased.

D. Raffles conducted that award prizes based on a percentage of gross receipts must use prenumbered tickets. Forms prescribed by the commission will be used to record the date of the raffle, the beginning and ending number of tickets and used to reconcile the expected gross receipts from sales to ending cash. In situations where multiple tickets are sold at discount, care shall be taken to control these sales. It may be advantageous to have one person sell single tickets and another sell multiple tickets. Control over the sales must be maintained and the method of sales used documented.

E. Each qualified organization conducting bingo shall maintain a system of records that documents:

1. Dates on which bingo is played;

2. Number of people in attendance each session;

3. Amount of gross receipts each session;

4. Total awarded in prizes each session;

5. A record to include the name, address and amount won of any winner of a regular, special or jackpot bingo game;

6. A prize record for instant bingo prizes \$50 or higher to include information in subdivision 5 of this subsection.

7. Charitable gaming supplies purchased; and

8. Charitable gaming supplies used.

F. Each organization shall prepare and maintain the following records:

1. For each session of bingo, a qualified organization shall be required to prepare a Bingo Session Reconciliation Form prescribed by the commission. The form shall be completed and signed by the bingo manager in attendance.

2. An admissions control system that provides a cross-check on the number of players in attendance and admission sales, such as:

a. Ticket control system. Tickets shall be two-part and sequentially numbered. Inventory records must indicate number of ticket rolls purchased and serial numbers of rolls of tickets. A different color ticket shall be used for each type of pack sold. For example, a red ticket can be used to designate the sale of a \$20 pack, a blue ticket for a \$24 pack, a white ticket for a \$30 pack, etc.;

b. A cash register. The cash register tapes may be used as documentation for the number in attendance and the amount of admission sales. These tapes must be retained as part of the permanent records; or

c. Any other system, such as the use of sequentially prenumbered admission slips, that accurately records the number of players in attendance, admission sales and provides written documentation for the qualified organization's records. Inventory records must indicate the number of pads or books of admission slips and serial numbers of each.

3. A session worksheet shall be used for recording attendance and receipts. This form can be used to compute gross sales from admissions which can be carried to the Bingo Session Reconciliation Form.

4. Cash received from floor workers for the sale of extra bingo sheets for any game shall be recorded on a form prescribed by the commission. Each floor worker and the cashier or bingo manager shall count and agree on the cash received from the floor worker and initial in the appropriate places. The total cash received from floor workers shall be transferred to the Bingo Session Reconciliation Form.

5. Cash receipts and disbursement journals shall be used to record all receipts from bingo operations by source and type and all disbursements by expenditure classification.

6. An inventory control log shall be used to record the date and type of instant bingo, pull-tabs and seal card supplies placed in inventory and the date and type of these supplies placed into use.

11 VAC 15-20-140. Financial reporting.

A. Each holder of a charitable gaming permit issued by the commission and each exempt organization which initially estimated gross receipts of less than \$25,000, and whose actual gross receipts exceed \$25,000, shall file an annual report of receipts and disbursements by December 1 of each year on a form prescribed by the commission. The annual report shall cover the activity for the fiscal year beginning October 1 of any given year, and ending September 30 of the

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following year. This requirement does not apply to volunteer fire departments and rescue squads. This report shall contain all necessary schedules, a Certificate of Use, and when required by law, an opinion from a certified public accountant. All annual reports shall be notarized.

Permitted organizations that cease charitable gaming operations shall file a report within 60 days from the date of the last charitable gaming event.

B. Any other permitted organization in possession of funds derived from charitable gaming (including those who have ceased operations) as of September 30 of any year, regardless of when such funds may have been received or whether it has a valid permit from the commission, also shall file an annual financial report on or before December 1 of each year, until such funds are depleted in accordance with 11 VAC 15-20-150.

C. Each annual financial report shall be accompanied by a certificate signed by the members of the organization's board of directors and verified under oath stating that to the best of their knowledge, information and belief the proceeds from the organization's charitable gaming have been used only for those purposes permitted by § 18.2-340.19 of the Code of Virginia and that the organization has conducted its charitable gaming in compliance with the charitable gaming law and the regulations of the commission.

D. Each qualified organization which realizes gross receipts in excess of \$50,000 in any calendar quarter, shall file in addition to its annual report, a quarterly report of its receipts and disbursements on a form prescribed by the commission.

Such reports shall be due as follows:

| Quarter Ending | Date Due |
|----------------|-------------|
| December 31 | March 1 |
| March 31 | June 1 |
| June 30 | September 1 |
| September 30 | December 1 |

This does not preclude the necessity of filing an annual report.

E. Each qualified organization shall designate on its annual financial report the name, address and phone number of an individual responsible for filing annual reports in the event the organization ceases to exist or ceases to conduct charitable gaming.

F. If charitable gaming ceases or the qualified organization is dissolved, a quarterly report showing the disbursement of any remaining proceeds from charitable gaming shall be filed by the person designated in the last financial report until all proceeds from the organization's charitable gaming have been disbursed.

G. Failure to file annual or quarterly reports when due and, when required, an opinion of a licensed independent certified public accountant, shall cause the automatic revocation of a qualified organization's permit. No organization will conduct any charitable gaming activities until such report or opinion is filed and a new permit is obtained.

H. The financial report shall include only those transactions related to charitable gaming activities occurring during the reporting period, or information concerning proceeds which have not been disbursed if a qualified organization has ceased charitable gaming activity.

I. Completed financial reports shall be mailed or delivered to the Charitable Gaming Commission at its office address.

11 VAC 15-20-150. Use of proceeds.

A. No part of the gross receipts derived by a qualified organization may be used for any purpose other than (i) reasonable and proper operating costs, (ii) publicizing the time and date of charitable gaming, (iii) prizes, (iv) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (v) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes.

B. All payments by an organization intended as use of proceeds:

1. Must be made by check written from the organization's charitable gaming account.
2. If over \$500, must be counter-signed by a member of the board of directors (or other governing body), or at the organization's option, be signed by an individual authorized by a prior resolution of the board of directors approving the specific use of proceeds payment.
3. The acquisition or construction of real property may be included as use of proceeds if the payment is made into a special building fund account authorized by the board of directors, or an irrevocable trust for the acquisition or construction of real property. No payments made into the special building fund account shall be withdrawn for other than the specified purpose unless prior notification is made to the commission.

C. No use of proceeds payments by an organization:

1. Shall be made directly for the benefit of any individual member or shareholder of an organization, or a person residing in the member's or shareholder's household. If any benefit derived by any officer, director, game manager or other member engaged in the management, operation or conduct of charitable gaming is greater than benefits available to any other member of an organization, regardless of whether they are involved in the management, operation or conduct of charitable gaming such benefit shall not qualify as a use of proceeds. The reduction of tuition, dues, or any fees or payments as result of a member or shareholder, or anyone in their household, working bingo games or raffles is prohibited.
2. Shall be made for any activity which is not permitted by federal, state or local laws, or for any activity which attempts to influence or finance the election or re-election of any person who is or has been a candidate for public office.

D. A form prescribed by the commission shall be used to indicate the date of the donation or payment, the donee's name and address, the amount of the donation, the check number of the check drawn on the organization's charitable gaming bank account, and the purpose for which the donation was made.

E. The commission and its employees may disallow a use of proceeds payment to be counted against the minimum percentage referred to in 11 VAC 15-20-20 B.

F. The amount of any payment claimed as use of proceeds that is subsequently disallowed shall be reimbursed to the organization's charitable gaming account with funds derived from sources other than the charitable gaming within a reasonable time period.

G. Audits to determine compliance with the use of proceeds law and regulations shall be conducted by employees of the commission or its duly authorized agents. Audits may be conducted on a sample basis, and may include a review of the books of account of donee organizations to ensure compliance.

11 VAC 15-20-160. Audit of reports; audit fees; field audits.

A. All annual and quarterly financial reports required to be filed shall be subject to audit by the commission.

B. Unless exempt by law, each qualified organization shall pay to the commission an annual audit fee equal to 2.0% of the total of (1) its gross receipts plus (2) interest income it received on funds derived from charitable gaming. The audit fee shall be payable to the Treasurer of Virginia and is due with the organization's annual financial report due December 1. The fee shall be calculated on the basis of the gross receipts and interest income reported thereon. If an organization is required to file quarterly reports, it shall remit the audit fee in quarterly installments based upon its gross receipts and interest income during the quarter covered by the report. The 2.0% audit fee for the reporting year ending September 30, 1996, will be calculated on the total of gross receipts plus interest income received on funds from charitable gaming for the period July 1 through September 30, 1996. This fee shall be remitted with the annual report due to the commission on or before December 1, 1996. The annual report shall reflect total gross receipts from charitable gaming for the entire reporting year (October 1, 1995, through September 30, 1996.)

C. As authorized under § 18.2-340.18 of the Code of Virginia, the commission, its agents, employees and any law-enforcement officers charged with the enforcement of charitable gaming laws shall have free access to the offices, facilities or any other place of business of any organization, including any premises devoted in whole or in part to the conduct of charitable gaming, to permit the performance of any duty imposed by the Code of Virginia or these regulations, secure records required to be maintained, investigate complaints, and conduct audits.

D. Field audits of qualified organizations shall be conducted by employees of the commission or its duly authorized agents on an announced and unannounced basis

to determine compliance with all applicable laws and regulations concerning charitable gaming.

E. Any records deemed necessary to complete the audit may be removed from premises of the organization. The commission shall provide a written receipt of such records at the time of their removal.

PART V. RENT.

11 VAC 15-20-170. Requirements regarding renting premises, agreements and landlord participation.

A. Organizations shall not rent or use any leased premises to conduct charitable gaming unless all of the terms for such rental or use are set forth in a written agreement and signed by the parties thereto prior to the issuance or renewal of a permit to conduct charitable gaming.

B. No organization that leases a premise to conduct charitable gaming shall pay a rental fee for the use of a landlord's premises that is in excess of the fair market value for such a facility.

C. Rental fees shall not include charges for anything other than for the use of the premises or equipment and services as provided by § 18.2-340.33 (7) of the Code of Virginia. Fees for equipment or services shall be set forth separately in the lease agreement.

D. No landlord, or any person residing in their household or member of their immediate family shall participate in the management, operation or conduct of charitable gaming.

E. A member of a qualified organization that rents its premises to other organizations shall not participate in the management, operation or conduct of charitable gaming conducted by an organization that rents such premises.

F. Organizations shall not receive any goods or services from a landlord other than those specified in the written lease agreement.

G. Organizations shall not make any payments to a landlord except by check drawn on the bingo account or on the organization's general fund account.

H. No landlord, persons residing in his household, or a member of his immediate family shall make any loan to any officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming of an organization which leases its charitable gaming facility from the landlord.

I. No landlord, persons residing in his household, or a member of his immediate family shall make any direct or indirect payment to any officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming conducted at a facility rented from the landlord unless the payment is authorized by the lease agreement.

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PART VI. AUTHORITY OF LOCAL GOVERNMENTS, PROHIBITED PRACTICES, PENALTIES.

11 VAC 15-20-180. Authority of local governments.

A. Any county, city or town may adopt an ordinance consistent with § 18.2-340.32 of the Code of Virginia and this chapter which establishes reasonable hours during which bingo games may be conducted and may prohibit the playing of instant bingo.

B. If a town adopts an ordinance governing the playing of instant bingo or establishing reasonable hours for playing bingo games it will not be subject to any such ordinance adopted by the county within which the town lies.

11 VAC 15-20-190. Prohibited practices.

A. No part of the gross receipts derived by a qualified organization may be used for any purpose other than:

1. Reasonable and proper operating costs of charitable gaming which includes the applicable audit fee;
2. Publicizing the time and date of charitable gaming;
3. Prizes;
4. Those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized; and
5. Expenses relating to the acquisition, construction, maintenance or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes.

B. No qualified organization shall enter into a contract with, or otherwise employ for compensation, any person for the purpose of organizing, managing or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the conduct of charitable gaming.

The provisions of this subdivision shall not prohibit the joint operation of bingo games held in accordance with § 18.2-340.29 of the Code of Virginia.

C. No person shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon, or determined by, reference to a percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games.

D. No building or other premises shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than two calendar days in any one calendar week. However, no building or other premises owned by (i) a qualified organization and which is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code or (ii) any county, city or town shall be utilized in whole or in part for the

purpose of conducting bingo games more frequently than four calendar days in any one calendar week.

The provisions of this subsection shall not apply to the playing of bingo games pursuant to a special permit issued in accordance with § 18.2-340.27 of the Code of Virginia.

E. No landlord, member of his immediate family or person residing in the same household, shall, at bingo games conducted on the landlord's premises:

1. Participate in the conduct, management or operation of any bingo games;
2. Sell, lease or otherwise provide any charitable gaming supplies, including, but not limited to, bingo cards, instant bingo cards, markers or other game pieces; or
3. Require as a condition of the lease or by contract that a particular manufacturer, distributor or supplier of charitable gaming supplies be used by the organization. If equipment or services are included by a landlord in any lease or contract, the lease or contract shall itemize the amount attributable to the rent of the premises, equipment and each service to be provided by the landlord.

The provisions of this subsection shall not apply to any qualified organization conducting bingo games on its own behalf at premises owned by that organization.

F. No qualified organization shall enter into any contract with or otherwise employ or compensate any member of the organization for the sale of charitable gaming supplies or equipment.

G. No qualified organization composed of or for deaf or blind persons which employs a person not a member to provide clerical assistance in the conduct of any charitable games shall conduct such games unless it has in force fidelity insurance, as defined in § 38.2-120 of the Code of Virginia, written by an insurer licensed to do business in the Commonwealth.

H. Qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 of the Code of Virginia, shall not circumvent any restrictions and prohibitions which would otherwise apply if a single organization were conducting such games. These restrictions and prohibitions shall include, but not be limited to, the frequency with which bingo games may be held, the value of merchandise or money awarded as prizes, or any other practices prohibited under this section.

I. A qualified organization shall not purchase any charitable gaming supplies for use in this Commonwealth from any person who is not currently registered with the commission as a supplier pursuant to § 18.2-340.34 of the Code of Virginia.

J. Only electronic and mechanical equipment approved by the commission shall be used by qualified organizations in the conduct of charitable gaming.

11 VAC 15-20-200. Criminal penalties.

A. Any person who willfully and knowingly files, or causes to be filed, a false application, report or document or who willfully and knowingly makes a false statement or causes a false statement to be made, on any application report or document required to be filed with or made to the commission shall be guilty of a Class 1 misdemeanor as provided in § 18.2-340.37 A of the Code of Virginia.

B. Except as provided in subsection A of this section, any person who violates the provisions of this article shall be guilty of a Class 1 misdemeanor as provided in § 18.2-340.37 A of the Code of Virginia.

C. As provided in § 18.2-340.37 B of the Code of Virginia each day in violation shall constitute a separate offense.

PART VII.

DENIAL, SUSPENSION, REVOCATION OF PERMITS, REGISTRATION CERTIFICATES.

11 VAC 15-20-210. Denial, suspension or revocation of permits, authority to conduct charitable gaming.

A. The commission may deny, suspend or revoke the permit of any organization found not to be in compliance with the provisions of the charitable gaming law, or the regulations of the commission.

B. No permit to conduct charitable gaming will be denied, suspended or revoked except upon a written notice, stating the basis for the proposed action and a time, date and place for an informal fact-finding conference or hearing as appropriate.

C. The commission shall seek to prevent an organization exempt from permit requirements from conducting charitable gaming when it is determined the organization is not in compliance with the provisions of the charitable gaming law, and applicable regulations of the commission.

11 VAC 15-20-220. Immediate suspension of permit.

A. Any officer charged with the enforcement of the charitable gaming laws of the Commonwealth who has reasonable cause to believe that the conduct of charitable gaming is being conducted by an organization in violation of the charitable gaming law or the regulations of the commission, may apply to any judge, magistrate or other person having authority to issue criminal warrants, for immediate suspension of the permit of the organization conducting a bingo game or raffle. If the judge, magistrate or authority person to whom such application is presented is satisfied that probable cause exists to suspend the permit, he shall suspend the permit.

B. Written notice specifying the particular basis for the immediate suspension shall be provided by the commission's agent or officer to the organization within one business day of the suspension and a hearing shall be conducted within 10 days of the suspension unless the organization consents to a later date. No charitable gaming shall be conducted by the organization until the suspension has been lifted by the commission or a court of competent jurisdiction.

11 VAC 15-20-230. Supplier, registration certificate, suspension, revocation, refusal to renew.

A. The commission may suspend, revoke or refuse to renew the certificate of a supplier for a violation of § 18.2-340.34 B of the Code of Virginia or other violation of the charitable gaming law or regulations issued by the commission.

B. Prior to taking any such action, the commission shall provide the supplier written notification concerning the basis upon which it proposes to take such action and provide the supplier an opportunity to be heard.

PART VIII.

FACT-FINDING CONFERENCES, HEARINGS, APPEALS.

11 VAC 15-20-240. Procedural rules for the conduct of fact-finding conferences, hearings, appeals.

A. Fact-finding conference; notification, appearance, conduct.

1. Unless automatic revocation or immediate suspension of a permit is required, no permit or certificate to conduct charitable gaming or sell charitable gaming supplies shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and the time and place for a fact-finding conference.

2. If a basis exists for a refusal to renew, suspend or revoke a permit or certificate, the commission shall notify, by certified mail or by hand delivery, the interested parties at the address of record maintained by the commission.

3. Notification shall include the basis for the proposed action and afford interested parties the opportunity to present written and oral information to the commission which may have a bearing on the proposed action at a fact-finding conference. A fact-finding conference shall be scheduled no sooner than 30 days from the date of notice proposing an action, unless the action arises from an immediate suspension of a permit.

4. The informal fact-finding conference shall be conducted for the reasons set forth in § 9-6.14:11 of the Code of Virginia. The informal conference shall serve to generally acquaint interested parties with the nature of the proposed action, the evidence in support thereof, to hear matters relevant thereto presented by interested parties and to explore whether (i) the proposed action should be withdrawn or (ii) the matter should proceed to a formal hearing. The conference shall be open to the public, but participation will be limited to the interested parties, their attorneys or other qualified representatives, and designated commission representatives. The conference shall be held, when practical, in the county or city where the interested party is located. Failure of the interested party to appear at a scheduled conference shall be deemed a waiver of the conference and result in the scheduling of a hearing. The informal conference will not be recorded. Sworn testimony shall not be taken, nor will subpoenas be issued. At the conclusion of the informal conference, the designated commission

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representative shall prepare a written summary of the conference.

5. After consideration of evidence presented during an informal fact-finding conference, if a basis for action still exists, the interested parties shall be notified in writing, within 10 days of the fact-finding conference, via certified or hand delivered mail, of the decision and the right to a formal hearing.

B. Hearing; notification, appearance, conduct.

1. If, after a fact-finding conference a sufficient basis still exists to deny, suspend or revoke a permit or certificate, the interested parties will be notified by certified mail or hand delivery of this proposed action and of the opportunity for a hearing on the proposed action. The date of the hearing shall not be earlier than 30 days from the date of notice.

2. The interested parties will be expected to appear or be represented at the place and on the date of hearing or on the dates to which the hearing may be continued.

3. If an interested party fails to appear at a hearing, the hearing officer may proceed in his absence and make a recommendation.

4. Oral and written arguments may be submitted to and limited by the hearing officer. Oral argument shall be included in the stenographic report of the hearing.

5. Any interested party affected by the proposed action shall have the right to representation by counsel. The interested party shall not be required to be represented by counsel during such hearing. An interested party may examine and cross-examine witnesses, present evidence on behalf of the organization or business entity, draw conclusions and make arguments before hearing officers. Examination of witnesses will be limited to counsel or other qualified representative in cases where parties are represented.

6. Motions to continue a hearing may be granted as in actions at law and should be addressed to the assigned hearing officer.

7. Communications regarding hearings should be addressed to the assigned hearing officer.

C. Hearing location. Hearings before the hearing officer shall be held, insofar as practicable, at the county seat of the county in which the organization or establishment of the applicant, permit holder or licensee is located, or, if the organization or establishment is located within the corporate limits of any city, then in such city. Notwithstanding the above, hearing officers may conduct hearings at locations convenient to the greatest numbers of persons in order to expedite the hearing process.

D. Hearing evidence.

1. All relevant and material evidence shall be received except that:

a. Rules relating to privileged communications and privileged topics shall be observed; and

b. Secondary evidence of the contents of a document shall be received only if the original is not readily available. In deciding whether a document is readily available, the hearing officer shall balance the importance of the evidence against the difficulty of obtaining it, and the more important the evidence the more effort should be made to have the original document produced.

2. Subject to the provisions of subsection B of this section, any person who is a party to the matter under investigation shall have the right to cross-examine adverse witnesses and any agent or employee of the commission whose report is in evidence and to submit rebuttal evidence, except that:

a. Where the interested party is represented by counsel, only counsel shall exercise the right of cross-examination.

b. Where there is more than one interested party, only counsel or other representatives of such parties shall exercise the right of cross-examination; and

c. Where there is more than one group of interested parties present for the same purpose, only counsel or other representative of such groups shall exercise the right of cross-examination. If the hearing officer deems it necessary, in order to expedite the proceedings, a merger of such groups shall be arranged.

3. The hearing officer may limit the testimony of any witness which is judged to be cumulative, corroborative or collateral; provided, however, that the interested party offering such testimony may make a short avowal of the testimony which would be given and, if the witness asserts that such avowal is true, this avowal shall be made a part of the stenographic report.

4. Subpoenas, depositions de bene esse, and requests for admissions may be taken, directed and issued in accordance with § 9-6.14:13 of the Code of Virginia.

5. All evidence, stipulations and argument in the stenographic report relevant to the matters at issue shall be deemed to have been introduced for consideration of the hearing officer or commission on appeal.

6. Insofar as possible, interested parties will be expected to stipulate as to any facts involved. Such stipulations shall be made a part of the stenographic report.

7. The certified transcript of testimony, argument and exhibits, together with all papers and requests filed in the proceedings shall constitute the entire record of the hearing officer.

8. Upon application to the commission, copies of the record shall be made available to interested parties entitled thereto and fees charged in accordance with the Virginia Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia).

E. Hearing decisions, appeals.

1. The recommendations of the hearing officer shall be a part of the record and shall include a written statement of the hearing officer's findings of fact and recommendations as well as the reasons or basis for the recommendations. Recommendations shall be based upon all the material issues of fact, law or discretion presented on the record.

2. The executive secretary or his designee will review the recommendation of the hearing officer and render a decision within 30 days of the receipt of the recommendation from the hearing officer.

3. The decision of the executive secretary shall cite the appropriate rule, relief, or denial thereof as to each issue and, if appropriate, notification of appeal rights to the commission.

4. Notification of intent to appeal a decision of the executive secretary to the commission shall be received by the commission within five business days of receipt of the decision.

5. Information on appeal shall be submitted in writing within 30 days of receipt of a decision by the executive secretary.

6. The commission shall appoint one or more, but not more than three, commissioners to review the appeal and make recommendations to the full commission.

7. Information for consideration on appeal shall be limited to that presented on the record during the administrative hearing.

8. The commission shall render a decision on the appeal within 60 days of the receipt of the written information presented by the appellant.

F. Rehearings. A rehearing before a hearing officer shall not be held in any matter unless it can be shown that relevant and material evidence, which ought to produce an opposite result on rehearing, is available, is not merely cumulative, corroborative or collateral, and could not have been discovered before the original hearing through ordinary diligence. The commission, in its discretion, may cause a rehearing to be held before a hearing officer in the absence of the foregoing conditions.

G. Self-incrimination. If any witness subpoenaed to appear on behalf of the commission shall testify in a hearing before a hearing officer on complaints against an applicant or the holder or a permit or certificate as to any violation in which the witness, as an applicant or holder of a permit or certificate, has participated, such testimony shall not be used by the commission against him nor shall the commission take any administrative action against him for the offense to which he testifies.

H. Subpoenas. Upon request of any person who is a party to the matter under investigation, the hearing officer is authorized to issue subpoenas requiring the appearance of witnesses, the production of records, memoranda, papers and other documents at a hearing.

I. Witnesses. Interested parties shall arrange to have their witnesses present at the time and place designated for the hearing.

J. Agency representation. The executive secretary's designee may represent the commission before any hearing officer.

PART IX.
REPORTING VIOLATIONS.

11 VAC 15-20-250. Reporting violations.

A. Unless otherwise required by law, the identity of any individual who provides information to the commission or its employees regarding alleged violations will be treated in strict confidence.

B. Information concerning violations of the charitable gaming law and regulations promulgated by the commission may be reported to any commission member or employee of the commission.

C. Information concerning alleged violations may be forwarded to the Virginia Charitable Gaming Commission at its official address.

D. Information can be provided via telephone by calling the official telephone number of the commission.

E. Any officer, director or game manager of a qualified organization shall immediately report to the commission any information pertaining to the suspected misappropriation or theft of funds.

F. Failure to report the information required by subsection E of this section may result in the denial, suspension or revocation of a charitable gaming permit.

G. Any officer, director or games manager of a qualified organization involved in the management, operation and conduct of charitable gaming shall immediately notify the commission upon conviction of a felony or crime of moral turpitude. Any officer, director, partner or owner of a supplier shall immediately notify the commission upon conviction or plea of nolo contendere to a felony or to a crime involving gambling.

H. Failure to report information required by subsection G of this section by any officer, director or game manager of a qualified organization or supplier may result in the denial, suspension or revocation of a permit or registration certificate.

PART X.
FORMS AND REPORTS.

11 VAC 15-20-260. Game forms.

The commission shall prescribe forms necessary for monitoring and regulating the activity of each raffle and bingo session operated under a permit issued by the commission. Each organization is responsible for preparing and completing these forms at the close of each session. The forms are:

1. A Bingo Session Reconciliation Form with the following information:

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- a. Organization name.
 - b. Date of the session.
 - c. Number of total players in attendance.
 - d. Total paid admissions.
 - e. Total cash balances before the game begins.
 - f. Cash-on-hand.
 - g. Totals of gross receipts for the session obtained from:
 - (1) Sale of special game cards
 - (2) General admission
 - (3) Sale of game packs
 - (4) Sale of instant bingo tickets and seal cards
 - (5) Extra paper sales
 - (6) Sale of daubers and other miscellaneous items.
 - h. Details of operating costs for the game to include:
 - (1) Amount of regular bingo game prizes awarded
 - (2) Total of jackpot prizes awarded (winner-take-all prizes)
 - (3) Other disbursements to include door prizes
 - (4) Amount of Instant bingo and seal card prizes awarded
 - (5) Amount of prizes paid by check.
 - i. Amount of cash deposited in bank (with a copy of the validated deposit slip).
 - j. Signature of game manager who reviewed and approved the reconciliation.
2. A list of volunteer workers including their complete name and game function performed at that particular session. The form shall also require the signature of each game worker. The organization shall have the complete residential address of each volunteer worker on file.
 3. A Floor Sales Accountability Form that summarizes:
 - a. Sales of special game cards (Jackpot, etc.)
 - b. Sales of Winner-Take-All cards
 4. Any other bingo games sold by the floorworkers.
 5. Instant bingo and seal card devices for bingo to include: serial numbers of all instant or seal card tickets played at that session, the price per card, and quantity of cards played.
 6. A record of all regular and special bingo prizes awarded for any game and for any instant bingo prize of \$50 or more to include: Organization name, date of game, game number, amount won, full name and complete address of the winner.

The above prescribed forms are not mandatory if the organization has a current system that will provide all of the data elements/information in a similar format.

11 VAC 15-20-270. Financial reports.

The commission shall prescribe a financial report to be used by organizations to report their game results to the commission on a quarterly (if required by statute) or annual basis. This report shall include the following forms:

1. Bingo games, raffles, financial report to include:
 - a. Details of gross receipts as described for the Bingo Session Reconciliation Form
 - b. Interest income
 - c. Raffle revenue
 2. Detailed schedule of the organization's charitable use of proceeds to include: check number, date paid, payee, and amount paid.
 - a. Prize expenses
 - b. A schedule detailing any other gaming related expenditures
 3. The amount of all nonprize game expenses paid for by the organization with charitable gaming funds during the reporting period, to include: expenses for facility rent, regular game supplies, instant or pull-tab game supplies, utilities, security, application fees and audit fees.
- The report must be signed and notarized by an authorized officer of the organization and the individual responsible for recordkeeping. They must attest to the fact that to the best of their knowledge, information and belief all charitable gaming funds were obtained and disbursed in accordance with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia.
4. A notarized Certificate of Use stating that bingo and raffle proceeds have been used to support those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized; or expenses relating to the acquisition, construction, maintenance, or repair of any interest in real property, and that the operation of such bingo games or raffles has been in accordance with the provisions of § 18.2-340 et seq. of the Code of Virginia. This certificate is to be signed by the fiscal officer, president and all members of the board of directors of the organization, or the executive committee in charge of bingo games or raffles if one has been appointed.
 5. Perpetual Inventory Log of instant bingo and seal card tickets to include: date the deal was used in a game, game type, price per card, quantity of cards per deal, card serial numbers, suppliers invoice number, and organization's check number used to pay for the invoice.

11 VAC 15-20-280. Organization records.

A. The organization is required to maintain records which will provide the following information:

1. Cash receipts journal to record the game date, bingo sales, instant and seal card sales, miscellaneous receipts, interest income, returned checks collected and returned checks sent back by the bank and total moneys collected. An organization may use its own manual or computerized accounting system if the system provides at least the information requested by the cash receipts journal.

2. Bingo cash disbursement journal to record and allocate disbursements of bingo funds. Information shall include date of transactions and amounts spent on bingo supplies, instant and seal card supplies, prize pay-outs, rent, audit fees, permit fees, shortages, use of proceeds and all other bingo operating costs. An organization may use its own manual or computerized accounting system if the system provides at least the information requested by the cash disbursements journal.

3. Gaming supplies destruction record to record details of any gaming supplies to be destroyed by the organization. Information to be included will be: description of item to be destroyed beginning and ending serial numbers, total number of pieces, date of the destruction and method of disposal.

B. For organizations conducting raffles the following information is required:

1. Coupon raffle receipt form to record details of raffle events run by the organization. Information to be included: beginning and ending ticket (coupon) numbers, date issued, total issued, to whom issued, seller's initials, total tickets returned, total tickets sold, price per ticket, expected receipts, actual receipts, cash variance, date receipts turned in to organization and date receipts deposited.

2. Reconciliation of pull-tab devices to reconcile use of pull-tabs for raffles. Information to be included: beginning count of pull-tab pieces, pieces added, serial number of each deal opened, ending number of pieces, total sold, price per piece, gross sales, prizes paid, cash received, cash variances, and signature, title and date of worker running the pull-tab game.

3. Pull-tab inventory control log to record pull-tab inventory. Information to be included: organization name, type of pull-tab, price per ticket, invoice number, supplier, serial number quantity per box and date pull-tabs were used. This log is to be filed with the organization's quarterly or annual financial report.

4. Other receipts from raffles form to record receipts from raffles when the prize is paid from part of the gross receipts. Information to include: beginning cash on hand, beginning and ending ticket numbers, number of tickets sold, cash variance, signature of the game worker, their title and the date of the game.

C. For distributors of charitable gaming supplies and paraphernalia, the following information is required:

Suppliers report of sales to charitable gaming organizations. Each supplier and distributor of charitable gaming supplies must furnish information on sales made

between October 1 and September 30 by December 1. Information to be reported will include: company's legal name, trade name, headquarters address, name and address of customer organization, sales (in dollars) of bingo paper, instant bingo cards and pull-tabs, number of deals sold, seal cards and number of deals sold, daubers, tape and other supplies. The report may be provided in an alternative format acceptable to the commission on paper, computer disc or other commission approved media.

11 VAC 15-20-290. Applications.

A. Organizations desiring to operate a bingo game or raffle event, shall provide the following information to the commission, on a form prescribed by the commission, prior to receiving a permit for such activity:

1. Type of permit requested.

2. Application for new permit or renewal.

3. Organization's full legal name, complete mailing address and phone number.

4. Acknowledgment that the organization has been in existence and met on a regular basis in Virginia for at least three years.

5. Acknowledgment that at least 50% of its members (if the organization has members) are Virginia residents.

6. Complete organization membership list (or a list of local chapter members in the case of national organizations) to include member's name, home address, and date joined the organization. Organizations requesting to use volunteer workers between the ages of 16 and 18 must identify such workers on the membership list and provide their dates of birth. Membership lists furnished to the commission shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of Information Act.

7. Type of organization.

8. Complete address of the location or proposed location of the charitable gaming event.

9. If the organization leases or will lease the premises, provide the name, telephone number and complete address of the landlord and a copy of the lease or proposed lease.

10. Name, telephone number and complete address of the individual responsible for filing required financial reports to the commission.

11. Dates or days and times the organization's bingo game(s) or raffle(s) will be held.

12. A specific description as to the intended uses of charitable gaming proceeds.

13. Acknowledge if any of the following events have occurred within the last five years:

a. Any of the organization's officers or game manager has been convicted of a felony or crime of moral turpitude.

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b. Organization has been denied a charitable gaming permit.

c. Organization has had a charitable gaming permit revoked.

d. The organization has been designated or has applied for a § 501 (c) designation by the Internal Revenue Service.

14. If incorporated, new applicants must provide a copy of the articles of incorporation.

15. Provide a copy of the most recent annual income statement and balance sheet of the organization (not just charitable gaming activity).

16. Full name, date of birth, social security number, current address, phone number, race, sex and position held in organization for the president, vice president, secretary, treasurer and gaming manager(s).

17. Notarized signature and printed name of the organization's president and game manager.

B. In addition to the above information, an organization defined as exempt under the Charitable Gaming Law will provide:

1. An estimate of the annual gross receipts expected from charitable gaming.

2. Notarized statement to the commission verifying that the organization is exempt from permit fees, audit fees and financial reporting requirements.

3. Within 60 days of the date of a one-time event, or by December 1 for all other events, a resolution of the organization's board of directors that the organization is in compliance with the Virginia Charitable Gaming Law.

C. Persons desiring to sell, supply or distribute bingo supplies and paraphernalia to organizations operating bingo or raffle events, shall provide the following information to the commission, on a form prescribed by the commission, prior to receiving registration certificate for such activity:

1. Full legal business name and trade name, if any.

2. Supplier's mailing address.

3. Supplier's business premises (if different from mailing address).

4. Federal identification number.

5. Business telephone number and fax number.

6. Name, position or title of a contact person for the company.

7. Type of business (i.e., corporation, partnership, sole proprietor).

8. Complete address and phone number of each office, warehouse, or outlet where charitable gaming supplies are either stored or sold.

9. Date business began and state of incorporation.

10. Statement as to whether any prior license issued to the supplier has ever been denied, revoked, suspended or withdrawn.

11. At least three trade credit references.

12. Full name, social security number, date of birth, complete addresses and contact telephone numbers of all corporate officers, partners or owners with a 10% or greater ownership interest in the company.

13. A statement that no one with a 10% or greater interest in the organization has ever: (i) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense which, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) had any license, permit, certificate or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; or (iv) been delinquent in the filing of any tax returns or the payment of any taxes due the Commonwealth in excess of one year.

14. Notarized signature and printed name of a majority owner, partner or corporate officer listed on the application.

NOTICE: The forms used in administering the Interim Rules and Regulations of the Charitable Gaming Commission (11 VAC 15-20-10 et seq.) are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Charitable Gaming Commission, Ninth Street Office Building, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

Bingo Games-Raffles Financial Report, Schedule 1 (CGC Form #101, eff. 7/96)

Bingo Games-Raffles Financial Report, Schedule A (CGC Form #102, eff. 7/96)

Bingo Games-Raffles Financial Report, Schedule B (CGC Form #103, eff. 7/96)

Bingo Games-Raffles Proceeds Certificate of Use (CGC Form #104, eff. 7/96)

Instant Bingo/Seal Card Inventory Control Log (CGC Form #105, eff. 7/96)

Pull-Tab Inventory Control Log (CGC Form #106, eff. 7/96)

Report of Sales to Charitable Gaming Organizations (CGC Form #107, eff. 7/96)

Bingo Daily Reconciliation Form (CGC Form #108, eff. 7/96)

Cashier Prepared Floor Sales Accountability Form (CGC Form #109, eff. 7/96)

Instant Bingo/Seal Card Devices for Bingo (CGC Form #110, eff. 7/96)

Listing of Volunteer Workers (CGC Form #111, eff. 7/96)

Prize Receipt (CGC Form #112, eff. 7/96)
Coupon Raffle Receipts Reporting Form (CGC Form #114, eff. 7/96)
Reconciliation for Pull-Tab Devices for Raffles (CGC Form #115, eff. 7/96)
Other Receipts from Raffles (CGC Form #116, eff. 7/96)
Record of Destruction of Charitable Gaming Supplies (CGC Form #117, eff. 7/96)
Bingo Cash Receipts Journal (CGC Form #118, eff. 7/96)
Bingo Cash Disbursements Journal (CGC Form #119, eff. 7/96)
Bingo/Raffle Application (CGC Form #201, eff. 7/96)
Exempt Organization - Notification (CGC Form #202, eff. 7/96)
Supplier Registration Certificate Application to Distribute Authorized Gambling Paraphernalia and Supplies (CGC Form #203, eff. 7/96)

VA.R. Doc. No. R96-455; Filed June 28, 1996, 1:38 p.m.

BOARD OF JUVENILE JUSTICE

REGISTRAR'S NOTICE: The final regulation entitled Standards for Juvenile Correctional Centers (6 VAC 35-70-10 et seq.), filed by the Department of Juvenile Justice pursuant to § 9-6.18 of the Virginia Register Act, is exempt from the provisions of the Administrative Process Act pursuant to § 9-6.14:4.1 B 10 of the Code of Virginia, which exempts agency action relating to the custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the treatment, supervision, or discharge of such persons.

Title of Regulation: 6 VAC 35-70-10 et seq. Standards for Juvenile Correctional Centers (amending 6 VAC 35-70-10 through 6 VAC 35-70-40, 6 VAC 35-70-70, 6 VAC 35-70-90, 6 VAC 35-70-120, 6 VAC 35-70-140, 6 VAC 35-70-160, 6 VAC 35-70-180, 6 VAC 35-70-240, 6 VAC 35-70-250, 6 VAC 35-70-290, 6 VAC 35-70-350 through 6 VAC 35-70-390, and 6 VAC 35-70-430).

Statutory Authority: §§ 16.1-310, 16.1-311 and 66-10 of the Code of Virginia.

Effective Date: July 2, 1996.

Summary:

These Standards for Juvenile Correctional Centers are issued as a revision to Learning Center Standards promulgated by the Board of Youth and Family Services effective July 15, 1992, to reflect terminology changes legislated by the 1996 session of the Virginia General Assembly. Throughout the regulation, the name of the department is changed to "the Department of Juvenile Justice," the name of the board is changed to the "Board of Juvenile Justice," and the term "learning center" is changed to "juvenile correctional center." In addition,

changes are made regarding the physical environment of juvenile correctional facilities as follows:

- 1. Eliminates limitations on double occupancy;*
- 2. Eliminates requirements for partitions if more than four wards are in one sleeping area;*
- 3. Eliminates requirements for a floor-to-ceiling wall between dayrooms and sleeping areas.*

Finally, typographical errors are corrected in 6 VAC 35-70-70.

These Standards for Juvenile Correctional Centers are promulgated by the Board of Juvenile Justice to specify physical plant requirements and operational policies and procedures for juvenile correctional centers operated by or under contract with the Department of Juvenile Justice.

Agency Contact: Copies of the regulation may be obtained from Donald R. Carignan, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0743.

CHAPTER 70. LEARNING CENTER STANDARDS FOR JUVENILE CORRECTIONAL CENTERS.

6 VAC 35-70-10. Definitions.

The following words and terms used in this chapter shall have the following meanings unless the content clearly indicates otherwise:

"*Actively supervising*" means that staff are awake, alert, monitoring the behavior and needs of the residents in their care.

"*Admission*" means the process of entry into a program. During admission processing, the youth receives an orientation to program goals, rules, and regulations. Assignment to living quarters and to appropriate staff is also completed at this time.

"*Aftercare*" means the control, supervision, and care exercised over youth released from learning juvenile correctional centers through a stated release process.

"*Agency*" means the central office of the Department of Youth and Family Services Juvenile Justice which is responsible for governing the learning juvenile correctional centers.

"*Agency administrator*" means the administrative officer appointed by the governing authority or designee who is responsible for all operations of the agency and related programs under his control.

"*Authority having jurisdiction*" means the organization or individual designated by statute, regulation, administrative rule or policy that is responsible for a specified activity, function, or operation within a learning juvenile correctional center.

"*Behavior management*" means planned and systematic use of various techniques selected according to group and individual differences of youth and designed to teach

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awareness of situationally appropriate behavior, to strengthen desirable behavior and to reduce or eliminate undesirable behavior.

"*Board*" means the Virginia Board of ~~Youth and Family Services~~ *Juvenile Justice*.

"*Building code*" means the federal, state, or local regulations that dictate the construction of a facility.

"*Child*" means any natural person under 18 years of age pursuant to § 66-12 of the Code of Virginia. Also means youth, juvenile.

"*Classification*" means the process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and programs according to their needs and existing resources.

"*Contraband*" means any item or merchandise possessed by a resident, staff or visitor or found within the facility which is illegal by law or not authorized by those legally charged with the responsibility for administration and operation of the facility.

"*Corporal punishment*" means the inflicting of pain or discomfort to the body through actions such as, but not limited to, striking or hitting with any part of the body or with an implement; or through pinching, pulling or shaking; or through any similar action which normally inflicts pain or discomfort.

"*Crisis intervention*" means the systematic use of various techniques selected according to specific situations and designed to reduce or to eliminate the immediate situation.

"*Department*" means the Virginia Department of ~~Youth and Family Services~~ *Juvenile Justice*.

"*Disciplinary hearing*" means a nonjudicial administrative procedure to determine if substantial evidence exists to find a youth guilty of a rule violation.

"*Disciplinary report*" means a written report, prepared by a person with appropriate authority, describing an alleged violation of a *learning juvenile correctional center's* rules or regulations.

"*Emergency plans*" means written documents that address specific actions to be taken in a *learning juvenile correctional center* emergency or catastrophe such as a fire, flood, riot or other major disruption.

"*Facility director*" means the official who has the ultimate responsibility for managing and operating the *learning juvenile correctional center*.

"*Fire code*" means federal, state or local regulations governing fire safety.

"*Footcandle*" means a unit for measuring the intensity of illumination, defined as the amount of light thrown on a surface one foot away from the light source.

"*Force, use of*" means the physical force used in instances of justifiable self-defense, protection of others, protection of property, or prevention of escapes.

"*Grievance*" means a circumstance or action considered to be unjust; grounds for complaint.

"*Health authority*" means the physician, administrator or agency responsible for the provision of health care services at an institution or system of institutions; the responsible physician may be the health authority.

"*Health exam*" means a thorough evaluation of a youth's current physical condition and medical histories conducted by, or under the supervision of, a licensed medical professional.

"*Health (or medical) screening*" means a system of structured inquiry and observation designed to prevent newly-arrived youth who pose a health or safety threat to themselves or others from being admitted to the general population.

"*Health-trained staff person*" means a person who provides assistance to a physician, nurse, or other medical staff. Duties may include preparing and reviewing screening forms for needed follow-up; preparing youth and their records for sick call; and assisting in the implementation of medical orders regarding diet, housing, and work assignments.

"*Human research*" means any medical or psychological investigation designed to develop or contribute to general knowledge and which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subject's needs.

"*Juvenile*" means a child as defined by state law.

"*Learning juvenile correctional center*" means a facility approved by the Board of ~~Youth and Family Services~~ *Juvenile Justice* and operated or contracted by the Department of ~~Youth and Family Services~~ *Juvenile Justice* to provide supervision, evaluation, diagnosis, care, treatment services and custody to youth committed to the department.

"*Life Safety Code*" means the manual published and updated by the National Fire Protection Association specifying minimum standards for fire safety necessary to the public interest.

"*Major rule violation*" means any actions which are illegal by law and expressly prohibited or unauthorized by those legally charged with the responsibility for administration and operation of the facility. These actions include any which threaten life, safety or security of persons or property.

"*Master file*" means the single, authoritative collection of information on a youth maintained and stored at a location with all other *learning juvenile correctional center* master files.

"*Mechanical restraint or restraints*" means equipment employed as a means of physically restraining or controlling a resident's behavior, such as handcuffs, shackles or straitjackets.

"*Medical appliances*" means items prescribed for use by a physician to include hearing aids, contact lenses, glasses, dental appliances, etc.

"*Medical screening*" means a preliminary evaluation of a resident's general health condition, which includes the resident's assessment of his own condition, as performed by staff during the admission of a new resident.

"*Minor rule violation*" means any action which is expressly prohibited or unauthorized by those legally charged with the responsibility for administration and operation of the facility.

"*Natural light*" means light available from an opening or window that has a view to the outside or from a source within 20 feet of the room.

"*Physical restraint*" means any act by staff which exercises the use of physical intervention or force with a resident as a method or technique of managing harmful resident behavior.

"*Policy*" means a course of action adopted by the Board of Youth and Family Services *Juvenile Justice* or other authorized agency that guides and determines present and future decisions and actions.

"*Procedure*" means the detailed and sequential actions that the Department of Youth and Family Services *Juvenile Justice* develops and adopts relative to a specific policy.

"*Professional specialist employee*" means case managers, counselors, social workers, psychologists, medical personnel, recreation specialists, teachers and educational specialists, chaplains, volunteer coordinator, and advocate.

"*Program*" means the planned application of staff and resources to achieve the stated mission of the facility.

"*Rated bed capacity*" means the original architectural design capacity plus or minus capacity changes resulting from building additions, reductions, or renovations.

"*Resident*" means a person admitted to the facility for supervision, care, training, or treatment on a 24-hour-basis.

"*Resident's file or record*" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plans with periodic revisions, progress reports, aftercare plans, discharge summary and any other data related to the resident.

"*Responsible physician*" means a medical doctor licensed in the Commonwealth of Virginia contracted to provide primary medical services to a learning juvenile correctional center and responsible for medical procedures, standing orders and training of nonmedical staff who administer medication.

"*Restrain*" means the use of force necessary to prevent a resident from harming himself, other residents, staff or property belonging to residents, staff or the facility.

"*Right*" means that to which one has a natural, legal or moral claim.

"*Room restriction*" means placing a resident in his room, or a room similar in size and furnishings to the resident's room and in an area normally used by the facility's general population, with the door secured in a manner that will prohibit the resident from opening it.

"*Seclusion*" means placing a youth alone in a room with the door secured in any manner that will prohibit the youth from opening it.

"*Self protection*" means to use that physical force necessary to assure one's life, the life of others or to protect one from serious injury.

"*Serious incident*" means a harmful or potentially harmful situation involving residents or staff. This term includes, but is not limited to, death of a resident; fires causing injury, death, or significant damage; hostage taking; riots; staff-on-resident assault; resident on staff assault causing injury; escape; rape or forcible sodomy; suicide and suicide attempts; serious injuries to residents or staff on duty; allegations of child abuse; and felony arrests of staff or volunteers.

"*Shift assignment*" means the general schedule of duties and activities which occur within a shift.

"*Support employee*" means bookkeeper, storekeeper, personnel analyst, food service, sanitation, and maintenance personnel.

"*Transfer file*" means a collection of information on a youth which is maintained and stored wherever the youth is residing.

"*Treatment plan*" means a series of written statements that specify the particular course of therapy, educational and other programs, learning juvenile correctional center behavioral program, and the role of personnel in its implementation. Each youth has his individualized treatment plan.

"*Unencumbered space*" means a measurement of square footage in a room or area obtained by multiplying the length and width of the room and subtracting from that figure the total number of square feet encumbered by beds, plumbing fixtures, desks, lockers, and other fixed equipment.

"*Volunteer*" means an individual who regularly and more than occasionally donates time, or an individual who acts as the leader or director of a group or organization which donates time, to enhance the activities or programs of the facility.

"*Youth*" means a child or children, pursuant to § 66-12 of the Code of Virginia.

6 VAC 35-70-20. Legal base.

A. The Code of Virginia is the foundation for the development of Standards for Learning-Juvenile Correctional Centers. Section 66-10 of the Code of Virginia directs the State Board of Youth and Family Services *Juvenile Justice* to approve facilities that house youth committed by the courts.

B. The State Board of Youth and Family Services *Juvenile Justice* is authorized to monitor the activities of the department and its effectiveness in implementing the standards and goals of the board as specified by § 66-10 of the Code of Virginia.

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6 VAC 35-70-30. Administration and organization.

A. The Standards for Youth Institutional Service Facilities adopted by the Board of Corrections on April 23, 1983, VR 230-40-014, are superseded on July 15, 1992.

B. These standards shall be applicable in conjunction with core standards also promulgated by the Board of ~~Youth and Family Services~~ *Juvenile Justice*.

C. Written policy, procedure, and practice shall provide that the program meets applicable licensing requirements of the jurisdiction in which it is located.

D. The public or private agency operating a ~~learning juvenile correctional~~ center is a legal entity or part of a legal entity.

E. There shall be a written statement describing the facility's mission, within the context of the total system. This statement is reviewed at least annually and updated if necessary.

F. There shall be a written statement describing the facility's philosophy, purposes, and goals. This statement is reviewed at least annually and updated if necessary.

G. Only youth who are adjudicated delinquent and are guilty of offenses that would be crimes if committed by adults shall reside in the facility.

H. Written policy, procedure, and practice shall provide that if services for adults and juvenile offenders are provided for by the same agency, statements of philosophy, policy, program, and procedure distinguish between criminal codes and the statutes that establish and give direction to programs for youth.

I. Written policy, procedure, and practice shall provide that the facility director of the public or private ~~learning juvenile correctional~~ center implements the policies of the governing authority.

J. Written policy, procedure, and practice shall provide that the facility director formulates and reviews goals for the facility at least annually and translates them into measurable objectives.

K. Written policy, procedure, and practice shall provide that the facility and its programs are managed by a single administrative officer to whom all employees or units of management are responsible.

L. Written policy, procedure, and practice shall provide that there exists a community advisory committee in each ~~learning juvenile correctional~~ center, representative of the community, with established by-laws that include provisions for quarterly meetings.

M. Written policy, procedure, and practice shall demonstrate that employees participate in the formulation of policies, procedures, and programs.

N. There shall be a written document describing the facility's organization. The description shall include an organizational chart that groups similar functions, services, and activities. The document shall be reviewed annually and updated as needed.

O. The role and functions of employees of public or private agencies providing a service to the facility shall be covered by written policy and procedure that specify their relation to the authority and responsibility of the facility director. These policies and procedures shall be reviewed at least annually and updated as needed.

P. The policies and procedures for operating and maintaining the facility and its satellites shall be specified in a manual that is accessible to all employees and the public. This manual is reviewed at least annually, and updated as needed.

Q. Each department and major administrative unit in the institution shall maintain and make available to employees a manual of standard operating procedures that specifies how policies are to be implemented. These procedures shall be reviewed at least annually and updated as needed.

R. Written policy, procedure, and practice shall provide that new or revised policies and procedures are disseminated to designated staff and volunteers and, when appropriate, to youth prior to implementation.

S. Written policy, procedure, and practice shall provide for monthly meetings between the facility director and all department heads and all department heads with their staff.

T. Written policy, procedure, and practice shall provide for a system of two-way communication between all levels of staff and youth.

U. The Director of the Department of ~~Youth and Family Services~~ *Juvenile Justice* shall hold meetings at least annually with the facility director.

V. Written policy, procedure, and practice shall provide for a system to monitor space requirements, operations, and programs through inspections and reviews. This monitoring shall include measuring progress toward achieving previously identified goals and objectives and is conducted by the facility director or designated staff at least annually.

W. Written policy, procedure, and practice shall demonstrate that the facility director submits a written report of the facility's activities at least quarterly to the chief of ~~learning juvenile correctional~~ centers. These reports shall include major developments in each department or administrative unit, major incidents, population data, assessment of staff and youth morale, and major problems and plans for solving them.

X. Written policy, procedure, and practice shall provide for a public information program that encourages interaction with the public and the media.

Y. Written policy, procedure, and practice shall provide that requests from federal, state, and local legislators, executives, and other components of juvenile justice for information about operations or specific youth are responded to promptly by designated facility staff and with due regard to privacy protection statutes.

Z. Written policy, procedure, and practice shall grant representatives of the media access to the facility consistent with preserving youths' rights to privacy and maintaining order and security.

AA. Written policy, procedure, and practice shall specify the circumstances and methods for the facility director and other staff to obtain legal assistance as needed in the performance of their duties.

BB. Written policy shall govern campaigning, lobbying, and political practices of facility personnel. This policy shall conform to all applicable statutes and regulations and is known and available to all employees.

CC. Service personnel other than facility staff shall perform work in the facility only under direct and continuous supervision of facility staff in those areas permitting contact with youth.

6 VAC 35-70-40. Fiscal accountability.

A. Written policy, procedure, and practice shall provide that the facility director is responsible for fiscal management and control. Management of fiscal operation may be delegated to a designated staff person.

B. Written policy, procedure, and practice shall cover at a minimum the following fiscal areas: internal controls, petty cash, bonding for all appropriate staff, signature control on checks, and the issuing or use of vouchers.

C. Written policy, procedure, and practice shall provide that the facility's budget request complies with the policies, procedures, and instructions of the Department of ~~Youth and Family Services~~ *Juvenile Justice*. Facility staff shall participate in preparing the facility's written budget request.

D. The facility director shall participate in budget deliberations conducted by the parent agency of the next higher level of government. This participation shall include requests of funds for maintaining the facility's daily operations; financing; capital projects; and supporting long-range objectives, program development, and additional staff requirements.

E. Written policy, procedure, and practice shall provide for budget revisions.

F. Written policy, procedure, and practice shall govern the collection, safeguarding, and disbursement of moneys in compliance with all department policies and procedures and all applicable laws and regulations. These procedures are reviewed annually and updated as needed.

G. Written policy, procedure, and practice shall provide that reports of all moneys collected and disbursed are distributed to the parent agency and other designated authorities. These procedures are reviewed annually and updated as needed.

6 VAC 35-70-70. Participation of youth in research.

A. Written policy, procedure, and practice shall govern voluntary participation of *in* nonmedical, nonpharmaceutical, and noncosmetic research programs.

B. Written policy shall prohibit the use of youth for medical, pharmaceutical, or cosmetic experiments. This policy does not preclude individual treatment of a youth based on his need for a specific medical procedure that is not generally available.

C. Written policy, procedure, and practice shall require that human research involving youth which includes biological studies, epidemiological investigations, or medical treatment of an experimental nature, shall have prior approval from the Department of ~~Youth and Family Services~~ *Juvenile Justice* Human Research Review Committee and shall be consistent with Chapter 13 (§ 37.1-234 et seq. [Repealed.]) of Title 37.1 of the Code of Virginia.

D. Under no circumstances shall a stimulant, tranquilizer, or psychotropic drug be administered for purposes of program management and control or for purposes of experimentation and research.

6 VAC 35-70-90. Information systems and research.

A. The facility shall contribute to, have access to, and use an organized system of information storage, retrieval, and review. The information system shall be part of an overall research and decision-making capacity relating to both youth and operational needs.

B. The facility shall support, engage, and use research activities relevant to its programs, services, and operations.

C. The facility director shall review and approve all facility research projects prior to implementation to ensure that they conform with the policies and procedures of the Department of ~~Youth and Family Services~~ *Juvenile Justice*.

D. Consistent with statutes, written policy, procedure, and practice shall prohibit unauthorized persons' access to data which identifies individual youth and provide that individuals and agencies may have access to records for the purpose of research, evaluation, and statistical analysis in accordance with a formal written agreement that authorizes access, specifies use of data, and ensures confidentiality.

E. The facility or parent agency shall collaborate with juvenile justice and service agencies in information gathering, exchange, and standardization.

F. The effectiveness of the information system as it relates to overall facility management shall be evaluated in writing at least

6 VAC 35-70-120. Written personnel policies and procedures.

A. Written policy, procedure, and practice shall provide that a personnel policy manual is available for employee reference and covers at a minimum the following areas:

1. Table of organization;
2. Recruitment, selection, and promotion, including equal employment opportunity provisions;
3. Job descriptions and qualifications, including salary determinations and physical fitness policy;
4. Benefits, holidays, leave, and work hours;
5. Annual employee evaluation;
6. Confidentiality of employee personnel records;
7. Staff development, including in-service training;
8. Promotions, demotions, and transfers;

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9. Probationary period;

10. Retirement, resignation, and termination;

11. Employee-management relations, including disciplinary procedures and grievance and appeals procedures;

12. Statutes relating to political activities and conflicts of interest; and

13. Insurance and professional liability requirements.

B. Written policy, procedure, and practice shall provide that each employee signs a statement acknowledging access to the personnel policies and regulations and his responsibility for being aware of the contents.

C. The facility director shall review the facility's internal personnel policies annually and submit to the chief of the ~~learning juvenile correctional~~ centers any recommended changes that are relevant to the parent agency policies.

D. The qualifications, authority, and responsibilities of the facility director and other appointed personnel shall be specified in writing by statute or by the parent agency.

E. Written policy, procedure, and practice shall provide that the term of office of the facility director and appointed personnel is continuous and can be terminated by the appointing authority only for good cause and, if requested, following a formal hearing on specific charges.

F. The staffing requirements for all categories of personnel shall be determined to ensure that youth have access to staff, programs, and services.

G. The facility shall use a system to determine the number of staff needed for essential positions. The system shall consider, at a minimum, holidays, regular days off, annual leave, and average sick leave.

H. The facility director shall demonstrate that the overall vacancy rate among staff positions authorized to work directly with youth does not exceed 10% for any 18-month period.

I. Written policy, procedure, and practice shall specify that equal employment opportunities exist for all positions.

J. Written policy, procedure, and practice shall provide that employees covered by merit systems or civil service regulations are appointed initially for a probationary term of at least six months but no longer than a year.

K. After a probationary period, involuntary termination or demotion is permitted only for good cause and, if requested, subsequent to a formal hearing of specific charges conducted pursuant to state employee grievance procedures.

L. Written policy, procedure, and practice shall provide for provisional appointments to ensure that short-term personnel, both full time and part time, can be available during emergencies.

M. Prior to employment, a criminal record check, motor vehicle record check, and Central Registry check shall be conducted on all staff in accordance with state and federal statutes to ascertain whether there have been criminal acts

committed or circumstances detrimental to the health, safety, and well-being of youth in care.

N. Written policy, procedure, and practice shall specify support for a drug-free workplace for all employees. This policy, which shall be reviewed at least annually, shall include, at a minimum, the following:

1. Prohibition of the use of illegal drugs;

2. Prohibition of possession of any illegal drug except in the performance of official duties;

3. The procedure used to ensure compliance;

4. The opportunities available for treatment and counseling for drug abuse; and

5. The penalties for violation of the policy.

O. Written policy, procedure, and practice shall provide for an annual written performance review of each employee. The review shall be based on defined criteria and the results discussed with the employee.

P. Written policy, procedure, and practice shall provide for employees to be reimbursed for all approved expenses incurred in the performance of their duties.

Q. Written policy, procedure, and practice shall govern the use of personal vehicles for official purposes and include provisions for insurance coverage.

R. Written policy, procedure, and practice shall provide that employees may challenge the information in their personnel file and have it corrected or removed if it is proven inaccurate.

S. A written code of ethics shall prohibit employees from using their official positions to secure privileges for themselves or others and from engaging in activities that constitute a conflict of interest. This code shall be available to all employees.

T. Written policy, procedure, and practice shall provide for an employee assistance program that is approved by the parent agency.

6 VAC 35-70-140. Staff development.

A. Written policy, procedure, and practice shall provide that the facility's staff development and training program is planned, coordinated, and supervised by a qualified supervisory employee. The training plan shall be reviewed annually.

B. The training plan shall be developed, evaluated, and updated based on an annual assessment that identifies current job-related training needs.

C. The facility's training plan shall be developed by an advisory training committee composed of the facility's training coordinator and representatives from other institutional departments. The committee shall meet at least quarterly to review progress and resolve problems, and a written record of these meetings shall be forwarded to the facility's director.

D. The facility's training plan shall provide for ongoing formal evaluation of all pre-service, in-service, and specialized training programs. A written report shall be prepared annually.

E. Library and reference services shall be available to complement the training and staff development program.

F. Necessary space and equipment for the training and staff development program shall be available.

G. The facility's budget shall include funds to reimburse staff for their time when training is conducted during periods other than normally scheduled hours of work.

H. Written policy, procedure, and practice shall provide that all new employees receive 40 hours of orientation training prior to being independently assigned to a particular job. This orientation training shall include, at a minimum, orientation to the purpose, goals, policies and procedures of the facility and parent agency; working conditions and regulations; responsibilities and rights of employees; and an overview of the juvenile justice field. The orientation may also include some preparatory instruction related to the particular job. There are provisions for acknowledging and giving credit for prior training received.

I. Written policy, procedure, and practice shall provide that all administrative and managerial staff receive 40 hours of training in addition to orientation training during their first year of employment and 40 hours of training each year thereafter. This training covers at a minimum the following areas: general management; labor law; employee-management relations; the criminal justice system; and relationships with other service agencies.

J. Written policy, procedure, and practice shall provide that all staff responsible for supervision of youth receive 40 hours of orientation which includes, but is not limited to, the following:

1. Program philosophy for treating youth;
2. Youth rules and regulations;
3. Youth rights and responsibilities;
4. Youth disciplinary and grievance procedure;
5. Security procedures;
6. Documentation requirements;
7. Review of facility policies and procedures and applicable standards;
8. Routine and emergency medical procedures;
9. Procedures for the administration of medication;
10. Shift assignments;
11. Fire and emergency procedures; and
12. Services available at the facility.

K. Written policy, procedure, and practice shall provide that all new staff responsible for supervision of youth receive an additional 120 hours of training during their first year of employment and an additional 40 hours of training each subsequent year of employment. At a minimum this training covers the following areas:

1. Basic skills provided by Department of Youth and Family Services Juvenile Justice;

2. Security procedures;
3. Supervision of youth;
4. Signs of suicide risks;
5. Suicide precautions;
6. Use of force techniques and regulations;
7. Report writing;
8. Safety procedures;
9. Key control;
10. Interpersonal relations;
11. Adolescent development;
12. Behavioral documentation;
13. Social and cultural lifestyles of the youth population;
14. Communication skills;
15. Standard first aid and CPR (cardiopulmonary resuscitation);
16. Communicable disease training; and
17. Counseling techniques.

L. All staff who work with children in specialized programs shall receive training specifically identified by the facility director or designee.

M. Written policy, procedure, and practice shall provide that all professional specialist employees who have youth contact receive an additional 80 hours of training (above orientation during their first year of employment and an additional 40 hours of training each subsequent year of employment. This training shall cover, at a minimum, the following areas:

1. Security procedures;
2. Supervision of youth;
3. Use-of-force techniques and regulations;
4. Report writing;
5. Youth rules and regulations;
6. Rights and responsibilities of youth;
7. Fire and emergency procedures;
8. Key control;
9. Interpersonal relations;
10. Social and cultural lifestyles of the youth population;
11. Communication skills;
12. First aid and CPR (cardiopulmonary resuscitation);
13. Search and seizure;
14. Rules of evidence; and
15. Sexual harassment.

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N. Written policy, procedure, and practice shall provide that all support employees who have regular or daily contact with youth receive 40 hours of training in addition to orientation training during their first year of employment and 40 hours of training each year thereafter.

O. Written policy, procedure, and practice shall provide that all clerical and support employees who have only haphazard or no contact with youth receive an additional 16 hours of training during the first year of employment and 16 hours of training each year thereafter, including training on policies and procedures.

P. All part-time staff, volunteers, and contract personnel shall receive formal orientation commensurate with their assignments and additional training as needed, including, but not limited to, keeping current with program changes, policies and procedures, behavior management, and discipline.

Q. The facility shall encourage and provide administrative leave or reimbursement for employees attending approved professional meetings, seminars, and similar work-related activities.

6 VAC 35-70-160. Volunteers.

A. There shall be a staff member who is responsible for operating a citizen involvement and volunteer service program for the benefit of youth.

B. Written policy, procedure, and practice shall specify the lines of authority, responsibility, and accountability for the facility's citizen involvement and volunteer services program.

C. The screening and selection of volunteers shall allow for recruitment from all cultural and socioeconomic parts of the community.

D. Written policy, procedure, and practice shall provide that the program director curtails, postpones, or terminates the services of a volunteer or volunteer organization when there are substantial reasons for doing so.

E. There shall be a system for official registration and identification of volunteers and student interns with the Department of Youth and Family Services *Juvenile Justice*.

F. Written policy shall specify that volunteers may perform professional services only when they are certified or licensed to do so.

G. Written policy, procedure, and practice shall provide that each volunteer completes an appropriate, documented orientation and training program prior to assignment, which includes confidentiality of information regarding youth.

H. Volunteers and student interns shall agree in writing to abide by facility policies and procedures, particularly those relating to the security and confidentiality of information.

I. There shall be provision for volunteers to contribute suggestions regarding the establishment of policy and procedure for the volunteer service program.

6 VAC 35-70-180. Size, organization, and location.

A. If the *learning juvenile correctional center* is on the grounds of any other type of corrections facility, it shall be a separate, self-contained unit.

B. Newly constructed or renovated physical plant designs shall facilitate personal contact and interaction between staff and youth.

C. Staff offices in living units are located so that staff are readily accessible to youth.

D. *Learning Juvenile correctional centers* designed and constructed after the effective date of these standards, except those that are designed and operated as camps or ranches, shall not exceed a total bed capacity of 150. *Learning Juvenile correctional centers* that are camps or ranches shall not exceed a bed capacity of 50.

E. *Learning Juvenile correctional centers* shall operate with living units of no more than 25 youths each and control or security units of no more than 10.

F. Written policy and procedure provide that a new *learning juvenile correctional center* or special-purpose institution be constructed or an existing facility be expanded only after a needs evaluation study has been completed by the Department of Youth and Family Services *Juvenile Justice*.

G. Newly constructed or renovated facility locations shall be selected with participation from the communities in which they are to be located.

H. The number of youth shall not exceed the facility's rated bed capacity which is determined by the Board of Youth and Family Services *Juvenile Justice*.

I. The facility is located to facilitate use of community-based services and continued contact between youth and family.

J. In newly constructed or renovated *learning juvenile correctional centers*, the facility is designed and constructed so that youth can be grouped in accordance with a classification plan.

6 VAC 35-70-240. Sleeping rooms.

A. All activity areas provide access, at a minimum, to:

1. Toilets and wash basins accessible to youth;
2. Wash basins, with hot and cold running water; and
3. Drinking fountains.

~~B. Living units shall be primarily designed for single occupancy sleeping rooms; multiple occupancy rooms do not exceed 20% of the bed capacity of the unit.~~

~~C. B. Rooms or sleeping areas in which youth are confined shall conform with the following requirements: including those in control units, shall provide at least 35 square feet of unencumbered space per occupant.~~

| NUMBER OF OCCUPANTS | AMOUNT OF UNENCUMBERED SPACE |
|---------------------|------------------------------|
| 1 | 35 square feet |
| 2-50 | 35 square feet per occupant |

~~Sleeping area partitions shall be required if more than four youths are in one sleeping area.~~

D. C. Each sleeping room in control or security units has, at a minimum:

1. Toilet facilities;
2. Wash basin with hot and cold running water;
3. Adequate lighting, including night light sufficient for observation;
4. Circulation of fresh air;
5. Bed and mattress; and
6. Natural light.

E. D. There shall be no dormitories in control or security units.

F. E. Male and female youths shall not occupy the same sleeping room.

6 VAC 35-70-250. Dayrooms.

A. Dayrooms with space for varied youth activities shall be situated immediately adjacent to the youth sleeping areas but are separated from them by a floor-to-ceiling wall. Dayrooms provide a minimum of 35 square feet of space per youth (exclusive of lavatories, showers, and toilets) for the maximum number expected to use the dayroom at one time.

B. Dayrooms provide sufficient seating and writing surfaces for every youth using the dayroom at one time. Dayroom furnishings are consistent with the security needs of the youth assigned.

C. If the facility houses male and female youth, space is provided for coeducational activities.

6 VAC 35-70-290. Security and control.

A. In secure facilities, space shall be provided for a 24-hour control center for monitoring and coordinating the facility's security, safety, and communications systems. The control center provides access to a wash basin and toilet.

B. The facility's perimeter shall be controlled by appropriate means to ensure that youth remain within the perimeter and to prevent access by the general public without proper authorization.

C. Pedestrians and vehicles shall enter and leave at designated points in the perimeter; posted signs shall clearly mark designated points.

D. There shall be a manual containing all procedures for facility security and control, with detailed instructions for implementing these procedures. The manual shall be available to all staff and reviewed at least annually and updated as necessary.

E. The facility shall have a communication system between the control center and youth living areas.

F. Written policy, procedure, and practice shall govern the use of mechanical restraint equipment. Instruments of restraint such as handcuffs shall never be applied as punishment and shall be applied only with the approval of the facility director or designee.

G. Written policy, procedure, and practice shall require at least weekly inspection and maintenance of all security devices; corrective action shall be initiated, when necessary.

H. Written policy, procedure, and practice shall provide that the facility maintains a written record of routine and emergency distribution of restraint equipment.

I. All serious incidents, including but not limited to the taking of hostages, use of restraint equipment except for transportation purposes, or the use of physical force, shall be reported in writing, dated and signed by the staff person reporting the incident; the report shall be placed in the youth's case record and reviewed by the facility administrator and the parent agency.

J. Written policy, procedure, and practice shall restrict the use of physical force to instances of justifiable self defense, protection of others, protection of property, and prevention of escapes, and then only as a last resort and in accordance with appropriate statutory authority. In no event shall physical force be justifiable as punishment. A written report shall be prepared following all uses of force and submitted to administrative staff for review.

K. Written policy, procedure, and practice shall provide for searches of facilities and youth to control contraband and provide for its disposition. These policies shall be made available to staff and youth. Policies and procedures shall be reviewed at least annually and updated if necessary.

L. Written policy, procedure, and practice shall provide that manual or instrument inspection of body cavities is conducted only when there is reason to do so and when authorized by the facility director or designee. The inspection shall be conducted in private by health care personnel in the presence of a staff member of the same gender as the youth.

M. Written policy, procedure, and practice provide that visual inspection of youth body cavities is conducted based on a reasonable belief that the youth is carrying contraband or other prohibited material. The inspection is conducted by trained staff in private and conducted by members of same sex.

N. Written policy, procedure, and practice shall govern the control and use of facility and personal keys. Fire and emergency keys shall be color coded and marked for identification by touch.

O. Written policy, procedure, and practice shall govern the control, use, distribution and accountability of tools and culinary, maintenance, educational, recreational, and medical equipment.

P. Written policy, procedure, and practice shall govern the safety, maintenance, and security of facility and staff vehicles used to transport youth. Staff involved in these activities shall receive appropriate training.

Q. Written policy, procedure, and practice shall govern the availability, control, and use of chemical agents and related security devices and specify the level of authority required for their access and use. Chemical agents are used only with the authorization of the facility director or designee.

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R. Chemical agents and related security equipment shall be inventoried at least monthly to determine their condition and expiration dates.

S. Written policy, procedure, and practice shall require that personnel using chemical agents or force to control youth submit reports to the facility administrator or designee no later than the conclusion of the tour of duty.

T. Written policy, procedure, and practice shall provide that persons injured in an incident receive immediate medical examination and treatment. All injuries shall be reported immediately to the facility director or designee.

U. Learning *Juvenile correctional* center staff shall not store, possess, or use weapons on state property unless in designated hunting areas with the permission of the facility director or designee.

VAC 35-70-350. Classification.

A. Written policy, procedure, and practice shall provide for a classification manual containing all the classification policies and detailed procedures for implementing these policies. This manual shall be made available to all staff involved with classification and shall be reviewed at least annually and updated if necessary.

B. There shall be a written plan for classifying youth that considers the level of risk presented, the type of housing required, and participation in facility and community programs.

C. The written plan for youth classification shall specify criteria and procedures for determining and changing the status of a youth.

D. The written plan of youth classification shall specify that the program and status review of each youth occurs at least every month. The outcome of each review shall be documented.

E. A personalized program shall be designed for and with each youth that includes measurable criteria of expected behavior and accomplishments and a time schedule for achievement. The program is documented by staff and youth signatures.

F. Written policy, procedure, and practice shall provide that program staff review changes in the youth's program with the youth and document this procedure with staff and youth signatures.

G. Written policy, procedure, and practice shall provide that, except in unusual circumstances, initial classification of youth is completed within two weeks of admission from court or the community and within one week after transfer from another learning *juvenile correctional* center.

H. Written policy, procedure, and practice shall provide for the classification of youth with special needs.

I. There shall be a written plan for transfer of youth to secure facilities that specifies the objectives of the plan, details the methods for achieving the objectives, assures the due process safeguards required in ~~Part V, Articles 7 and 8 of these standards~~ *6 VAC 35-70-390 and 6 VAC 35-70-400*, as applicable, and provides a monitoring and evaluation

mechanism. The plan is reviewed at least annually and updated if necessary.

6 VAC 35-70-360. Counseling and social services.

A. Written policy, procedure, and practice shall specify the provision of mental health services for youth. These services include but are not limited to those provided by qualified mental health professionals who meet the educational and license or certification criteria specified by their respective professional discipline (e.g., psychiatric nursing, psychiatry, psychology, and social work).

B. Written policy, procedure, and practice, approved by the appropriate mental health authority, shall provide for all activities carried out by mental health services personnel.

C. Written policy, procedure, and practice shall provide for a social services program that makes available a range of resources appropriate to the needs of youth, including individual, group, and family counseling; drug and alcohol treatment; and special offender treatment. The approved programs shall be in accordance with Department of Youth and Family Services *Juvenile Justice* Guidelines for Program Development.

D. Written policy, procedure, and practice provide that facility staff identify the collective service needs of the youth population at least annually. Special programs shall be provided to meet the needs of youth with specific types of problems.

E. Counseling personnel shall be available at a ratio of at least one staff member to every 25 youths to provide counseling and social services to youth.

F. Written policy, procedure, and practice shall provide that staff members are available to counsel youths at their request; provision shall be made for counseling youths on an emergency basis.

G. Written policy, procedure, and practice shall provide for youths' access to mental health counseling and crisis intervention services in accordance with their needs.

H. Social services personnel shall share relevant information and coordinate their efforts with appropriate facility youth careworkers.

I. Written policy, procedure, and practice shall require that comprehensive counseling and assistance are provided to pregnant youths in keeping with their expressed desires in planning for their unborn youths.

6 VAC 35-70-370. Food services.

A. Written policy, procedure, and practice shall specify the food service budgeting, purchasing, and accounting practices, including but not limited to, the following systems:

1. Food expenditure cost accounting designed to determine cost per meal per youth;
2. Estimation of food service requirements;
3. Purchase of supplies at wholesale and other favorable price conditions when possible;

4. Determination of and responsiveness to youth eating preferences; and

5. Refrigeration of food, with specific storage periods.

B. Written policy, procedure, and practice shall require that accurate records are maintained of all meals served.

C. There shall be documentation that the facility's system of dietary allowance is reviewed at least annually by a dietitian to ensure compliance with nationally recommended food allowances.

D. Written policy, procedure, and practice shall require that food service staff develop planned menus and substantially follow the schedule and that food flavor, texture, temperature, appearance, and palatability are taken into consideration in the planning and preparation of all meals.

E. The food service plan provides for a single menu for staff and youth.

F. Written policy, procedure, and practice shall provide for special diets as prescribed by appropriate medical or dental personnel.

G. Written policy shall preclude the use of food as a disciplinary measure.

H. Written policy, procedure, and practice shall provide for special diets for youths whose religious beliefs require adherence to religious dietary laws.

I. Written policy, procedure, and practice shall provide for the following:

1. Weekly inspection of all food service areas, including dining and food preparation areas and equipment;

2. Sanitary, temperature-controlled storage facilities for all foods;

3. Daily checks of refrigerator and water temperatures by administrative, medical, or dietary personnel.

An inspection shall be conducted by the Department of Youth and Family Services *Juvenile Justice* Food Service Director every 90 days.

J. Shelf goods are maintained at 45°F to 80°F, refrigerated goods at 35°F to 40°F, and frozen foods at 0°F or below.

K. Written policy, procedure, and practice shall provide that staff responsible for supervision of youths during meals shall be seated with them and served the same meal except for necessary special diets required for such youths and staff.

L. Written policy, procedure, and practice shall require that at least three meals, of which two are hot meals, are provided at regular meal times during each 24-hour period, with no more than 14 hours between the evening meal and breakfast. Provided basic nutritional goals are met, variations may be allowed based on weekend and holiday activities.

M. A nutritional snack in compliance with an approved menu shall be provided each evening to each youth.

N. Written policy, procedure, and practice shall provide for adequate health protection for all youth and staff in the facility

and youth and other persons working in food service, including the following:

1. Where required by the laws and regulations applicable to food service employees in the community where the facility is located, all personnel involved in the preparation of food receive a preassignment medical examination and periodic reexaminations to ensure freedom from diarrhea, skin infections, and other illnesses transmissible by food or utensils; all examinations are conducted in accordance with local requirements.

2. When the facility's food services are provided by an outside agency or individual, the facility has written verification that the outside provider complies with the state and local regulations regarding food service.

3. All food handlers are instructed to wash their hands on reporting to duty and after using toilet facilities.

4. Youth and other persons working in food service are monitored each day for health and cleanliness by the director of food services (or designee).

6 VAC 35-70-380. Health care.

A. Written policy, procedure, and practice shall provide that the facility has a designated health authority with responsibility for health care pursuant to a written agreement, contract, or job description. The health authority may be a physician, health administrator, or health agency. When the authority is other than a physician, final medical judgments rest with a single designated physician.

B. When facilities do not have full-time qualified health-trained personnel, a health-trained staff member coordinates the health delivery services in the facility under the joint supervision of the responsible health authority and facility director.

C. The physician and licensed medical staff shall have no restrictions imposed by the facility director regarding the practice of medicine. This shall not preclude the chief administrator from obtaining additional medical consultation.

D. Written policy, procedure, and practice shall govern the relationship and the activities of private physicians working with youth in the facility.

E. Written policy, procedure, and practice shall provide that the health authority meets with the facility director at least quarterly and submits annual statistical summaries and quarterly reports on the health care delivery system and health environment.

F. Written policy, procedure, and practice shall provide that when a youth is in need of hospitalization, a parent or guardian or staff member accompanies him and stays with the youth at least during admission.

G. Each policy, procedure, and program in the health care delivery system shall be reviewed at least annually by the appropriate health care authority and revised if necessary. Each document shall bear the date of the most recent review or revision and signature of the reviewer.

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H. Medical services shall be delivered in the facility or through contract services. Adequate space, equipment, supplies, and materials as determined by the responsible physician shall be provided for the performance of primary health care delivery.

I. Written policy, procedure, and practice shall provide for unimpeded access to health care and for a system for processing complaints regarding health care. These policies shall be communicated orally and in writing to youths on arrival in the facility and shall be put in a language clearly understood by each youth.

J. When sick call is not conducted by a physician, a physician shall be available once each week to respond to youth complaints regarding service that they did or did not receive from other health care personnel.

K. Youth medical complaints shall be monitored and responded to daily by medically trained personnel.

L. Written policy, procedure, and practice shall provide that facilities of more than 25 youth have a central medical room with medical examination facilities.

M. Written policy, procedure, and practice shall provide that treatment by health care personnel other than a physician, dentist, psychologist, optometrist, podiatrist, or other independent providers is performed pursuant to written standing or direct orders by personnel authorized by law to give such orders. Nurse practitioners and physician's assistants may practice within the limits of applicable laws and regulations.

N. In facilities housing females, obstetrical, gynecological, family planning, and health education services are provided as needed.

O. Written policy, procedure, and practice provide for the proper management of pharmaceuticals and address the following subjects:

1. "Stop order" time periods for all medications or required reevaluations of prescriptions prior to renewal;
2. Medication receipt, storage, dispensing, and administration;
3. Storage and inventory of all controlled substances, syringes, and needles;
4. Accountability for administering medications in a timely manner and according to physician's orders; and
5. Disposal of discontinued, unused, or expired medication.

P. Psychotropic drugs shall be prescribed only by a psychiatrist after reviewing the medical files and conducting a face-to-face assessment with the youth. Such drugs shall be administered by qualified health personnel or health-trained personnel.

Q. Nonmedical staff who deliver medications shall receive training which addresses proper techniques and documentation procedures as approved by the responsible physician and the Board of Nursing.

R. Written policy, procedure, and practice shall require medical, dental and mental health screening to be performed by health-trained or qualified health care personnel on all youth upon arrival at the facility, excluding transfers from programs licensed under standards approved by the board. All findings shall be documented in the youth's file or medical record. The screening form shall include at least the following:

1. Inquiry into:
 - a. Current illness and health problems;
 - b. Current medications;
 - c. Allergies;
 - d. Venereal diseases (screening);
 - e. Pregnancy (screening) when applicable;
 - f. Dental problems;
 - g. Mental health problems, including suicide ideation;
 - h. Use of alcohol and other drugs, which includes types of drugs used, mode of use, amounts used, frequency used, date or time of last use, and a history of problems that may have occurred after ceasing use (e.g., convulsions);
 - i. Past and present treatment or hospitalization for mental disturbance or attempted suicide; and
 - j. Other health problems designated by the responsible physician.
2. Observation of:
 - a. Behavior, which includes state of consciousness, mental status, appearance, conduct, tremor, and sweating;
 - b. Body deformities, ease of movement, etc.;
 - c. Condition of skin, including trauma markings, bruises, lesions, jaundice, rashes, infestations, and needle marks or other indications of drug abuse.
3. Medical disposition of youth:
 - a. General population; or
 - b. General population with appropriate referral to health care service; or
 - c. Referral to appropriate health care service for emergency treatment.

S. Written policy, procedure, and practice shall require that program staff are notified of the youth's individual requirements or restrictions as dictated by medical needs. Staff shall be provided with specific instructions for meeting these needs.

T. Written policy, procedure, and practice shall require health screening by health-trained or qualified health care personnel immediately on arrival at the facility for all transfers from programs licensed under standards approved by the board, with all findings recorded on a screening form

approved by the health authority. The screening shall include, at a minimum, the following:

1. Inquiry into:
 - a. Current treatment for a medical, dental, or mental health problem;
 - b. Current medication; and
 - c. Current medical, dental, or mental health complaint.
2. Observation of:
 - a. General appearance and behavior;
 - b. Physical deformities, condition of skin, for evidence of abuse and trauma.
3. Medical disposition of youth:
 - a. General population; or
 - b. General population with appropriate referral to health care service; or
 - c. Referral to appropriate health care service for emergency treatment.

U. Written policy, procedure, and practice shall provide that within seven days of admission within the direct care system, each youth who has not received a documented medical examination within the previous six months shall receive a medical examination performed by the physician or registered nurse practitioner to determine the health of each youth. In the case of a youth who has received a documented medical exam within the previous six months, the physician or nurse practitioner shall conduct a review of the results of the previous examination and additional tests and examinations shall be conducted as needed within seven days of admission. This examination shall include:

1. Review of the initial health screening;
2. Complete medical, immunization, and psychiatric history;
3. Recording of height, weight, temperature, pulse, respirations, and blood pressure;
4. Laboratory and diagnostic tests as determined by the responsible physician, including screening for communicable diseases such as tuberculosis and sexually transmitted diseases;
5. Medical examination, including gynecological assessment of females;
6. Visual and auditory acuity;
7. Documentation of immunizations administered; and
8. Plan of care, including initiation of therapy as appropriate.

V. Full medical exams shall be conducted annually for youths residing in learning *juvenile correctional* centers for a year or more.

W. Dental care shall be provided to each youth under the direction and supervision of a dentist licensed in the state. This care includes the following:

1. Dental screening on admission;
2. Dental hygiene service within 14 days of admission;
3. Dental examinations within seven days of admission, if indicated; and
4. Dental treatment, not limited to extractions, when the health of the youth would otherwise be adversely affected.

X. Written policy, procedure, and practice shall provide for 24-hour emergency medical, dental, and mental health care availability as outlined in a written plan that includes arrangements for the following:

1. On-site emergency first aid and crisis intervention;
2. Emergency evacuation of the youth from the facility;
3. Use of an emergency medical vehicle;
4. Use of one or more designated hospital emergency rooms or other appropriate health facilities;
5. Emergency on-call physician, dentist, and mental health professional services; and
6. Security procedures providing for the immediate transfer of youth when appropriate.

Y. Written policy, procedure, and practice provide that careworker staff and other personnel are trained to respond to health-related situations within a four-minute response time. A training program is established by the responsible health authority in cooperation with the facility director that includes the following:

1. Recognition of signs and symptoms and knowledge of action required in potential emergency situations;
2. Administration of first aid and cardiopulmonary resuscitation (CPR);
3. Methods of obtaining assistance;
4. Signs and symptoms of mental illness, retardation, and chemical dependency;
5. Procedures for patient transfers to appropriate medical facilities or health care providers.

Z. Written policy, procedure, and practice require that first aid kit or kits are available. The responsible physician approves the contents, number, location, and procedure for periodic inspection of the kit or kits.

AA. Sick call for nonemergency medical service, conducted by a physician or other qualified medical personnel, shall be available to each youth as follows:

1. Small facilities of fewer than 50 youth hold sick call once per week, at a minimum.
2. Medium-sized facilities of 50 to 200 youth hold sick call at least three times per week.
3. Large facilities of over 200 youth hold sick call a minimum of five times per week.

BB. Written policy, procedure, and practice shall provide for a special health program for youth requiring close medical

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supervision. A written individual treatment plan with directions for health care and other personnel regarding their roles in the care and supervision of the patient is developed by the appropriate physician, dentist, or qualified mental health practitioner.

CC. Chronic care, convalescent care, and medical preventive maintenance shall be provided to youth of the facility when medically indicated.

DD. Medical and dental prostheses shall be provided when the health of the youth would otherwise be adversely affected, as determined by the responsible physician.

EE. A written agreement exists between the facility director and a nearby hospital for all medical services that cannot be provided within the facility.

FF. Written policy, procedure, and practice govern the use of restraints for medical and mental health purposes. Written policy should identify the authorization needed; when, where, and how restraints may be used; and for how long.

GG. Programs and training shall be provided for the development of sound habits and practices regarding personal hygiene.

HH. There is a written suicide prevention and intervention program that is reviewed and approved by a qualified medical or mental health professional. All staff with responsibility for youth supervision are trained in the implementation of the program. The program includes specific procedure for intake screening, identification, and supervision of suicide-prone youth.

II. Written policy, procedure, and practice shall specify approved actions to be taken by employees concerning youth who may be diagnosed as HIV positive. This policy shall include, at a minimum, the following:

1. When and where youth are to be tested;
2. Appropriate safeguards for staff and youth;
3. When and under what conditions youth are to be separated from the general population;
4. Staff and youth training procedures; and
5. Issues of confidentiality.

JJ. Written policy, procedure, and practice address the management of serious and infectious diseases. These policies and procedures are updated as new information becomes available. Agencies should work with the responsible health authority in establishing policy and procedure that include the following: an ongoing education program for staff and residents; control, treatment, and prevention strategies that may include screening and testing, special supervision, and special housing arrangements, as appropriate; protection of individual confidentiality; and media relations.

KK. Written policy, procedure, and practice provide for medical examination of any employee or youth suspected of a communicable disease.

LL. Written policy, procedure, and practice shall provide for screening, care, or referral for care for mentally ill or retarded

youth. The responsible mental health professional shall have designated, in advance, specific referral sources. Emergency transfers to mental health facilities should be approved and supervised by the learning *juvenile correctional* center mental health professional and reported to the court the next working day.

MM. Written policy, procedure, and practice shall provide for detoxification from alcohol, opiates, barbiturates, and similar drugs. Detoxification shall be performed under medical supervision.

NN. Written policy, procedure, and practice shall provide for the clinical management of chemically dependent youth and include the following requirements:

1. Diagnosis of chemical dependency by a physician;
2. Determination by a physician as to whether youth requires nonpharmacologically supported care;
3. Individualized treatment plans developed and implemented by a multidisciplinary team; and
4. Referrals to specified community resources on release, when appropriate.

OO. Written policy, procedure, and practice shall provide that all informed consent standards in the jurisdiction are observed and documented for medical care. The informed consent of parent, guardian, or legal custodian applies when required by statute. When health care shall be rendered against the patient's will, it shall be in accordance with state and federal laws and regulations.

PP. Written policy, procedure, and practice shall provide for the prompt notification of a youth's parents or guardians and the responsible agency in case of serious illness, surgery, injury, or death.

QQ. The case record or medical file shall contain the following:

1. Completed medical screening information;
2. Medical examination information;
3. All findings, diagnoses, treatments, dispositions;
4. Prescribed medications and their administration;
5. Laboratory, x-ray, and diagnostic studies;
6. Consent and refusal forms;
7. Release of information forms;
8. Place, date, and time of health encounters;
9. Health service reports, e.g., dental, mental health, and consultations;
10. Treatment plan, including nursing care plan;
11. Progress reports; and
12. Discharge summary of hospitalization and other termination summaries.

RR. All documentation shall include the signature and title of the documenter and place, date, and time of health encounters.

SS. Written policy, procedure, and practice uphold the principle of confidentiality of the health record and support the following requirements:

1. The active health record is maintained separately from the confinement record.
2. Access to the health record is controlled by the health authority.
3. The health authority shares with the facility director information regarding a youth's medical management, security, and ability to participate in programs.

TT. For youths being transferred to other facilities, summaries or copies of the medical history record shall be forwarded to the receiving facility prior to or at arrival.

6 VAC 35-70-390. Discipline and behavior management.

A. Written policy, procedure, and practice shall provide for a system of rewarding the positive behavior of individual youths.

B. Written rules of youth conduct shall specify acts prohibited within the facility that have an adverse effect on persons, property, or facility security and penalties that can be imposed for various degrees of violation; the written rules shall be reviewed annually and updated if necessary.

C. There shall be a program handbook that contains, among other elements, all chargeable offenses, ranges of penalties, and disciplinary procedures that is reviewed orally with each youth and staff member at their respective orientations and is translated into those languages spoken by significant numbers of youths. Offenses, penalties, and disciplinary procedures are posted conspicuously in each living unit. Signed acknowledgement of orientation is maintained in the youth's file.

D. All personnel who work with youths shall receive sufficient training so that they are thoroughly familiar with the rules of youth conduct, the rationale for the rules, and the sanctions available.

E. There shall be written guidelines for informally resolving minor youth misbehavior.

F. Written policy, procedure, and practice shall require that prior to room or privilege restriction, the youth has the reasons for the restriction explained to him and has an opportunity to explain the behavior leading to the restriction.

G. Seclusion shall take place in the sleeping area or a room designated as appropriate by the facility director or designee.

H. A permanent log shall be maintained of all youths placed in seclusion. Information on each youth includes:

1. Name of person authorizing seclusion;
2. Date and time admitted;
3. Reason for admission;
4. Tentative release date and time;
5. Special medical or psychiatric problems or needs;

6. Names of visitors; and

7. Actual release time and date.

I. During room restriction, staff contact shall be made with the youth every 15 minutes or less, depending on the youth's emotional state. The youth assists in determining the end of the restriction period. The chief director or designee shall visit the youth once during the day and once in the evening before sleeping hours.

J. Written policy, procedure, and practice shall specify that room restriction for minor misbehavior serves only a "cooling off" purpose and is short in duration, with the time period -- 15 to 60 minutes -- specified at the time of assignment.

K. Written policy, procedure, and practice shall provide that where a youth allegedly commits an act covered by criminal law, the case be referred by the facility director or designee to the appropriate court or law-enforcement officials for consideration for prosecution.

L. Written policy, procedure, and practice shall require staff to prepare a disciplinary report where there is reasonable belief that a youth has committed a major rule violation or a reportable minor violation. Such reports shall contain, but not be limited to, the following information:

1. Specific rule or rules violated;
2. A formal statement of the charge;
3. Any unusual youth behavior;
4. Any staff or youth witnesses;
5. Any physical evidence and its disposition;
6. Any immediate action taken, including the use of force;
7. Reporting staff member's signature and date and time of report.

A copy of the report shall be provided to the youth who is the subject of the report within 24 hours of the infraction.

M. Written policy, procedure, and practice shall specify that when an alleged rule violation is reported, an appropriate investigation is begun within 24 hours of the time the violation is reported and is completed without unreasonable delay, unless there are exceptional circumstances for delaying the investigation.

N. When a youth has been charged with a major rule violation requiring confinement, the youth may be isolated for a period of up to 24 hours for the safety of the youth, other youths, or to ensure the security of the facility. Confinement for periods of over 24 hours shall be reviewed every 24 hours by the director or designee who was not involved in the incident.

O. Written policy, procedure, and practice shall provide that, unless waived in writing by a youth, youths charged with rule violations are scheduled for a hearing as practicable but no later than within 72 hours, unless requests an extension of up to an additional 24

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Youths shall be notified of the time and place of the hearing at least 24 hours in advance of the hearing.

P. Written policy, procedure, and practice require that a youth charged with a major violation of facility rules is given a written copy of the alleged rule violation or violations within 24 hours of the infraction or infractions. The hearing may be held within 24 hours with the youth's written consent.

Q. Written policy, procedure, and practice shall require that disciplinary hearings on rule violations shall be conducted by an impartial person or panel of persons unless the youth waives the right to the hearing by pleading guilty. A record of the proceedings shall be made and maintained for at least six months.

R. Youths shall be present and shall participate in the hearing unless they waive the right in writing or through their behavior. Youths may be excluded during the testimony of any youth whose testimony must be given in confidence; the reasons for the youth's absence or exclusion is documented.

S. Written policy, procedure, and practice shall provide that youth have an opportunity to make a statement and present documentary evidence at the hearings and can request witnesses on their behalf; the reasons for denying such a request shall be stated in writing.

T. Written policy and procedure shall allow youths to request any staff member to represent them at disciplinary hearings and to question relevant witnesses. Staff representatives shall be appointed when it is apparent that youths are not capable of effectively collecting and presenting evidence on their own behalf.

U. Written policy, procedure, and practice shall provide that the disciplinary panel's decision is based solely on information obtained in the hearing process, including staff reports, the statements of the youth charged, and evidence derived from witnesses and documents.

V. Written policy, procedure, and practice shall provide that a written record is made of the decision and the supporting reasons and that a copy is given to the youth. The hearing record and the supporting documents shall be kept in the youth's file and in the disciplinary committee's records.

W. Written policy, procedure, and practice shall provide that if a youth is found not guilty of an alleged rule violation, the disciplinary report shall be removed from all of the youth's files.

X. Written policy, procedure, and practice shall provide for review of all disciplinary hearings and dispositions by the facility administrator or designee to assure conformity with policy and regulations.

Y. Written policy, procedure, and practice shall grant a youth the right to appeal decisions of the disciplinary committee to the facility director or designee. Youth shall have up to 24 hours of receipt of the decision to submit an appeal. The appeal shall be decided within 24 hours of its receipt, and the youth shall be promptly notified of the results.

Z. Written policy, procedure, and practice shall provide special management for youth with serious behavior problems and for youth requiring protective care. The facility

director shall ensure that appropriate services and programs are available for high risk and assaultive youths. An individual program plan will be developed.

AA. The facility director or shift supervisor shall have the authority to order immediate placement in a special unit when it is necessary to protect the youth from himself or others. The action is reviewed within 72 hours by the appropriate authority.

BB. The learning *juvenile correctional* center shall have a sanctioning schedule that sets a maximum of three days of confinement in a security room for any offense, unless otherwise provided by law. An additional two days shall be added with the approval of the chief of the learning *juvenile correctional* centers.

CC. A youth placed in seclusion shall be checked visually by staff at least every 15 minutes and are visited at least once each day by personnel from administrative, clinical, social work, religious, or medical units. A log shall be kept recording who authorized the seclusion, persons visiting the youth, the person authorizing release from seclusion, and the time of release.

DD. Written policy, procedure, and practice shall specify that youth placed in seclusion are afforded living conditions and privileges approximating those available to the general youth population. Exceptions shall be justified by clear and substantiated evidence.

6 VAC 35-70-430. Recreation and leisure activities.

A. Written policy, procedure, and practice shall provide for recreation schedules and a plan for constructive leisure time and activities.

B. A variety of fixed and movable equipment shall be provided for each indoor and outdoor recreation period. Equipment, materials, and supplies shall be safe, age appropriate, durable, and well-maintained.

C. Written policy, procedure, and practice shall provide a recreation and leisure-time plan that includes, at a minimum, at least one hour per day of large muscle activity and one hour of structured leisure-time activities.

D. Youth shall have year-round access to the Department of ~~Youth and Family Services~~ *Juvenile Justice* camping programs in accordance with facility program guidelines.

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DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

REGISTRAR'S NOTICE: The following regulations are exempt from 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 regulation, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any

interested person at any time with respect to reconsideration or revisions.

Title of Regulation: 16 VAC 25-90-1910. **Federal-Identical General Industry Standards (29 CFR Part 1910)** (amending 16 VAC 25-90-1910.6, 16 VAC 25-90-1910.30, 16 VAC 25-90-1910.66, 16 VAC 25-90-1910.67, 16 VAC 25-90-1910.68, 16 VAC 25-90-1910.94, 16 VAC 25-90-1910.95, 16 VAC 25-90-1910.97, 16 VAC 25-90-1910.101 through 16 VAC 25-90-1910.111, 16 VAC 25-90-1910.119, 16 VAC 25-90-1910.120, 16 VAC 25-90-1910.133, 16 VAC 25-90-1910.135, 16 VAC 25-90-1910.136, 16 VAC 25-90-1910.142, 16 VAC 25-90-1910.144, 16 VAC 25-90-1910.145, 16 VAC 25-90-1910.156, 16 VAC 25-90-1910.157, 16 VAC 25-90-1910.158, 16 VAC 25-90-1910. Subpart L, Appendix D, 16 VAC 25-90-1910.169, 16 VAC 25-90-1910.177 through 16 VAC 25-90-1910.181, 16 VAC 25-90-1910.184, 16 VAC 25-90-1910.215 through 16 VAC 25-90-1910.219, 16 VAC 25-90-1910.243, 16 VAC 25-90-1910.243(e), 16 VAC 25-90-1910.251 through 16 VAC 25-90-1910.254, 16 VAC 25-90-1910.261, 16 VAC 25-90-1910.262, 16 VAC 25-90-1910.263, 16 VAC 25-90-1910.265, 16 VAC 25-90-1910.266, 16 VAC 25-90-1910.268(f) through (j) and (s), 16 VAC 25-90-1910.272, 16 VAC 25-90-1910.440, 16 VAC 25-90-1910.1003, 16 VAC 25-90-1910.1004, 16 VAC 25-90-1910.1006 through 16 VAC 25-90-1910.1016, 16 VAC 25-90-1910.1018, and 16 VAC 25-90-1910.1200; repealing 16 VAC 25-90-1910.31, 16 VAC 25-90-1910.32, 16 VAC 25-90-1910.39, 16 VAC 25-90-1910.40, 16 VAC 25-90-1910.69, 16 VAC 25-90-1910.70, 16 VAC 25-90-1910.99, 16 VAC 25-90-1910.100, 16 VAC 25-90-1910.114, 16 VAC 25-90-1910.115, 16 VAC 25-90-1910.116, 16 VAC 25-90-1910.139, 16 VAC 25-90-1910.140, 16 VAC 25-90-1910.148, 16 VAC 25-90-1910.149, 16 VAC 25-90-1910.150, 16 VAC 25-90-1910.153, 16 VAC 25-90-1910.170, 16 VAC 25-90-1910.171, 16 VAC 25-90-1910.182, 16 VAC 25-90-1910.189, 16 VAC 25-90-1910.190, 16 VAC 25-90-1910.220, 16 VAC 25-90-1910.221, 16 VAC 25-90-1910.222, 16 VAC 25-90-1910.245, 16 VAC 25-90-1910.246, 16 VAC 25-90-1910.247, 16 VAC 25-90-1910.256, 16 VAC 25-90-1910.257, 16 VAC 25-90-1910.274, 16 VAC 25-90-1910.275, 16 VAC 25-90-1910.1499, and 16 VAC 25-90-1910.1500).

Title of Regulation: 16 VAC 25-100-1915. **Federal-Identical Shipyard Employment Standards (29 CFR Part 1915)** (adding 16 VAC 25-100-1915.1003, 16 VAC 25-100-1915.1004, and 16 VAC 25-100-1915.1006 through 16 VAC 25-100-1915.1016).

Title of Regulation: 16 VAC 25-175-1926. **Federal-Identical Construction Industry Standards (29 CFR Part 1926)** (amending 16 VAC 25-175-1926.30, 16 VAC 25-175-1926.31, 16 VAC 25-175-1926.55, 16 VAC 25-175-1926.57, 16 VAC 25-175-1926.103, 16 VAC 25-175-1926.300, 16 VAC 25-175-1926.304, 16 VAC 25-175-1926.416, 16 VAC 25-175-1926.417, 16 VAC 25-175-1926.1002, 16 VAC 25-175-1926.1003, 16 VAC 25-175-1926.1103, 16 VAC 25-175-1926.1104, 16 VAC 25-175-1926.1106 through 16 VAC 25-175-1926.1116, and Appendix A).

Title of Regulation: 16 VAC 25-190-1928. **Federal-Identical Agriculture Industry Standards (29 CFR Part 1928)** (amending 16 VAC 25-190-1928.21, 16 VAC 25-190-1928.51, and 16 VAC 25-190-1928.1027; and repealing 16 VAC 25-190-1928.52, 16 VAC 25-190-1928.53, and Appendix B).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 1, 1996.

Summary:

Following a line-by-line review of its standards published in Title 29 of the Code of Federal Regulations (29 CFR), federal OSHA identified a number of sections and provisions of those standards which could be deleted, revised, clarified or reorganized through 29 CFR Parts 1910, 1915, 1926 and 1928. No changes to the substantive requirements of the affected standards were made.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the General Industry Standards (29 CFR Part 1910), Shipyard Employment Standards (29 CFR Part 1915), Construction Industry Standards (29 CFR Part 1926), and Agriculture Industry Standards (29 CFR Part 1928) are declared documents generally available to the public and appropriate for incorporation by reference. For this reason the entire documents will not be printed in The Virginia Register of Regulations. Copies of the documents are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, VA 23219.

On June 17, 1996, the Safety and Health Codes Board adopted an identical version of federal OSHA's amendments to 29 CFR Part 1910 for General Industry, 29 CFR Part 1915 for Shipyard Employment, 29 CFR Part 1926 for Construction Industry, and 29 CFR Part 1928 for Agriculture Industry as published in the Federal Register, Vol. 61, No. 46, pp. 9230-9255, Thursday, March 7, 1996. The amendments as adopted are not set out.

When the regulations, as set forth in the amendment and technical amendments to 29 CFR Parts 1910, 1915, 1926, and 1928, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

| <u>Federal Terms</u> | <u>VOSH Equivalent</u> |
|----------------------|------------------------------------|
| 29 CFR | VOSH Standard |
| Assistant Secretary | Commissioner of Labor and Industry |
| Agency | Department |
| May 6, 1996 | September 1, 1996 |



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION

General Assembly Building

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

July 8, 1996

Mr. Louis J. Cernak, Jr., Chairman
Safety and Health Codes Board
Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Administrative Staff Specialist

Dear Mr. Cernak:

This letter acknowledges receipt of 16 VAC 25-90-1910 et seq., 16 VAC 25-100-1915 et seq., 16 VAC 25-175-1926 et seq., and 16 VAC 25-190-1928 et seq., relating to miscellaneous minor and technical amendments to Parts 1910, 1915, 1926 and 1928 effective September 1, 1996, from the Department of Labor and Industry.

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

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R96-441; Filed June 24, 1996, 12:06 p.m.

Title of Regulation: 16 VAC 25-90-1910.133, 16 VAC 25-90-1910.135, and 16 VAC 25-90-1910.136. **Personal Protective Equipment, General Industry (29 CFR 1910.133, 29 CFR 1910.135 and 29 CFR 1910.136).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 1, 1996.

Summary:

The current language in the final rule for Personal Protective Equipment (PPE) for General Industry, which appears in 29 CFR 1910.133, Eye and Face Protection; 29 CFR 1910.135, Foot Protection; and 29 CFR 1910.136, Head Protection, contains requirements that employees wear specific PPE when they are exposed to workplace hazards. There was, however, no specific text in any of these sections that directly addressed the employer and the employer's responsibilities for compliance. This technical amendment corrected this problem by adding the language "The employer shall ensure that" the employees wear the equipment.

In the correction to 29 CFR 1910.136(a), the term "the employer shall ensure that each affected employee uses" replaces the language "the employer shall ensure that each employee used."

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Personal Protective Equipment, General Industry Standards (29 CFR 1910.133, 29 CFR 1910.135 and 29 CFR 1910.136) are declared documents generally available to the public and appropriate for incorporation by reference. For this reason the entire documents will not be printed in The Virginia Register of Regulations. Copies of the documents are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, VA 23219.

On June 17, 1996, the Safety and Health Codes Board adopted identical versions of federal OSHA's amendments to the regulations for Personal Protective Equipment, General Industry, 29 CFR 1910.133, 29 CFR 1910.135 and 29 CFR 1910.136, which were published in the Federal Register, Vol. 61, No. 86, pp. 19547-19548, May 2, 1996. The board also adopted an identical version of the correction to Foot Protection, 29 CFR 1910.126, in the regulation for Personal Protective Equipment, General Industry, which was published in the Federal Register, Vol. 61, No. 91, p. 21228, May 9, 1996. The amendments as adopted are not set out.

When the regulations, as set forth in the technical amendment to the regulation for Personal Protective Equipment, General Industry, 29 CFR 1910.133, 29 CFR 1910.135, and 29 CFR 1910.136, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

Federal Terms

29 CFR
Assistant Secretary

Agency
June 3, 1996

VOSH Equivalent

VOSH Standard
Commissioner of Labor and Industry
Department
September 1, 1996



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VIRGINIA CODE COMMISSION
General Assembly Building

310 CAPITOL STREET
RICHMOND, VIRGINIA 23219
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July 8, 1996

Mr. Louis J. Cernak, Jr., Chairman
Safety and Health Codes Board
Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Administrative Staff Specialist

Dear Mr. Cernak:

This letter acknowledges receipt of 16 VAC 25-90-1910.133, 16 VAC 25-90-1910.135, and 16 VAC 25-90-1910.136, Personal Protective Equipment, General Industry, from the Department of Labor and Industry.

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

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

Title of Regulation: 16 VAC 25-100-1915.5. General Provisions, Incorporation by Reference, Shipyard Employment (29 CFR 1915.5).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 1, 1996.

Summary:

16 VAC 25-100-1915.5, General Provisions, Incorporation by Reference, Shipyard Employment was updated and revised by consolidating into 29 CFR 1915.5 the Incorporation by Reference statements of approval which appeared throughout Part 1915. These statements indicate clearance by the Office of the Federal Register.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the General Provisions, Incorporation by Reference, Shipyard Employment Standard (29 CFR 1915.5) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, VA 23219.

On June 17, 1996, the Safety and Health Codes Board adopted an identical version of federal OSHA's amendment to "General Provisions, Incorporation by Reference, Shipyard Employment, 29 CFR 1915.5." This amendment was published jointly in the Federal Register, Vol. 61, No. 102, pp. 26321-26360, May 24, 1996, along with Subpart C of 29 CFR Part 1915-- "Surface Preparation and Preservation, Shipyard Employment," 29 CFR 1915.32 through 29 CFR 1915.35; Subpart H of 29 CFR Part 1915-- "Tools and Related Equipment, Shipyard Employment, 29 CFR 1915.134 through 29 CFR 1915.135; and Subpart I of 29 CFR Part 1915-- "Personal Protective Equipment, Shipyard Employment," 29 CFR 1915.151 through 29 CFR 1915.160. The amendments as adopted are not set out.

When the regulations, as set forth in the amendment to 16 VAC 25-100-1915.5, General Provisions, Incorporation by Reference, Shipyard Employment, 29 CFR 1915.5, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

| <u>Federal Terms</u> | <u>VOSH Equivalent</u> |
|----------------------|------------------------------------|
| 29 CFR | VOSH Standard |
| Assistant Secretary | Commissioner of Labor and Industry |
| Agency | Department |
| August 22, 1996 | September 1, 1996 |



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

13 SOUTH THIRTEENTH STREET
RICHMOND, VIRGINIA 23219
(804) 781-8941

July 8, 1996

Mr. Louis J. Cernak, Jr., Chairman
Safety and Health Codes Board
Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Administrative Staff Specialist

Dear Mr. Cernak:

This letter acknowledges receipt of 16 VAC 25-100-1915.5, General Provisions, Incorporation by Reference, Shipyard Employment, from the Department of Labor and Industry.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "E. M. Miller, Jr.".

E. M. Miller, Jr.
Acting Registrar of Regulations

VAIR, Doc. No. R96-442; Filed June 24, 1996, 12:24 p.m.

Title of Regulation: 16 VAC 25-100-1915.15 through 16 VAC 25-100-1915.160. Personal Protective Equipment, Shipyard Employment (29 CFR 1915.151 through 29 CFR 1915.160).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 1, 1996.

Summary:

Federal OSHA revised its standards for Personal Protective Equipment (PPE) for Shipyard Employment by updating, simplifying and reorganizing into a comprehensive framework of PPE regulations for shipbuilding, ship repair, and shipbreaking industries. Where appropriate, the final rule deletes existing specifications-oriented provisions that limit employer innovation and incorporates performance-oriented language.

This revised standard covers the use of PPE for the head, eyes, feet, hands and body. It also contains the respirator requirements that have been part of OSHA's shipyard standards since 1971 and adds requirements for personal fall protection systems and positioning device systems. It requires employers to conduct hazard assessments, include specific elements related to PPE in the training they provide to their workers, document training and hazard assessments, require the use of body harnesses in place of body belts after a phase-in period, and ensure the use of locking snaphooks on personal fall protection equipment.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Personal Protective Equipment, Shipyard Employment Standard (29 CFR 1915.151 through 29 CFR 1915.160) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, VA 23219.

On June 17, 1996, the Safety and Health Codes Board adopted an identical version of federal OSHA's amendment to Subpart I of 29 CFR Part 1915-- "Personal Protective Equipment, Shipyard Employment," 29 CFR 1915.151 through 29 CFR 1915.160. This amendment was published jointly in the Federal Register, Vol. 61, No. 102, pp. 26321-26359, Friday, May 24, 1996, with Subpart C of 29 CFR Part 1915-- "Surface Preparation and Preservation," 29 CFR 1915.32 through 29 CFR 1915.35; and Subpart H of 29 CFR Part 1915-- "Tools and Related Equipment, 29 CFR 1915.134 through 29 CFR 1915.135 and "Incorporation by Reference," 29 CFR 1915.5. The amendments as adopted are not set out.

When the regulations, as set forth in the amendment to 16 VAC 25-100-1915.151 through 16 VAC 25-100-1915.160, Personal Protective Equipment, Shipyard Employment, 29 CFR 1915.151 through 29 CFR 1915.160, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

| <u>Federal Terms</u> | <u>VOSH Equivalent</u> |
|----------------------|------------------------------------|
| 29 CFR | VOSH Standard |
| Assistant Secretary | Commissioner of Labor and Industry |
| Agency | Department |
| August 22, 1996 | September 1, 1996 |



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General Assembly Building

310 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 366-3591

July 8, 1996

Mr. Louis J. Cernak, Jr., Chairman
Safety and Health Codes Board
Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Administrative Staff Specialist

Dear Mr. Cernak:

This letter acknowledges receipt of 16 VAC 25-100-1915.151 through 16 VAC 25-100-1915.160, Personal Protective Equipment, Shipyard Employment, from the Department of Labor and Industry.

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

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a vertical line and the initials "jje".

E. M. Miller, Jr.
Acting Registrar of Regulations

Title of Regulation: 16 VAC 25-100-1915.32 through 16 VAC 25-100-1915.35. **Surface Preparation and Preservation, Shipyard Employment (29 CFR 1915.32 through 29 CFR 1915.35).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 1, 1996.

Summary:

Federal OSHA revised its standards for Personal Protective Equipment (PPE) for Shipyard Employment by updating, simplifying and reorganizing into a comprehensive framework PPE regulations for shipbuilding, ship repair, and shipbreaking industries. Where appropriate, the final rule deletes existing specifications-oriented provisions that limit employer innovation and incorporates performance-oriented language.

This revised standard also impacted 16 VAC 25-100-1915.32 through 16 VAC 25-100-1915.35, Surface Preparation and Preservation, Shipyard Employment, 29 CFR 1915.32 through 29 CFR 1915.35, by requiring that employees be protected with appropriate PPE from hazardous exposure to toxic chemicals generated by cleaning solvents, chemical paint and preservative removers, mechanical paint removers and painting operations performed within confined spaces. There are also requirements for the provision of respiratory protective equipment.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Surface Preparation and Preservation, Shipyard Employment Standard (29 CFR 1915.32 through 29 CFR 1915.35) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, VA 23219.

On June 17, 1996, the Safety and Health Codes Board adopted identical versions of federal OSHA's amendments to Subpart C of 29 CFR Part 1915-- "Surface Preparation and Preservation." These amendments were published jointly in the Federal Register, Vol. 61, No. 102, pp. 26321-26360, May 24, 1996, along with Subpart H of 29 CFR Part 1915-- "Personal Protective Equipment," 29 CFR 1915.151 through 29 CFR 1915.160 and "General Provisions, Incorporation by Reference, Shipyard Employment," 29 CFR 1915.5. The amendments as adopted are not set out.

When the regulations, as set forth in the amendment to 16 VAC 25-100-1915.32 through 16 VAC 25-100-1915.35, Surface Preparation and Preservation, Shipyard

Employment, 29 CFR 1915.32 through 29 CFR 1915.35, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

| <u>Federal Terms</u> | <u>VOSH Equivalent</u> |
|----------------------|------------------------------------|
| 29 CFR | VOSH Standard |
| Assistant Secretary | Commissioner of Labor and Industry |
| Agency | Department |
| August 22, 1996 | September 1, 1996 |



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
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912 CAPITOL STREET
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July 8, 1996

Mr. Louis J. Cernak, Jr., Chairman
Safety and Health Codes Board
Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Administrative Staff Specialist

Dear Mr. Cernak:

This letter acknowledges receipt of 16 VAC 25-100-1915.32 through 16 VAC 25-100-1915.35, Surface Preparation and Preservation, Shipyard Employment, from the Department of Labor and Industry.

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

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

Title of Regulation: 16 VAC 25-100-1915.134 and 16 VAC 25-100-1915.135. **Tools and Related Equipment, Shipyard Employment (29 CFR 1915.134 and 29 CFR 1915.135).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 1, 1996.

Summary:

Federal OSHA revised its standards for Personal Protective Equipment (PPE) for Shipyard Employment by updating, simplifying and reorganizing into a comprehensive framework PPE regulations for shipbuilding, ship repair, and shipbreaking industries. Where appropriate, the final rule deletes existing specifications-oriented provisions that limit employer innovation and incorporates performance-oriented language.

These revised standards also impacted 16 VAC 25-100-1915.134, 16 VAC 25-100-1915.135, Tools and Related Equipment, Shipyard Employment, 29 CFR 1915.134 through 29 CFR 1915.135, by requiring that appropriate PPE be used in accordance with the requirements of Subpart I of 29 CFR Part 1915 for employees using abrasive wheels and powder actuated fastening tools.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Virginia employers, the following federal terms shall be considered to read as follows:

| <u>Federal Terms</u> | <u>VOSH Equivalent</u> |
|----------------------|------------------------------------|
| 29 CFR | VOSH Standard |
| Assistant Secretary | Commissioner of Labor and Industry |
| Agency | Department |
| August 22, 1996 | September 1, 1996 |

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Tools and Related Equipment, Shipyard Employment Standard (29 CFR 1915.134 and 29 CFR 1915.135) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, VA 23219.

On June 17, 1996, the Safety and Health Codes Board adopted identical versions of federal OSHA's amendments to Subpart H of 29 CFR Part 1915-- "Tools and Related Equipment, Shipyard Employment," 29 CFR 1915.134 through 29 CFR 1915.135. This amendment was published jointly in the Federal Register, Vol. 61, No. 102, pp. 26321-26360, May 24, 1996, with Subpart C of 29 CFR Part 1915-- "Surface Preparation and Preservation," 29 CFR 1915.32 through 29 CFR 1915.35; Subpart I of 29 CFR Part 1915-- "Personal Protective Equipment, Shipyard Employment; and "General Provisions, Incorporation by Reference, Shipyard Employment," 29 CFR 1915.5. The amendments as adopted are not set out.

When the regulations, as set forth in the amendment to 16 VAC 25-100-1915.134 and 16 VAC 25-100-1915.135, Tools and Related Equipment, Shipyard Employment, 29 CFR 1915.134 through 29 CFR 1915.135, are applied to the Commissioner of the Department of Labor and Industry or to



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310 CAPITOL STREET
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July 8, 1996

Mr. Louis J. Cernak, Jr., Chairman
Safety and Health Codes Board
Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Administrative Staff Specialist

Dear Mr. Cernak:

This letter acknowledges receipt of 16 VAC 25-100-1915.134 and 16 VAC 25-100-1915.135, Tools and Related Equipment, Shipyard Employment, from the Department of Labor and Industry.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "E M Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

Title of Regulation: 16 VAC 25-90-1910.272. Grain Handling Facilities Standard, General Industry (29 CFR 1910.272).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: September 1, 1996.

Summary:

This technical amendment assures that protection against engulfment, mechanical, and other hazards is provided without regard to the point at which the employee enters the storage structure. It requires that employers ensure that workers entering flat grain storage structures are equipped with a body harness or some other type of lifeline to protect them in case they are engulfed by grain.

Employers also must ensure that equipment that poses a danger in flat storage areas, such as augers or other grain transport equipment, is de-energized whenever employees work in or stand on stored grain that could pose the threat of engulfment.

To clarify OSHA's original intent as to the scope of the entry provisions of the standard, a key change replaced the term "flat storage facility" and substituted it with "flat storage structure" in paragraph (c). This change was made to emphasize that the flat storage exception applies to the storage structure and not to the entire facility. The definition of "flat storage structure" notes that such storage structures must have an unrestricted ground level opening for entry, and not just "large doorways." "Unrestricted" in the context of ground level entry means that employees can enter by stepping, walking, or driving through these openings. Additionally, the structure must be of a type that will not empty completely by gravity. The latter element clearly distinguishes flat storage from silos, bins, and tanks, which rely on gravity for emptying. Finally, the definition recognizes that grain is often reclaimed through the ground level openings using means other than motorized vehicles.

Agency Contact: Copies of the regulation may be obtained from Regina P. Cobb, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-0610.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Grain Handling Facilities Standard, General Industry (29 CFR 1910.272) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, VA 23219.

On June 17, 1996, the Safety and Health Codes Board adopted an identical version of federal OSHA's amendment to the Grain Handling Facilities Standard, General Industry,

29 CFR 1910.272, as published in the Federal Register, Vol. 61, No. 47, pp. 9577-9584, March 8, 1996. The amendment as adopted is not set out.

When the regulations, as set forth in the technical amendment to 16 VAC 25-90-1910.272, Grain Handling Facilities Standard, General Industry, 29 CFR 1910.272, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

| <u>Federal Terms</u> | <u>VOSH Equivalent</u> |
|----------------------|------------------------------------|
| 29 CFR | VOSH Standard |
| Assistant Secretary | Commissioner of Labor and Industry |
| Agency | Department |
| April 8, 1996 | September 1, 1996 |



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

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

July 8, 1996

Mr. Louis J. Cernak, Jr., Chairman
Safety and Health Codes Board
Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219-4101

Attention: Bonnie H. Robinson
Administrative Staff Specialist

Dear Mr. Cernak:

This letter acknowledges receipt of 16 VAC 25-90-1910.272, Grain Handling Facilities Standard, General Industry, from the Department of Labor and Industry.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

DEPARTMENT OF STATE POLICE

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

Title of Regulation: 19 VAC 30-30-10 et seq. Regulations Relating to Standards and Specifications for the Slow Moving Vehicle Emblems (REPEALED).

Statutory Authority: § 46.2-1081 of the Code of Virginia.

Effective Date: August 21, 1996.

Chapter 82 of the 1996 Acts of Assembly amended § 46.2-1081 of the Code of Virginia by removing the Department of State Police as the agency charged with the duty of promulgating standards and specifications relating to emblems for use on slow-moving vehicles operated on Virginia highways. These standards and specifications will be in conformity with standards and specifications established by the American Society of Agricultural Engineers, the Society of Automotive Engineers, the American National Standards Institute, Inc., and the federal Department of Transportation. Therefore, this regulation is being repealed.

Agency Contact: Captain W. S. Flaherty, Safety Officer, Department of State Police, 491 Southlake Boulevard, Richmond, VA 23236, telephone (804) 378-3472.

VA.R. Doc. No. R96-449; Filed June 24, 1996, 9:20 a.m.

Title of Regulation: 19 VAC 30-50-10 et seq. Regulations Relating to Standards and Specifications for Motorcycle Windshields and Safety Glasses or Goggles for Motorcycle Operators (REPEALED).

Statutory Authority: § 46.2-910 of the Code of Virginia.

Effective Date: August 21, 1996.

Chapter 690 of the 1996 Acts of Assembly amended § 46.2-910 of the Code of Virginia by removing the Superintendent of State Police as the person charged with the duty of establishing standards and specifications relating to motorcycle windshields, face shields, and glasses or goggles for motorcycle operators. These devices are now required to meet or exceed the standards and specifications of the Snell Memorial Foundation, the American National Standards Institute, Inc., or the federal Department of Transportation. Therefore, this regulation is being repealed.

Agency Contact: Captain W. S. Flaherty, Safety Officer, Department of State Police, 491 Southlake Boulevard, Richmond, VA 23236, telephone (804) 378-3472.

VA.R. Doc. No. R96-452; Filed June 24, 1996, 9:20 a.m.

Title of Regulation: 19 VAC 30-60-10 et seq. Regulations Relating to Standards and Specifications for Protective Helmets for Motorcycle Operators and Passengers (REPEALED).

Statutory Authority: § 46.2-910 of the Code of Virginia.

Effective Date: August 21, 1996.

Chapter 690 of the 1996 Acts of Assembly amended § 46.2-910 of the Code of Virginia by removing the Superintendent of State Police as the person charged with the duty of promulgating standards and specifications relating to protective helmets for motorcycle operators and passengers. These standards and specifications shall meet or exceed the standards and specifications of the Snell Memorial Foundation, the American National Standards Institute, Inc., or the federal Department of Transportation. The wearing of an approved type helmet is required by the amended statute. Therefore, this regulation is being repealed.

Agency Contact: Captain W. S. Flaherty, Safety Officer, Department of State Police, 491 Southlake Boulevard, Richmond, VA 23236, telephone (804) 378-3472.

VA.R. Doc. No. R96-450; Filed June 24, 1996, 9:20 a.m.

Title of Regulation: 19 VAC 30-90-10 et seq. Regulations Relating to Saddle Mount Coupling for Drive-Away Service (REPEALED).

Statutory Authority: § 46.2-1116 of the Code of Virginia.

Effective Date: August 21, 1996.

Chapter 340 of the 1996 Acts of Assembly amended § 46.2-1116 of the Code of Virginia by removing the Superintendent of State Police as the person charged with the duty of promulgating standards and specifications relating to saddle mount coupling for drive-away service. This requirement is now placed with the federal Department of Transportation. Therefore, this regulation is being repealed.

Agency Contact: Captain W. S. Flaherty, Safety Officer, Department of State Police, 491 Southlake Boulevard, Richmond, VA 23236, telephone (804) 378-3472.

VA.R. Doc. No. R96-453; Filed June 24, 1996, 9:21 a.m.

Title of Regulation: 19 VAC 30-120-10 et seq. Regulations Relating to Standards and Specifications for regrooved or regroovable tires (REPEALED).

Statutory Authority: § 46.2-1042 of the Code of Virginia.

Effective Date: August 21, 1996.

Chapter 92 of the 1996 Acts of Assembly amended § 46.2-1042 of the Code of Virginia by removing the

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Superintendent of State Police as the person charged with the duty of promulgating standards and specifications relating to regrooved or regroovable tires. Those requirements will become the responsibility of the Society of Automotive Engineers, the American National Standards Institute, Inc., or the federal Department of Transportation. Therefore, this regulation is being repealed.

Agency Contact: Captain W. S. Flaherty, Safety Officer, Department of State Police, 491 Southlake Boulevard, Richmond, VA 23236, telephone (804) 378-3472.

VA.R. Doc. No. R96-451; Filed June 24, 1996, 9:21 a.m.

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-100-250 through 12 VAC 30-100-370. Part III, HIV Premium Assistance Program.

Statutory Authority: §§ 32.1-325 and 32.1-330.1 of the Code of Virginia.

Effective Dates: July 1, 1996, through June 30, 1997.

Summary:

1. REQUEST: The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled HIV Premium Assistance Program. This regulation will establish regulations necessary for the Department's administration of the Virginia HIV Premium Assistance Program, as mandated by § 32.1-330.1 of the Code of Virginia.

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

/s/ Joseph M. Teefey, Deputy Director
Date: May 17, 1996

3. CONCURRENCES:

/s/ Robert C. Metcalf
Secretary of Health and Human Resources:
Date: June 14, 1996

4. GOVERNOR'S ACTION:

/s/ George Allen
Governor
Date: June 24, 1996

5. FILED WITH:

/s/ Jane D. Chaffin
Deputy Registrar of Regulations
Date: July 1, 1996

DISCUSSION

6. BACKGROUND: The purpose of this action is to promulgate regulations pursuant to the Code of Virginia § 32.1-330.1 consistent with actions taken by the 1996 General Assembly. Without these regulations, DMAS has no authority to administer this program and determine which individuals will be assisted and which will be denied assistance. The regulations affected by this action are the HIV Premium Assistance Program (VR 460-04-8.19) (12 VAC 30-100-250 et seq.).

These regulations provide the policies for the administration of the HIV Premium Assistance Program. The program was mandated by legislation passed by the 1994 General Assembly and was originally set to expire on July 1, 1996. Because of this temporary nature of the program, the Board of Medical Assistance Services (BMAS) approved operating policies by which the daily administrative decisions could be made. When the 1996 General Assembly removed

the expiration date from the law, thereby making this program a permanent administrative responsibility of this agency, DMAS determined that its BMAS policies were no longer adequate.

The program uses Ryan White CARE Act federal grant funds solely. The authorizing statute requires that DMAS administer the program, which provides premium payments for group health insurance obtained pursuant to insurance continuation under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA 1985). Eligibility criteria including income and assets limits are specified in the statute. These regulations define how eligibility will be determined and address other programmatic issues including appeal rights and responsibilities of the applicants and program participants and of DMAS.

The HIV Premium Assistance Program, funded through the federal Ryan White CARE Act, has served slightly more than 90 individuals in the Commonwealth who suffered with HIV/AIDS related conditions. Lengths of enrollment typically range from six months to one year due to the nature of these individuals' illnesses. The program has allowed these individuals to retain the private insurance they had through their employers. Considering the nature of their illnesses and their qualifying incomes, the clients would very likely have become Medicaid eligible if it were not for the intervention of the HIV Premium Assistance Program.

The emergency regulations are necessary to ensure DMAS' compliance with the statutory requirements. Use of the non-emergency regulatory procedure, as contained in Article 2 of the Code §9-6.14:4.1 et seq., would not permit DMAS to have regulations by the statute's effective date by which to administer this program. Action by the 1996 General Assembly (in House Bill 1148) eliminated the sunset provision for this program thereby eliminating the pilot program status. Consequently, DMAS requires duly promulgated regulations under which to operate this program to replace the temporary Board of Medical Assistance Services' policies.

7. AUTHORITY TO ACT: The Code provides, in the Administrative Process Act (APA) § 9-6.14:4.1(C)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, this agency intends to initiate the public notice and comment process contained in Article 2 of the APA.

The Code of Virginia § 32.1-330.1 requires DMAS to implement a premium assistance program for HIV-positive individuals and permits the promulgation of any regulations necessary. The Code also specifies the minimum characteristics the program is to have. With the elimination, by the 1996 General Assembly, of this program's sunset provision, DMAS has determined that its previous BMAS approved operating policies were no longer sufficient and that duly promulgated regulations were indicated.

Without an emergency regulation, these program funds cannot be administered in compliance with the Code of Virginia until the publication and concurrent comment and review period requirements of the APA's Article 2 are met.

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Therefore, an emergency regulation is needed to meet the intent of the General Assembly.

8. **NEED FOR EMERGENCY ACTION:** The Code § 9-6.14:4.1(C)(5) provides for regulations which an agency finds are necessitated by an emergency situation. These regulations will enable the Director, in lieu of the Board of Medical Assistance Services, to implement the HIV Premium Assistance Program in compliance with § 32.1-330.1 of the Code. This issue qualifies as an emergency regulation as provided for in § 9-6.14:4.1(C)(5)(ii), because Virginia statutory law (§ 32.1-330.1 in HB 1148) requires this regulation be effective, on July 1, 1996, within 280 days from the enactment (HB 1148 was enacted as Chapter 195 of the 1996 Virginia Acts of Assembly on March 11, 1996) of the law or regulation. As such, this regulation may be adopted without public comment with the prior approval of the Governor. Since this emergency regulation will be effective for no more than 12 months and the Director wishes to continue regulating the subject entities, DMAS is initiating the Administrative Process Act Article 2 procedures.

9. **FISCAL/BUDGETARY IMPACT:** No providers will be affected by this regulation. Program recipients will be a small number (less than 100) of low income Virginia residents who meet financial and other eligibility criteria.

To date, program funds have been derived solely from federal Ryan White CARE Act grant funds awarded to the Commonwealth and limited to HIV/AIDS-related uses. The average monthly Virginia Medicaid cost for an HIV/AIDS patient (not eligible for these Ryan White funds) in FY 95 was approximately \$2,136*. (*Medicaid HIV/AIDS cost figures come from the 1994 HCFA AIDS Waiver renewal, Department of Medical Assistance Services claims analysis, Patients in mid stage of AIDS.) The referenced 1996 legislation permits funds from other sources to be used for this programmatic purpose but no appropriations were specified at this time.

In the HIV Premium Assistance Program, the average premium assistance payment was \$196 per month (Oct. 95) or \$2,352 per person per year. For each case diverted from Medicaid, the Commonwealth is saving approximately \$1,940 per month or \$23,280 per year. The total amount of premium assistance paid between 10/94 and 10/95 was \$71,360. Several applicants for this assistance voluntarily submitted verification of medical expenses ranging from \$35,000 to about \$90,000. Payment of the small average premium amounts represents considerable savings over the low end of this range of potential medical expenses.

There are no localities which are uniquely affected by these regulations as they apply statewide.

10. **RECOMMENDATION:** Recommend approval of this request to adopt this emergency regulation to become effective upon its filing with the Registrar. From its effective date of July 1, 1996, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to implement the HIV Premium Assistance Program.

11. **APPROVAL SOUGHT FOR VR 460-04-8.19 (12 VAC 30-100-250 et seq.).**

Approval of the Governor is sought for an emergency adoption of the State regulations in accordance with the Code of Virginia § 9-6.14:4.1(C)(5):

PART III.

HIV PREMIUM ASSISTANCE PROGRAM.

12 VAC 30-100-250. Definitions.

"Appeal" means the process by which an applicant or enrollee in the HIV Premium Assistance Program can obtain a review of a decision, action, or failure to act on the part of the Program.

"Applicant" means an individual who has applied for or is in the process of applying for HIV Premium Assistance Program benefits.

"Applicant's representative" means a person who, because of the applicant's or enrollee's mental or physical incapacity or standing as a child, is permitted to act, complete, sign, or withdraw an application for the benefits of the Program; activate the appeal process; and otherwise supply any information requested by the Program on behalf of the applicant or enrollee.

"Child" means an unmarried person younger than 18 years of age and who lives with a parent or legal guardian.

"Date of Application" means the date that an application is officially received by the Program.

"Department (DMAS)" means the Virginia Department of Medical Assistance Services which has administrative authority and responsibility for the Program.

"Enrollee" means an individual who has been determined to be eligible for and is receiving assistance from the Program.

"Family" means:

- i. the applicant or enrollee,
- ii. the applicant or enrollee's spouse,
- iii. the applicant's or enrollee's children who are under 21 years if the children live with the applicant,
- iv. when the applicant or enrollee is a child,
 - a. the applicant's parent or parents,
 - b. the minor applicant's unmarried siblings under 21 years, at the option of the applicant's or enrollee's parents.

"Group health insurance plan" means a plan which meets §5000(b)(1) of the Internal Revenue Code of 1986, as amended, includes continuation coverage pursuant to Title XXII of the Public Health Services Act, § 4980B of the Internal Revenue Code of 1986, or Title VI of the Employee Retirement Income Security Act of 1974, and is consistent with the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99-272 and any subsequent modifications to the Act. Section 5000(b)(1) of the Internal Revenue Code provides that a group health plan is any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the

employer's employees, former employees, or the families of such employees or former employees.

"Health insurance premiums or premiums" means the health insurance premiums paid by or on behalf of an individual in order to obtain or maintain health insurance plan benefits.

"HIV positive" means a positive diagnosis of infection with the human immune deficiency virus (HIV) as determined by the enzyme-linked immunosorbent assay (ELISA) and confirmed by the Western Blot, or another generally accepted diagnostic test for HIV infection.

"HIV Premium Assistance Program or the Program" means the Virginia program that provides payment of health insurance premiums under certain circumstances to individuals who are HIV positive, in accordance with the provision of the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272 and any subsequent modifications to the Act and as authorized by § 32.1-330.1 of the Code of Virginia.

"Medicaid" means the state-federal medical assistance program of comprehensive medical and other health-related care for indigent and medically indigent persons authorized by Title XIX of the Social Security Act and administered by the Virginia Department of Medical Assistance Services.

"Non-group health insurance plan" means a health insurance plan that is offered to an individual or an individual family unit without being tied to an employer.

"Physician verification" means certification by a licensed physician, of medical information regarding an applicant's or enrollee's HIV positive status and inability to work due to the disease, or the substantial likelihood that within three months the individual will be too ill to continue working.

"Poverty level" means the official federal poverty income level, as revised annually.

12 VAC 30-100-260. Eligibility requirements.

An applicant will be determined to be eligible for the HIV Premium Assistance Program if the individual:

- A. Is a Virginia resident at time of application and is
 1. A citizen of the United States; or
 2. An alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, including an alien who is lawfully present in the United States pursuant to 8 USC 1101 et seq.; or
 3. An alien lawfully admitted under authority of the Indochina Migration and Refugee Assistance Act of 1975, 22 USC 2601 et seq.; and

B. Is certified by a licensed physician to be HIV positive;

C. Is certified by a licensed physician to be unable to work or to have a substantial likelihood of being unable to work within three months of the date of the physician's certification due to the HIV infection;

D. Is eligible for continuation of group health insurance plan benefits through the employer and the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, or for continuation of benefits under any type of health insurance plan unless DMAS has reason to believe it is not cost-effective;

E. Has family income no greater than 200 percent of the poverty level;

F. Has countable liquid assets no more than \$10,000 in value; and

G. Is not eligible for Medicaid.

12 VAC 30-100-270. Determination of countable income and liquid assets.

When determining eligibility for the HIV Premium Assistance Program, the countable income and assets of each applicant shall be determined as follows:

A. Income shall include total projected family income for the year beginning with the month of application to the Program, including, but not limited to:

1. Wages;
2. Commissions and fees;
3. Salaries and tips;
4. Profit from self-employment;
5. Dividends or interest income;
6. Disability benefits;
7. Unemployment;
8. Pension or retirement.

B. Countable liquid assets shall include assets available as of the date of the application which are convertible to cash. The following liquid assets shall be counted when determining eligibility:

1. savings accounts;
2. checking accounts;
3. money market certificates;
4. certificates of deposit;
5. mutual funds;
6. stocks and bonds;

12 VAC 30-100-280. Program application and enrollment.

Any person requesting participation in the Program shall be given the opportunity to file an application and, if determined eligible by the Program, shall be enrolled in accordance with the provisions of this policy within established funding constraints.

A. An applicant or applicant's representative shall complete an application on the form designated by the Program. The Program may request additional documentation for eligibility determination purposes as it deems necessary.

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B. An unmarried child younger than 18 years old shall have a representative complete and sign the application.

C. Applications shall conform with the requirements of this policy and those set forth by the Program. Applicants shall be determined ineligible without prejudice when they fail to provide information sufficient for the determination of eligibility.

D. An applicant or applicant's representative shall sign a statement authorizing the Program to verify from any source, including banks and public or private agencies providing monetary benefits, qualifying information submitted to the Program as part of the application process. Refusal to sign an authorization shall be considered failure to provide sufficient information, and applicants shall be determined ineligible in accordance with the provisions of this policy.

E. Eligibility determination shall be made promptly, not later than 30 days from the date of receipt of the completed application by the Program.

F. An applicant or applicant's representative may voluntarily withdraw the application at any time without prejudice.

G. An individual previously determined ineligible for Program benefits may submit a new application at any time.

H. Program enrollment shall be effective on the day eligibility is approved. Premium payments for health insurance coverage beginning on the first day of the month following eligibility shall start as long as there is available funding.

12 VAC 30-100-290. The Program will promptly redetermine eligibility when it receives information concerning an enrollee's circumstances that may affect eligibility.

A. The enrollee or representative shall notify the Program within ten working days of any changes in circumstances which would affect continuing eligibility including but not limited to:

1. Sale, transfer or change of the value of assets;
2. Change in income;
3. Change in name or address;
4. Change in COBRA eligibility.

B. If any changes in status result in an enrollee no longer qualifying for the Program, the enrollee shall be considered ineligible for Program benefits and enrollment shall be canceled. The cancellation shall be effective on the last day of the month in which notice has been given, consistent with 12 VAC 30-100-320. The Program shall notify the enrollee of its determination in writing, and inform the enrollee of any legal rights to appeal the decision pursuant to the notification requirements of this policy.

C. Failure to make such required notification may be considered to be fraudulent and may be addressed pursuant to the Department's fraud prevention and control policies (12 VAC 30-100-360).

12 VAC 30-100-300. The number of enrollees in the Program shall be limited to the number that can be covered by the Program's available funding as reflected in available openings. DMAS shall project the expenditures for the current and expected enrollees and funding levels for the Program to determine the number of available enrollee openings.

A. Initial available openings in the Program shall be filled based on the applicant's date of completed application. In the event that more than one application is received on any one day, applicants shall be considered based on the order of the day and month of the applicant's birth, with January being month one.

B. Should the number of applications exceed available funding at any time, a waiting list shall be maintained by the Program of applicants who are determined to be eligible for the Program but for whom openings are not available when the eligibility determinations are made.

1. Available openings shall be filled from the waiting list on a first come, first served basis, using the same criteria defined in 12 VAC 30-100-300.

2. If an opening becomes available, the applicant shall be notified in writing by the Program. The applicant must provide any necessary information to the Program to verify that he is still eligible within 10 days of receiving such notification. The ten day period may be extended by the Program for just cause. If determined to be still eligible, the applicant shall be enrolled.

3. At the end of three months from the date of application, and every three months thereafter, if an opening has not yet become available, each applicant may be contacted by DMAS to verify their interest in remaining on the waiting list. At these contacts, applicants may be requested to inform the Program of changes in the contents of their applications. At such time as funding becomes available for waiting list applicants, DMAS shall re-examine the applications for program qualifications.

12 VAC 30-100-310. Authorization for benefits under this Program shall be granted until Program termination, unless the recipient's status changes so that he no longer meets the eligibility criteria.

12 VAC 30-100-320. Notification.

The Program shall inform an applicant, enrollee or the representative of the individual's legal rights and obligations and give written notice of the following:

A. The final determination on an application which shall include the reason or reasons if an applicant is found ineligible;

B. The imminent expiration of Program authority and funding;

C. A notice of action to deny, cancel, or suspend Program benefits which shall:

1. include a statement of the proposed action, the reason for the action, and the regulatory authority for the action;
2. include notification of the right to appeal the action;
3. be mailed at least 15 calendar days before the effective date of the action.

12 VAC 30-100-330. Appeals. An applicant, enrollee, or representative who is dissatisfied with a decision, action, or inaction of the Program may request and shall be granted an opportunity to appeal, as provided for under the Department's Client Appeals regulations (12 VAC 30-100-Part I.).

A. The applicant or enrollee shall request in writing reconsideration from the HIV Program within 15 days of the notice. DMAS will respond within 5 days to this request for reconsideration. If the applicant or enrollee still disagrees with DMAS' decision, they shall have the right to file an appeal in accordance with the Department's Client Appeals regulations.

B. An enrollee shall be notified in writing by the Program that the Program shall be responsible for the payment of health insurance premiums until the appeal process is concluded. If the appeal results in the enrollee being found ineligible for the Program, the Program shall seek recovery in accordance with the Department's recovery policies.

C. If an applicant is found eligible for the Program as a result of an appeal, the Program shall reimburse the applicant directly for premiums which were paid, beginning with a premium payment for the month following the decision that was the subject of appeal. The applicant shall provide proof of payment of premiums.

D. Cases in appeal which are in current payment status shall be considered filled enrollee openings until the appeal process has been completed.

12 VAC 30-100-340. Health insurance premium payments.

A. Premium payments shall be made to the employer, the insurer, or the enrollee, according to procedures established by the Program.

B. Applicants and enrollees shall provide information as may be necessary for the payment of health insurance premiums by the Program, including but not limited to the name and address of the employer or health insurance company, the last day of employment, the type of policy, the amount of the premium, and the date by which the premium must be paid.

C. Payments under this program are limited to the cost of the health insurance premium currently in effect and shall not include co-payments, deductibles, or any other costs incurred by the enrollees.

12 VAC 30-200-350. Recovery.

In all cases in which Program benefits have been incorrectly paid or paid during an appeal in which the Program action was upheld, the Program shall seek recovery from the payee, according to the Department's recovery policies.

12 VAC 30-100-360. Fraud.

Cases of suspected misrepresentation or fraud shall be investigated according to the Department's fraud prevention and control policies and any other applicable statutory provision.

12 VAC 30-100-370. Confidentiality.

All information maintained by the Program containing personal data including name, address, employer, insurance company, HIV status, application to or enrollment in the Program, and any other information which could identify or reasonably be used to identify any applicant or enrollee in the Program shall be maintained in confidence according to all applicable DMAS policies and procedures and any other applicable laws or regulations. Such information shall not be disclosed to any individual or organization without the written and dated consent of the applicant, enrollee, or representative.

VA.R. Doc. No. R96-464; Filed July 1, 1996, 4:51 p.m.

STATE CORPORATION COMMISSION

PROPOSED REGULATIONS

Bureau of Insurance

Title of Regulation: 14 VAC 5-234-10 et seq. Rules Governing Essential and Standard Health Benefit Plan Contracts (Insurance Regulation 46) (amending 14 VAC 5-234-30 and 14 VAC 5-234-40).

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

AT RICHMOND, JULY 1, 1996

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS960165

Ex Parte: In the matter of adopting revised Rules Governing Essential and Standard Health Benefit Plan Contracts

ORDER TO TAKE NOTICE

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and Virginia Code § 38.2-223 provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed revised regulation entitled "Rules Governing Essential and Standard Health Benefit Plan Contracts"; and

WHEREAS, the Commission is of the opinion that the proposed revised regulation should be adopted;

THEREFORE, IT IS ORDERED THAT:

(1) All interested persons TAKE NOTICE that the Commission shall enter an order subsequent to July 30, 1996, adopting the revised regulation proposed by the Bureau of Insurance unless on or before July 30, 1996, any person objecting to the proposed revisions to the regulation files a request for a hearing and a responsive pleading specifying in detail their objections to the adoption of the proposed revisions to the regulation with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218;

(2) An attested copy hereof, together with a copy of the proposed revised regulation, be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky who shall forthwith give further notice of the proposed adoption of the revised regulation by mailing a copy of this order, together with a complete draft of the regulation, to all insurers, health services plans, and health maintenance organizations licensed in the Commonwealth of Virginia;

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

14 VAC 5-234-30. Definitions.

For the purposes of this chapter:

"Adult" means an individual 18 years old and older.

"Carrier" means any person that provides one or more health benefit plans or insurance in this Commonwealth, including an insurer, a health services plan, a fraternal benefit society, a health maintenance organization, a multiple employer welfare arrangement, a third-party administrator or any other person providing a plan of health insurance subject to the authority of the commission.

"Case management" means a form of medical management that coordinates the health care needs of individuals having chronic conditions or serious illness or injury requiring multiple medical services over an extended period of time, to ensure the cost-effective and appropriate use of medically necessary health care services.

"Child" means an individual from birth to the age of 18 years.

"Coinsurance percentage" or "coinsurance" means the percentage of allowable charges allocated to the carrier and to the covered person.

"Copayment" means a specified charge that a covered person must pay each time services of a particular type or in a designated setting are received by a covered person.

"Deductible" means the amount of allowable charges that must be incurred by an individual or a family per year before a carrier begins payment.

"First-degree relative" means a parent or child of an individual.

"Health benefit plan" means any accident and health insurance policy or certificate, health services plan contract, health maintenance organization subscriber contract, plan provided by a MEWA (Multiple Employer Welfare Arrangement) or plan provided by another benefit arrangement. Health benefit plan does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

"Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

1. The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

- a. Be an institution operated pursuant to law;
- b. Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic, and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which a charge is made; and
- c. Provide 24-hour nursing service by or under the supervision of registered graduate professional nurses (R.N.'s).

2. The definition of the term "hospital" may state that such term shall not include:

- a. Convalescent homes, convalescent rest, or nursing facilities;
- b. Facilities primarily affording custodial, educational or rehabilitative care; or
- c. Facilities for the aged, drug addicts or alcoholics.

"Medically effective" means a service which (i) is furnished or authorized for the diagnosis or treatment of the covered individual's illness, disease, injury, or pregnancy; (ii) pursuant to the prevailing opinion within the appropriate specialty of the United States medical profession, is safe and effective for its intended use, and that omission would adversely affect the person's medical condition; and (iii) is furnished by a provider with appropriate training, experience, staff, and facilities to furnish that particular service.

"Medical emergency" means a condition or chief complaint manifested by acute symptoms of sufficient severity which, without immediate and necessary medical attention, could reasonably be expected to result in (i) serious jeopardy to the mental or physical health of the individual, or (ii) danger of serious impairment of the individual's bodily functions, or (iii) serious dysfunction of any of the individual's organs, or (iv) in the case of a pregnant woman, serious jeopardy to the health of the fetus.

"Medically necessary" means a service acknowledged as acceptable medical practice by an established United States medical society for the treatment or management of pregnancy, illness, or injury which (i) is the most appropriate and cost-effective service to be provided safely to the patient, (ii) is consistent with the patient's symptoms or diagnosis, and (iii) is not experimental or investigative in nature. The fact that a physician prescribes a service does not automatically mean such service is medically necessary and will qualify for coverage.

"Medicare" shall be defined in any hospital, surgical, or medical expense policy which relates its coverage to eligibility for Medicare or Medicare benefits. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of the Public Laws 89-97, as Enacted by the Eighty-Ninth Congress

of the United States of America and popularly known as the 'Health Insurance for the Aged Act,' as then constituted and any later amendments or substitutes thereof," or words of similar import.

"Mental or nervous disorder" shall not be defined more restrictively than a definition including neurosis, psycho neurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind including physiological and psychological dependence on alcohol and drugs.

"Morbid obesity" means the greater of two times normal body weight or 100 pounds more than normal body weight. Normal body weight is determined for a covered person using generally accepted weight tables for a person's age, sex, height and frame.

"Newborn care" means the initial routine history, examination and subsequent care of a healthy newborn infant, rendered while the newborn infant is an inpatient at the facility where, and during the admission when, birth occurred.

"Nurse" may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse," "trained nurse" or "registered nurse" are used without specific description as to type, then the use of such terms requires the carrier to recognize the services of any individual who qualifies under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state.

"Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician."

"Plan" means the contracts offering the standard or essential benefits pursuant to §§ 38.2-3431 through 38.2-3433 of the Code of Virginia.

"Prehospital emergency medical services" means care received by acutely ill or injured patients who require immediate medical attention because of an unexpected or sudden occurrence or accident or an urgent or pressing need, including care that may be provided by urgent care centers.

"Primary care provider" means the physician or other health care practitioner designated from a network of providers as the provider responsible for providing, managing or directing all health care received by the covered individual enrolled in a preferred provider organization or a health maintenance organization.

"Primary small employer," a subset of "small employer," means any person actively engaged in business that, on at least 50% of its working days during the preceding year, employed no more than 25 eligible employees and not less than two unrelated eligible employees, except as provided in subdivision A 2 of § 38.2-3523 of the Code of Virginia, the majority of whom are enrolled within this Commonwealth. Primary small employer includes companies that are affiliated companies or that are eligible to file a combined tax return. Except as otherwise provided, the provisions of this regulation that apply to a primary small employer shall apply until the earlier of the plan anniversary or one year following

the date the employer no longer meets the requirements of this definition.

"Small employer" or "small employer market" means any person actively engaged in business that, on at least 50% of its working days during the preceding year, employed less than 50 100 eligible employees and not less than two unrelated eligible employees, the majority of whom are employed within this Commonwealth. A small employer market group includes companies that are affiliated companies or that are eligible to file a combined tax return. Except as otherwise provided, the provisions of Article 5 (§ 38.2-3431 et seq.) of Chapter 4 of Title 38.2 of the Code of Virginia that apply to a small employer shall continue to apply until the earlier of the plan anniversary or one year following the date the employer no longer meets the requirements of this definition.

14 VAC 5-234-40. General requirements.

A. Every insurer, health services plan, fraternal benefit society, or health maintenance organization licensed to issue policies of accident and sickness insurance, subscription contracts, or evidences of coverage in this Commonwealth; and every multiple employer welfare arrangement operating in this Commonwealth and subject to the jurisdiction of the commission must notify the commission in writing of its intent to participate or not participate in the primary small group market or the small group market within 90 days of the effective date of this regulation *or within 90 days of the effective date of any legislation affecting qualification as a small employer carrier or primary small employer carrier. Registration procedures, including, but not limited to the validity of existing registrations following a change affecting small employer or primary small employer qualification and the registration of new or additional carriers subsequent to the 90-day period, shall be provided to all entities described in 14 VAC 5-234-20 in the form of an administrative letter sent by regular mail to the entity's mailing address shown in the commission's records.*

B. All small employer carriers issuing essential and standard plans must report to the commission annually by March 1 the number of primary small employers covered by the essential and standard plans during the preceding calendar year. The report shall include the number of employees covered, including dependents, the age and sex of all employees, and shall be on the "Virginia Primary Small Employer Coverage Report" form as adopted herewith or later modified by the commission.

C. Periodic demonstration of fair and active marketing of the essential and standard benefit plans shall be submitted to the commission by all small employer carriers. The number of new plans issued, their geographic location, and industry must be submitted to the commission beginning December 1, 1995, on the "Virginia Primary Small Employer New Business Report" form as adopted herewith or later modified by the commission. Each federally qualified health maintenance organization must demonstrate to the commission's satisfaction its inability to offer the essential plan in the event the health maintenance organization believes that it is unable to offer such plan.

D. Small employer carriers are not allowed to issue riders or endorsements which reduce or eliminate benefits, with the exception of dental benefits which may be provided by separate contract in accordance with § 38.2-3431 D of the Code of Virginia.

E. No contract may exclude coverage for a loss due to a preexisting condition for a period greater than 12 months as described in §§ 38.2-3432 A 1 and 38.2-3431 C of the Code of Virginia.

F. All contracts must comply with the requirements of Title 38.2 of the Code of Virginia which are not inconsistent with Article 5 (§ 38.2-3431 et seq.) of Chapter 34 of Title 38.2.

G. Small employer carriers must provide 30 days advance notice to the commission and either the policyholder, contract holder, enrollee, or employer of their decision to cease to write new business in the primary small employer market.

H. Any plan which does not utilize a primary care provider shall be responsible for providing all benefits required by the essential and standard benefit plans. The requirement that a primary care provider provide, manage, or direct care for a covered individual shall be waived.

I. Carriers must offer primary small employers electing to be covered under an essential or standard health benefit plan the option to choose coverage that does not provide dental benefits. The primary small employer making such election must purchase separate dental coverage for all eligible employees and eligible dependents from a dental services plan authorized pursuant to Chapter 45 (§ 38.2-4500 et seq.) of Title 38.2 of the Code of Virginia.

J. Plans must comply with §§ 38.2-3408 or 38.2-4221 of the Code of Virginia relating to reimbursement to providers.

**Virginia Primary Small Employer
Coverage Report**

Insurance Company Name:

NAIC Number: Date:

Contact Person:

Title:

Telephone Number:

ESSENTIAL HEALTH BENEFIT PLANS

Number of Primary Small Employer Groups Covered:

Number of Covered Employees:

| | Male | Female |
|-----------|----------------------|----------------------|
| Age 0-18 | <input type="text"/> | <input type="text"/> |
| 18-29 | <input type="text"/> | <input type="text"/> |
| 30-39 | <input type="text"/> | <input type="text"/> |
| 40-49 | <input type="text"/> | <input type="text"/> |
| 50-64 | <input type="text"/> | <input type="text"/> |
| 65 & over | <input type="text"/> | <input type="text"/> |

Total Number of Persons Covered:

STANDARD HEALTH BENEFIT PLANS

Number of Primary Small Employer Groups Covered:

Number of Covered Employees:

| | Male | Female |
|-----------|----------------------|----------------------|
| Age 0-18 | <input type="text"/> | <input type="text"/> |
| 18-29 | <input type="text"/> | <input type="text"/> |
| 30-39 | <input type="text"/> | <input type="text"/> |
| 40-49 | <input type="text"/> | <input type="text"/> |
| 50-64 | <input type="text"/> | <input type="text"/> |
| 65 & over | <input type="text"/> | <input type="text"/> |

Total Number of Person Covered:

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**Virginia Primary Small Employer
New Business Report**

Insurance Company Name:

NAIC Number: Date:

Contact Person:

Title:

Telephone Number:

Period Covered: to

ESSENTIAL HEALTH BENEFIT PLANS

Number of New Essential Plans Issued:

For each new essential plan issued, identify the industrial classification and geographical location of the employer below.

| New Plan | Industrial Classification | Geographic Location |
|----------|---------------------------|---------------------|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |
| 7. | | |
| 8. | | |
| 9. | | |
| 10. | | |

STANDARD HEALTH BENEFIT PLANS

Number of New Standard Plans Issued:

For each new standard plan issued, identify the industrial classification and geographical location of the employer below.

| New Plan | Industrial Classification | Geographic Location |
|----------|---------------------------|---------------------|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |
| 7. | | |
| 8. | | |
| 9. | | |
| 10. | | |

VPSE-2
May/95

Title of Regulation: 14 VAC 5-350-10 et seq. **Rules Governing Surplus Lines Insurance (amending 14 VAC 5-350-10, 14 VAC 5-350-20, 14 VAC 5-350-30, 14 VAC 5-350-50, 14 VAC 5-350-70 through 14 VAC 5-350-120, and 14 VAC 5-350-140 through 14 VAC 5-350-170; repealing 14 VAC 5-350-230).**

Statutory Authority: §§ 12.1-13, 38.2-223 and 38.2-4813 of the Code of Virginia.

AT RICHMOND, JULY 1, 1996

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS960168

Ex Parte: In the matter of adopting revised Rules Governing Surplus Lines Insurance

ORDER TO TAKE NOTICE

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and Virginia Code § 38.2-223 provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed revised regulation entitled "Rules Governing Surplus Lines Insurance"; and

WHEREAS, the Commission is of the opinion that the proposed revised regulation should be adopted;

THEREFORE, IT IS ORDERED THAT:

(1) All interested persons TAKE NOTICE that the Commission shall enter an order subsequent to July 30, 1996, adopting the revised regulation proposed by the Bureau of Insurance unless on or before July 30, 1996, any person objecting to the proposed revisions to the regulation files a request for a hearing and a responsive pleading specifying in detail their objections to the adoption of the proposed revisions to the regulation with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218;

(2) An attested copy hereof, together with a copy of the proposed revised regulation, be sent by the Clerk of the Commission to the Bureau of Insurance in care of Administrative Manager Brian P. Gaudiose who shall forthwith give further notice of the proposed adoption of the revised regulation by mailing a copy of this order, together with a complete draft of the regulation, to all licensed surplus lines brokers and approved surplus insurers in the Commonwealth of Virginia;

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

14 VAC 5-350-10. Purpose.

A. The purpose of this chapter is to set forth rules, forms and procedures consistent with the Surplus Lines Insurance Law (§§ 38.2-4800 through 38.2-4815 of the Code of Virginia) and the Insurance Information and Privacy Protection Law (§§ 38.2-600, 38.2-602, 38.2-608, 38.2-609, 38.2-610, 38.2-611, and 38.2-612 of the Code of Virginia) to carry out the provisions of these laws.

B. *The Bureau of Insurance shall issue the necessary forms to carry out the provisions of the Surplus Lines Insurance Law and this chapter.*

14 VAC 5-350-20. Applicability.

This chapter applies to all ~~Persons~~ persons procuring surplus lines insurance coverage on risks resident, located or to be performed in Virginia, to all surplus lines policies issued for delivery in Virginia and to any other evidence of surplus lines insurance coverage issued for delivery in Virginia.

14 VAC 5-350-30. Definitions.

As used in this chapter:

"Admitted insurer" means an insurer licensed by the commission to do an insurance business in this Commonwealth.

"Authorized to write the insurance coverage sought" means that the admitted insurer is licensed for that class of insurance in this Commonwealth and has complied with the applicable provisions of Title 38.2 of the Code of Virginia concerning the filing of rules, rates and policy forms providing the insurance coverage sought, unless such insurance coverage has been exempted from filing by commission order.

"Class of insurance" means the classes enumerated in §§ 38.2-109 through 38.2-121 and §§ 38.2-124 through 38.2-134 of the Code of Virginia.

"Commercial insured" means an insured (i) who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer, (ii) whose aggregate annual premiums for insurance on all risks total at least \$75,000, or (iii) who has at least 25 full-time employees.

"Diligent effort" means:

1. For business that is originated by a surplus lines broker, a good faith search for insurance among admitted insurers resulting in declinations of coverage by three unaffiliated admitted insurers licensed and authorized in this Commonwealth to write the insurance coverage sought, whether or not the surplus lines broker is an agent of any of the declining insurers; and

2. For business that is referred from a licensed property and casualty insurance agent, declinations or rejections of coverage by three insurers licensed in this Commonwealth to write the class of insurance, whether

or not the surplus lines broker is an agent of any of the declining insurers.

"*Eligible surplus lines insurer*" means a non-admitted insurer approved by the commission pursuant to subsection B of § 38.2-4811.

"*Nonadmitted insurer*" means an insurer not licensed to do an insurance business in this Commonwealth.

"*Nonadmitted insurer*" includes insurance exchanges authorized under the laws of a state.

"*Procure*" means to bind or cause to be bound insurance coverage (orally or in writing) or to issue or cause to be issued an insurance policy, whichever comes first.

"*Surplus lines broker*" means a person licensed under this chapter to procure insurance on risks resident, located or to be performed in this Commonwealth from eligible surplus lines insurers.

"*Surplus lines insurance*" means any insurance in this Commonwealth of risks resident, located or to be performed in this Commonwealth, permitted to be procured by or through a surplus lines broker from an eligible surplus lines insurer. Surplus lines insurance does not include reinsurance, insurance obtained directly from a nonadmitted insurer by the insured upon his own life or property, life insurance, credit life, industrial life, variable life, annuities, variable annuities, credit accident and sickness, credit insurance, title insurance, contracts of insurance on vessels or craft, their cargo, freight, marine builder's risk, maritime protection and indemnity, ship repairer's legal liability, tower's liability or other risks commonly insured under ocean marine insurance, and insurance of the rolling stock and operating properties of railroads used in interstate commerce or of any liability or other risks incidental to the ownership, maintenance or operation of such railroads.

"*Unaffiliated*" means admitted insurers who are not part of a group of insurers under common ownership or control.

14 VAC 5-350-50. Application for surplus lines brokers' broker's license.

Any applicant for a new or renewal surplus lines broker's license shall file with the commission an application on Form SLB-1 (Appendix 1). The applicant shall submit with the application the license fee required by § 38.2-4802 of the Code of Virginia.

14 VAC 5-350-70. Applicants to file bond with commission.

The applicant shall file a surety bond with the commission on Form SLB-2 (Appendix 2) in the amount prescribed by § 38.2-4804 of the Code of Virginia prior to the issuance of a surplus lines broker's license. The applicant shall file with the bond the appropriate acknowledgement of principal on Form SLB-2a (Appendix 3) if an individual or partnership, or on Form SLB-2b (Appendix 4) if a corporation contained in Form SLB-2.

14 VAC 5-350-80. Suspension, revocation, and refusal of license.

The commission may refuse to issue a surplus lines broker's license or may suspend or revoke the license of any surplus lines broker under § 38.2-1831 of the Code of Virginia for any one or more of the following reasons:

1. Failure to allow the commission to examine the broker's records and accounts as required by this chapter and Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia;
2. Failure to make and file monthly *quarterly* reports as required by this chapter and Chapter 48;
3. Failure to make and file the annual report required by this chapter and Chapter 48;
4. Failure to pay when due the surplus lines premium tax, assessment, or penalty required by this chapter and Chapter 48;
5. Failure to meet the qualifications for issuance of a surplus lines broker's license required by this chapter and Chapter 48;
6. Violation of any provision of the ~~Surplus Lines Insurance Law Chapter 48~~ or this chapter; or
7. Any other cause for which a property and casualty agent's license may be revoked, suspended, or refused.

14 VAC 5-350-90. Affidavit that insurance is unprocurable from licensed insurers.

~~A. When a surplus lines broker procures insurance coverage from an eligible surplus lines insurer, the surplus lines broker procuring the insurance shall execute Form SLB-5a (Appendix 5) for an individual affidavit or Form SLB-5b and SLB-5b (Supplement) (Appendix 6) for a combined affidavit, stating that the surplus lines broker was unable, after "diligent effort," as defined in this chapter and subsection A of § 38.2-4806 of the Code of Virginia, to procure the insurance requested from companies licensed in Virginia in a form and at a premium acceptable to the insured. Each surplus lines broker shall execute an affidavit on Form SLB-3 to accompany the quarterly report required by subsection D of § 38.2-4806 of the Code of Virginia. Each surplus lines broker shall also execute an affidavit on Form SLB-4 to accompany the annual report required by subsection A of § 38.2-4807 of the Code of Virginia. The affidavit shall be a sworn statement, covering all of the policies reported by the broker on the accompanying quarterly or annual report, that such policies were procured by the broker in accordance with the applicable laws and rules governing surplus lines insurance in this Commonwealth.~~

B. The ~~affidavits~~ *quarterly affidavit* required under this section shall be filed with and received by the commission within the period specified in subsection A of § 38.2-4806 of the Code of Virginia. *The annual affidavit shall be filed by March 1 of each year.*

C. If the insurance transaction involves insurance primarily for personal, family, or household needs rather than business

for professional needs, the surplus lines broker must comply with the provisions of Chapter 6 (§ 38.2-600 et seq.) of Title 38.2 of the Code of Virginia by giving the prospective insured the required adverse underwriting decision notice Form VA-6024, as required by § 38.2-610 of the Code of Virginia. A copy of the executed adverse underwriting decision notice must be attached to the ~~individual affidavit, or, in the case of combined affidavits, to each applicable SLB-5b (Supplement) quarterly affidavit which covers the policy to which it applies.~~

14 VAC 5-350-100. Commercial insured waiver of diligent effort.

A commercial insured as defined in this chapter may waive the requirement of a diligent effort being made by the surplus lines broker among companies licensed and authorized to write the class of insurance sought. The licensed surplus lines broker shall have the commercial insured sign the waiver notice required under subsection C of § 38.2-4806 of the Code of Virginia as prescribed in Form ~~SLB-12 (Appendix 13)~~ *SLB-10*. The signed waiver required under this section shall be attached to the *quarterly* affidavit forwarded to the commission as prescribed in ~~14 VAC 5-350-100~~ *14 VAC 5-350-90*. A copy of each signed waiver shall be retained by the surplus lines broker for the time period specified in *14 VAC 5-350-140*.

14 VAC 5-350-110. Changes requiring refiling of affidavit quarterly report.

If, after delivery of any policy or other written evidence of insurance, there is any change in the identity of the insurer(s), or in the proportion of the risk assumed by any insurer, or if there is any material change in coverage, the surplus lines broker shall promptly issue and deliver to the insured an appropriate substitute for, or endorsement of the original document, accurately showing the current status of the coverage and the insurers responsible thereunder. The ~~affidavit quarterly report required under 14 VAC 5-350-90~~ *14 VAC 5-350-150* of this chapter shall be refilled to reflect any changes listed in the preceding sentence. Such refiling may be accomplished by the filing of a copy of the original ~~affidavit quarterly report~~ with such changes noted thereon or attached thereto.

14 VAC 5-350-120. Notice to insured.

The licensed surplus lines broker shall provide the notice to the insured required under subsection B of § 38.2-4806 of the Code of Virginia as prescribed in Form ~~SLB-9 (Appendix 10)~~. The notice shall be given prior to the placement of the insurance; however, if coverage must be placed and become effective within 24 hours after referral of the business to the surplus lines broker, the notice may be given promptly following such placement. An additional copy of the notice shall be affixed to the policy by stamp, sticker, or other means on all policies procured pursuant to this chapter. When a property and casualty agent refers coverage to a surplus lines broker, it is the responsibility of the surplus lines broker to assure that this requirement is satisfied.

14 VAC 5-350-140. Records of surplus lines broker.

Each surplus lines broker shall keep in his office the records required by subsection A of § 38.2-4807 of the Code

of Virginia. *In addition, for each policy procured by him, the surplus lines broker shall make and keep a record of the rejections or declinations of coverage which include the name of the declining admitted insurer, the representative of the admitted insurer responsible for rejecting or declining the coverage sought, and the date the coverage was rejected or declined by the admitted insurer.* The record of each policy, other than the records required by subsection A of § 38.2-4807, shall be made available for inspection by the commission within 24 hours of a request therefor.

The records required by § 38.2-4807 of the Code of Virginia shall be subject to examination without notice by the commission pursuant to ~~§ 38.1809 38.2-1809~~ of the Code of Virginia and shall be available during normal business hours. Such records shall be retained for a period of not less than five years following termination of the policy.

14 VAC 5-350-150. Surplus lines broker to file monthly quarterly report.

Every licensed surplus lines broker shall file with the commission a report on Form ~~SLB-7a (Appendix 7)~~ *SLB-5* for the business conducted during the previous ~~month~~ *calendar quarter*. This report shall be filed with and received by the commission not more than 30 days after the end of the calendar ~~month~~ *quarter* in which any such insurance has been procured by the surplus lines broker. ~~However, a surplus lines broker may file the combined affidavit set forth in 14 VAC 5-350-90 of this chapter in lieu of Form SLB-7a.~~

14 VAC 5-350-160. Surplus lines broker to file annual report.

On or before the first day of March of each year every licensed surplus lines broker shall file with the commission a report as required by § 38.2-4807 of the Code of Virginia on Form ~~SLB-8 (Appendix 8)~~ *SLB-6* for the business conducted during the previous calendar year. The report prescribed in this section shall be verified and notarized. In lieu of filing Form ~~SLB-8, Part 1, SLB-6~~ a broker may file legible photocopies of the previously filed ~~monthly quarterly reports on Form SLB-5~~ for the calendar year.

14 VAC 5-350-170. Surplus lines broker to file gross premium tax report and remit taxes and assessments due.

A. Every licensed surplus lines broker whose annual premium tax liability can reasonably be expected to exceed \$1,500 shall file with the commission the quarterly gross premium tax report on Form ~~SLB-10 (Appendix 11)~~ *SLB-7* no later than 30 days after the end of each calendar quarter. Form ~~SLB-10~~ *SLB-7* shall be verified and notarized. The licensed surplus lines broker shall also file Form ~~SLB-11, Parts 1, 2, 3, and 4 (Appendix 12)~~ *SLB-5* at the same time that Form ~~SLB-10~~ *SLB-7* is filed. ~~In lieu of filing Form SLB-11, Part 1, a broker may file legible photocopies of the previously filed monthly reports for the quarter.~~ Every licensed surplus lines broker shall remit to the commission the full amount of gross premium tax due as calculated on Form ~~SLB-10~~ *SLB-7* when this report is filed. Such remittance shall be made payable to the Treasurer of Virginia.

B. On or before the first day of March of each year every surplus lines broker that was licensed for any portion of the preceding calendar year shall file with the commission the gross premium tax and assessment report on Form ~~SLB-7 (Appendix 9)~~ ~~SLB-8~~. The report prescribed in this section shall be verified and notarized. Enclosed with the ~~SLB-7~~ ~~SLB-8~~ report, every licensed surplus lines broker shall remit to the commission the full amount of gross premium tax and assessment due as calculated on Form ~~SLB-7~~ ~~SLB-8~~. Such remittance shall be made payable to the Treasurer of Virginia.

C. If a payment is made in an amount later found to be in error, the commission shall, if an additional amount is due, notify the surplus lines broker of the additional amount and the surplus lines broker shall pay such amount within 14 days of the date of the notice. Failure to pay the full amount of gross premium tax and assessment due on or before the first day of March shall be punishable under §§ 38.2-4814, 38.2-403 or 58.1-2507 of the Code of Virginia. In addition, any person licensed or required to be licensed under this chapter who willfully fails or refuses to pay the full amount of the tax or assessment required by this chapter, either by himself or through his agents or employees, or who makes a false or fraudulent return with intent to evade the tax or assessment levied, or who makes a false or fraudulent claim for refund shall be guilty of a Class 1 misdemeanor. If any person licensed or required to be licensed under Chapter 48, (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia, charges and collects from the insured the taxes and assessments required by this chapter and Chapter 48, such person shall be a fiduciary to this Commonwealth for any taxes and assessments owed to this Commonwealth under this chapter and Chapter 48. If an overpayment is made, the surplus lines broker may petition the commission for a refund of such overpayment pursuant to the provisions of § 58.1-2030 of the Code of Virginia.

14 VAC 5-350-230. Effective date. (Repealed.)

~~This chapter shall take effect on May 1, 1987. Surplus lines broker's licenses issued prior to May 1, 1987 and expiring on March 15, 1988 shall be deemed valid on the effective date of this chapter.~~

NOTICE: The forms used in administering the Rules Governing Surplus Lines Insurance (14 VAC 5-350-10 et seq.) are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the State Corporation Commission, Tyler Building, 1300 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

~~Form SLB-1, Application for License as Surplus Lines Broker, SLB-1 (eff. 5/87) (rev. 8/96).~~

~~Form SLB-2, Bond for Surplus Lines Broker, SLB-2 (eff. 5/87) (rev. 8/96).~~

~~Acknowledgment of Principal Individual or Partnership, SLB-2a (eff. 5/87).~~

~~Acknowledgment of Principal Corporations Only, SLB-2b (eff. 5/87).~~

~~Individual Affidavit by Surplus Lines Broker, SLB-5a (eff. 5/88).~~

~~Combined Affidavit by Surplus Lines Broker, SLB-5b (eff. 5/88).~~

~~Form SLB-3, Quarterly Combined Affidavit by Surplus Lines Broker (eff. 8/96).~~

~~Form SLB-4, Annual Combined Affidavit by Surplus Lines Broker (eff. 8/96).~~

~~Form SLB-5, Surplus Lines Quarterly Report (eff. 8/96).~~

~~Form SLB-6, Surplus Lines Annual Report (eff. 8/96).~~

~~Form SLB-7, Quarterly Gross Premiums Tax Report (eff. 8/96).~~

~~Form SLB-8, Annual Gross Premiums Tax Report, Surplus Lines Broker, SLB-7 (eff. 5/88) (rev. 8/96).~~

~~Annual Gross Premiums Tax Report - Part 1, Additional Premiums - Part 2, Return Premiums - Part 3, Notarized Statement - Part 4, SLB-8 (eff. 12/87).~~

~~Form SLB-9, Notice to Insured (eff. 8/96).~~

~~Form SLB-10, Commercial Insured Waiver (eff. 8/96).~~

State Corporation Commission

APPENDIX 1.

VIRGINIA FORM SLB-1 (REV. 5/87)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE
Richmond, Virginia

APPLICATION FOR LICENSE
AS SURPLUS LINES BROKER

TO: STATE CORPORATION COMMISSION, BUREAU OF INSURANCE, RICHMOND, VIRGINIA

The undersigned applicant who is currently licensed as a Property & Casualty Agent in the Commonwealth of Virginia hereby applies for a license as a Surplus Lines Broker under the provisions of Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and the Commission's Rules Governing Surplus Lines Insurance, for the term expiring on the 15th day of March next succeeding the license issue date.

Remittance of (\$50.00) (\$25.00) is submitted herewith to cover the required license fee. (If license application is filed on or before September 15, the license fee is \$50.00; if filed after September 15, the license fee is \$25.00).

The applicant submits the following statements and answers in support of this application:

1. Name of Applicant _____ IRS # _____

Tel No. () _____

2. Business Address _____ () Individual

(Street Number) _____ () Partnership

() Corporation

(Town or City) (State) (Zip Code)

3. Residence Address (if applicant is an INDIVIDUAL)

(Street Number) (Town or City) (State) (Zip Code)

4. Active Members (if applicant is a PARTNERSHIP or a CORPORATION)

NOTE: Individuals to act for partnership or corporation in the transaction of insurance under authority of license applied for limited to partners, officers, directors, or employees of applicant, each of whom is individually licensed as a Property and Casualty Insurance Agent as defined in Section 38.2-1800 of the Code of Virginia.

NAME SS# TITLE RESIDENCE ADDRESS

State Corporation Commission

5. ~~The submission of this application signifies the applicant's understanding and agreement to abide by the requirements outlined in Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and Commission's Rules Governing Surplus Lines Insurance regarding insurance transacted under the authority granted by the applicant's licensure as a surplus lines broker.~~

~~The applicant hereby declares that the foregoing answers are true and correct, and that the requirements outlined in Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and the Commission's Rules Governing Surplus Lines Insurance are fully understood and will be fully complied with.~~

(Signature of Applicant, if an individual)

(Print name of applicant, if a partnership
or corporation)

By _____
(Officer or Partner of applicant)

Title _____

State Corporation Commission

STATE OF VIRGINIA _____)
County (City) of _____) To-Wit:

This day _____ personally
(Name of Individual Surplus Lines Broker)

appeared before me in the County (City) aforesaid, and verified that the foregoing answers and declarations given in this application are true and correct.

Given under my hand this _____ day of _____, 19____.

(Notary Public)

My Commission expires _____

STATE OF VIRGINIA _____)
County (City) of _____) To-Wit:

This day _____ of _____
(Name of Authorized Individual) (Name of Corporation or Partnership)

personally appeared before me in the County (City) aforesaid, and verified that the foregoing answers and declarations given in this application are true and correct.

Given under my hand this _____ day of _____, 19____.

(Notary Public)

My Commission expires _____

State Corporation Commission

APPENDIX 2

VIRGINIA FORM SLB-2 (REV. 5/87)

BOND FOR SURPLUS LINES INSURANCE BROKER
(To comply with Section 38.2-4804 of the Code of Virginia)

KNOW ALL MEN BY THESE PRESENTS, That _____ of _____ as Principal, and _____ the _____ Company, a corporation organized and existing under the laws of the State of _____, and authorized to do business in the Commonwealth of Virginia, as Surety, are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the penal sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000) for the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, successors and assigns, jointly and severally, firmly by these presents.

SIGNED, SEALED, AND DATED THIS _____ day of _____, 19 _____.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the said Principal has applied to the State Corporation Commission of the Commonwealth of Virginia for a license to act as a Surplus Lines Broker pursuant to Chapter 48 (§ 38.2-4800 et seq.) of the Code of Virginia and, in accordance with Section 38.2-4804 thereof, is required to give a corporate surety bond unto the COMMONWEALTH OF VIRGINIA in the penal sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000);

NOW THEREFORE, the condition of this obligation is such that if the said Principal shall conduct business under said license in accordance with the provisions of the laws and regulations of the Commonwealth of Virginia pertaining to Surplus Lines Brokers, and, further, shall promptly remit the taxes and assessments provided by such laws and regulations, then this obligation shall be null and void; otherwise, to remain in full force and effect;

PROVIDED, this bond shall cover the acts of the Principal during the period beginning on the date such license becomes effective and ending on the fifteenth day of March next succeeding; and in no event shall the Surety's aggregate liability hereunder for all losses exceed the penal sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000);

PROVIDED FURTHER, the Surety may be released from liability for future breaches of the conditions of this bond only after thirty days have elapsed from the giving of written notice to the State Corporation Commission of the Commonwealth of Virginia of its desire to be so released;

IN WITNESS WHEREOF, the said Principal has caused these presents to be signed and the said Surety has caused these presents to be signed by its duly authorized officer or Attorney-in-Fact and its corporate seal affixed on the day and year first written above.

(Principal)
BY _____
(If Principal is Partnership or Corporation)
TITLE _____

(Surety)
BY _____
(Officer or Attorney-in-Fact)

(SEAL OF SURETY)

State Corporation Commission

APPENDIX 3

VIRGINIA FORM SLB-2-a (REV. 5/87)

ACKNOWLEDGMENT OF PRINCIPAL
(INDIVIDUAL OR PARTNERSHIP)

STATE OF VIRGINIA
CITY (COUNTY) OF _____ to wit:

I, _____, a Notary Public in and for the City (County) aforesaid, in the State of Virginia, do certify that _____ whose name or names is or are signed to Virginia Form SLB-2 bearing date on the _____ day of _____, personally appeared before me and acknowledged the same.

My term of office expires on the _____ day of _____, 19_____.

Given under my hand this _____ day of _____, 19_____.

Notary Public

AFFIDAVIT AND ACKNOWLEDGMENT OF SURETY

STATE OF VIRGINIA
CITY (COUNTY) OF _____, to wit:

I, _____, a Notary Public in and for the City (County) aforesaid, in the State of Virginia, do certify that _____ personally appeared before me and made oath that he is _____ of the _____; that he is duly authorized to execute the foregoing bond by virtue of a certain power of attorney of said company, dated _____, and recorded in the Clerk's office of the _____ of _____, in Deed Book No. _____, page _____; that said power of attorney has not been revoked; that the said company has complied with all the requirements of law regulating the admission of such companies to transact business in the State of Virginia; that the said company holds a license authorizing it to do business in the State of Virginia; that it has a surplus to policyholders of \$ _____; that the penalty of the foregoing bond is not in excess of ten per centum of said sum; that the said company is not by said bond incurring in the aggregate on behalf or on account of the principal named in said bond a liability for an amount larger than 1/10 of its surplus to policyholders; that the said company is solvent and fully able to meet promptly all of its obligations, and the said _____ thereupon, in the name and on behalf of the said company, acknowledging the foregoing writing as its act and deed.

My term of office expires on the _____ day of _____, 19_____.

Given under my hand this _____ day of _____, 19_____.

Notary Public

State Corporation Commission

APPENDIX 4.

VIRGINIA FORM SLB-2-b

ACKNOWLEDGMENT OF PRINCIPAL
(CORPORATIONS ONLY)

STATE OF VIRGINIA
CITY (COUNTY) OF _____, to wit:

I, _____, a Notary Public in and for the City (County) aforesaid, in the State of Virginia, do certify that _____ appeared before me personally on the _____ day of 19____ and, being duly sworn by me, deposed and stated that he resides in _____; that he is the _____ of the _____, the corporation described in and which executed Virginia Form SLB-2; and that he signed his name thereto by like order.

I further certify that my term of office expires on the _____ day of _____, 19____.

Given under my hand this _____ day of _____, 19____.

(Notary Public)

AFFIDAVIT AND ACKNOWLEDGMENT OF SURETY

STATE OF VIRGINIA
CITY (COUNTY) OF _____, to wit:

I, _____, a Notary Public in and for the City (County) aforesaid, in the State of Virginia, do certify that _____ personally appeared before me and made oath that he is _____ of the _____; that he is duly authorized to execute the foregoing bond by virtue of a certain power of attorney of said company, dated _____, and recorded in the Clerk's office of the _____ of _____, in Deed Book No. _____, page _____; that said power of attorney has not been revoked; that the said company has complied with all the requirements of law regulating the admission of such companies to transact business in the State of Virginia; that the said company holds a license authorizing it to do business in the State of Virginia; that it has a surplus to policyholders of \$ _____; that the penalty of the foregoing bond is not in excess of ten per centum of said sum; that the said company is not by said bond incurring in the aggregate on behalf or on account of the principal named in said bond a liability for an amount larger than 1/10 of its surplus to policyholders; that the said company is solvent and fully able to meet promptly all of its obligations, and the said _____ thereupon, in the name and on behalf of the said company, acknowledging the foregoing writing as its act and deed.

My term of office expires on the _____ day of _____, 19____.

Given under my hand this _____ day of _____, 19____.

Notary Public

State Corporation Commission

APPENDIX 5.
VIRGINIA FORM SLB-5a (REV. 5/87)

TRANSACTION NO. _____

INDIVIDUAL AFFIDAVIT BY SURPLUS LINES BROKER

Re:

INSURANCE ON VIRGINIA RISK PLACED WITH AN UNLICENSED INSURER

STATE OF _____, CITY/COUNTY OF _____

_____, being duly sworn, affirm:

1. THAT I, a duly licensed Surplus Lines Broker or an individual authorized under the license issued to _____ under Chapter 48, Title 38.2 of the Code of Virginia, was engaged by the insured named below or through _____ (Lic. No. _____) a Property and Casualty Agent duly licensed in Virginia acting in behalf of the named insured, to obtain insurance against certain risks.

| NAME AND ADDRESS OF INSURED | DESCRIPTION OF RISK AND LOCATION | CLASS OF INSURANCE | AMOUNT |
|-----------------------------|----------------------------------|--------------------|--------|
| | | | |
| | | | |
| | | | |

2. Check the statement below which applies to this transaction. Only one of the three options listed will be applicable.

- A. The commercial insured named above, as defined in Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and 14 VAC 5-350-30 of Chapter 350 of Title 14 of the Administrative Code, has waived the requirement of a diligent effort and a copy of the signed waiver (SLB-12) is attached; or
- B. THAT I, for business that is referred from a licensed property and casualty insurance agent, after making a diligent effort, found that the insurance requested could not be procured from insurers licensed in Virginia in a form and at a premium acceptable to the insured, and

THAT the following three insurers are among those licensed to write the class of insurance desired in Virginia but which specifically declined to issue or rejected the coverage desired (List three insurers):

| NAME OF ADMITTED INSURERS DECLINING COVERAGE | COMPANY REPRESENTATIVE* (Name Title Location) | DATE DECISION GIVEN |
|--|---|---------------------|
| | | |
| | | |
| | | |

*Individual Named Must Have The Authority To Accept The Risk

State Corporation Commission

~~C. OR, THAT I, for business that was originated by me, after making a diligent effort, found that the insurance requested could not be procured from insurers licensed in Virginia in a form and at a premium acceptable to the insured, and~~

~~THAT the following three unaffiliated insurers are among those licensed to write the insurance coverage sought in Virginia and said insurers have complied with the applicable provisions of Title 38.2 of the Code of Virginia concerning the filing of rules, rates, and policy forms for the insurance coverage sought, but which specifically declined to issue or rejected the coverage desired (List three insurers):~~

| NAME OF ADMITTED INSURERS DECLINING COVERAGE | COMPANY REPRESENTATIVE* (Name, Title, Location) | DATE DECISION GIVEN |
|--|---|---------------------|
| | | |
| | | |
| | | |

*Individual Named Must Have The Authority To Accept The Risk

~~3. THAT the insurance set forth above has been effected with the following unlicensed insurer(s):~~

| NAME OF UNLICENSED INSURER(S) | POLICY NO. AND DATE PROCURED | EFFECTIVE DATE AND TERM OF POLICY | PREMIUM |
|-------------------------------|------------------------------|-----------------------------------|---------|
| | | | |
| | | | |
| | | | |

~~4. THAT I, if the transaction involves insurance primarily for personal, family, or household needs rather than business or professional needs, have complied with the provisions of Chapter 6 (§ 38.2-600 et seq.) of Title 38.2 of the Code of Virginia and 14 VAC 5-350-90 of Chapter 350 of Title 14 of the Administrative Code by giving the prospective insured the required adverse underwriting decision notice Form VA-6024, a copy of which is attached to this affidavit.~~

~~5. THAT the insured has been given the notice required by § 38.2-4806.B., Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and 14 VAC 5-350-120 of Chapter 14 of the Administrative Code.~~

(Surplus Lines Broker)

By _____

(Authorized individual if licensee is a Corporation or Partnership)

SUBSCRIBED AND SWORN TO before me

this _____ day of _____, 19 _____.

(Notary Public)

My commission expires _____.

State Corporation Commission

APPENDIX 6
VIRGINIA FORM SLB-5b

TRANSACTION NOS.

COMBINED AFFIDAVIT BY SURPLUS LINES BROKER

Re:

INSURANCE ON VIRGINIA RISK PLACED WITH AN UNLICENSED INSURER

STATE OF _____, CITY/COUNTY OF _____:

I, _____, being duly sworn, affirm:
License No. _____

- 1. THAT I, a duly licensed Surplus Lines Broker or an individual authorized under the license issued to _____, (Lic. No. _____) under Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia, was engaged by the insureds named herein or Property and Casualty Agents duly licensed in this Commonwealth acting in behalf of the insureds named herein to obtain insurance against certain risks during the month of _____, 19____.
2. THAT I, if the transaction involves insurance primarily for personal, family, or household needs rather than business or professional needs, have complied with the provisions of Chapter 6 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and 14 VAC 5-350-90 of Chapter 350 of Title 14 of the Administrative Code by giving the prospective insured the required adverse underwriting decision notice Form VA-6024, a copy of which is attached to the applicable SLB-5b (Supplement(s)).
3. THAT each insured named herein has been given the notice required by subsection B of §38.2-4806 of the Code of Virginia, Chapter 48, (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and 14 VAC 5-350-120 of Chapter 350 of Title 14 of the Administrative Code.
4. THAT the gross premiums written during the month of _____, 19____ are \$ _____ and the amount of the tax (2.75%) applicable thereto is \$ _____.
5. THAT the insurance described herein has been effected with the unlicensed insurers named herein.

Surplus Lines Broker

By _____
(Authorized individual if licensee is a Corporation or Partnership)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19____.

(Notary Public)

My Commission expires _____
(See Reverse Side For Instructions)

State Corporation Commission

INSTRUCTIONS:

- ~~1. This Combined Affidavit is to be used to record policies effective in a particular month. For example, a policy with a July 31st effective date would be reported on the July SLB-5b and the SLB-5b (Supplement) due August 30th.~~
- ~~2. If no policies were effective during a given month, the Monthly Premium Report (SLB-7a) must be filed for that month, indicating "no policies written effective during report month".~~
- ~~3. Gross premium (all premium, dues, and assessments, but excluding premium taxes, etc., charged to the policyholder) shown on the Combined Affidavit (SLB-5b (Supplement)) must agree with the gross premium shown in Item 4 on the reverse side. Any differences, discrepancies, endorsements, audits, etc. changing premium on the Combined Affidavit filed are to be reported on the Additional Premium Report (SLB-8, Part 2) or Return Premium Report (SLB-8, Part 3). Item 4 on the reverse is verification of the premiums shown on the (Combined Affidavit SLB-5-B(Supplement(e))).~~
- ~~4. When a policy has been written on a deposit or installment basis, a photocopy of the previously filed Combined Affidavit (SLB-5b (Supplement)) in question must be filed.~~
- ~~5. A revised Combined Affidavit (SLB-5b, Page 1) for a prior month must be submitted in the event that Combined Affidavits (SLB-5b (Supplement(s))) filed during the current effective month were effective during a prior month. For example, if several Combined Affidavit (SLB-5b (Supplement(s))) effective in February were filed with the Bureau in May, then a revised Combined Affidavit (SLB-5b, Page 1) for February must be submitted.~~

State Corporation Commission

Surplus Lines Broker _____

Transaction No. _____

VIRGINIA FORM SLB-5b
(Supplement)

Page _____ of _____

Mo. _____ Year _____

COMBINED AFFIDAVIT BY SURPLUS LINES BROKER

Re:

INSURANCE ON VIRGINIA RISK PLACED WITH AN UNLICENSED INSURER

| NAME AND ADDRESS OF INSURED | DESCRIPTION OF RISK AND LOCATION | CLASS OF INSURANCE | AMOUNT |
|-----------------------------|----------------------------------|--------------------|--------|
| | | | |
| | | | |
| | | | |

1. ~~Name of Property and Casualty Agent duly licensed in Virginia acting on behalf of the insured if applicable: _____ (Lic. No. _____).~~

2. Check the statement below which applies to this transaction. Only one of the three options listed will be applicable.

A. ~~The commercial insured named above, as defined in Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and 14 VAC 5-350-30 of Chapter 350 Title 14 of the Administrative Code, has waived the requirement of a diligent effort and a copy of the signed waiver (SLB-12) is attached; or~~

B. ~~THAT I, for business that is referred from a licensed property and casualty insurance agent, after making a diligent effort, found that the insurance requested could not be procured from insurers licensed in Virginia in a form and at a premium acceptable to the insured, and~~

~~THAT the following three insurers are among those licensed to write the class of insurance desired in Virginia but which specifically declined to issue or rejected the coverage desired (List three insurers):~~

| NAME OF ADMITTED INSURERS DECLINING COVERAGE | COMPANY REPRESENTATIVE* (Name, Title, Location) | DATE DECISION GIVEN |
|--|---|---------------------|
| | | |
| | | |
| | | |

*Individual named must have the authority to accept the risk

C. ~~OR, THAT I, for business that was originated by me, after making a diligent effort, found that the insurance requested could not be procured from insurers licensed in Virginia in a form and at a premium acceptable to the insured, and~~

~~THAT the following three unaffiliated insurers are among those licensed to write the insurance coverage sought in Virginia and said insurers have complied with the applicable provisions of Title 38.2 of the Code of Virginia concerning~~

State Corporation Commission

the filing of rules, rates, and policy forms for the insurance coverage sought, but which specifically declined to issue or rejected the coverage desired (List three insurers):

| NAME OF UNAFFILIATED ADMITTED INSURERS DECLINING COVERAGE | COMPANY REPRESENTATIVE* (Name, Title, Location) | DATE DECISION GIVEN |
|---|---|---------------------|
| | | |
| | | |
| | | |

*Individual named must have the authority to accept the risk

3. Complete the following:

| NAME OF UNLICENSED INSURER(S) | POLICY NO. & DATE PROCURED | EFFECTIVE DATE & TERM OF POLICY | PREMIUM |
|-------------------------------|----------------------------|---------------------------------|---------|
| | | | |
| | | | |
| | | | |

USE ONE PAGE FOR EACH POLICY OF SURPLUS LINES INSURANCE PROCURED.

State Corporation Commission

APPENDIX 7.

GROSS PREMIUMS - SURPLUS LINES POLICY

Broker's Name _____ Page _____

IRS or Sec. Sec. No. _____ of _____
 _____ Month _____ Year

| Name of Insured | Name of Unlicensed Company | Policy Number | Policy Dates (FROM - TO) | Premium | Comments |
|-----------------|----------------------------|---------------|--------------------------|---------|----------|
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| _____ Page Total _____ | _____ Total Including |
| | _____ This Page |
| | _____ \$ _____ |
| Tax (2.75%) _____ | _____ \$ _____ |

VIRGINIA FORM SLB-7a (Rev. 5/87)
 (See Reverse Side For Instructions)

State Corporation Commission

INSTRUCTIONS:

1. ~~Monthly Premium Report (SLB-7a) is to be filed in addition to affidavit(s) (SLB-5a). The Monthly Report is used to record policies effective in a particular month. For example, a policy with a July 31st effective date would be reported on the July SLB-7a report, due August 30th.~~
2. ~~The report must be filed whether any policies were effected or not. If no policies were effective during the month, file report, indicating "no policies written effective during report month".~~
3. ~~Gross premium (all premiums, dues, fees, and assessments, but excluding premium taxes, etc., charged to the policyholder) shown on the affidavit (SLB-5a) must agree with premiums shown on the Monthly Report (SLB-7a). Any differences, discrepancies, endorsements, audits, etc. changing premium on the affidavit filed are to be reported on the Additional Premium Report (SLB-8, Part 2), or Return Premium Report (SLB-8, Part 3).~~
- ~~The monthly report is verification of the gross premiums shown on the affidavits.~~
4. ~~When a policy has been written on a deposit or installment basis, report installments on monthly report, with notation (installment" in COMMENTS column, and include photocopy of previously filed affidavit.~~
5. ~~A revised Monthly Premium Report for a prior monthly must be submitted in the event that affidavits filed during the current effective month were effective during a prior month. For example, if several affidavits effective in February were filed with the Bureau in May, then a revised Monthly Premium Report for February must be submitted.~~
6. ~~Copies of Monthly Premium Reports (SLB-7a) must be reproduced for brokers' use. The Bureau does not maintain a supply of these forms.~~

APPENDIX 8

GROSS PREMIUMS - SURPLUS LINES POLICY

Broker's Name _____ Page _____

IRS or Sec. Sec. NO. _____ Year Ending _____ of _____

| Name of Insured | Name of Unlicensed Company | Policy Number | Policy Dates (FROM - TO) | Premium | Comments |
|-----------------|----------------------------|---------------|--------------------------|---------|----------|
| | | | | | |
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Page Total _____ Total Including
_____ This Page
\$ _____ \$ _____

VIRGINIA FORM SLB-8

PART 1

(Rev. 5/87)

State Corporation Commission

VIRGINIA
FORM SLB-8
PART 2
(REV. 5/87)

ADDITIONAL PREMIUMS (by Endorsement & Audits) – SURPLUS LINES POLICIES

For Year Ending December 31, _____ Page _____

Broker's Name

(Show ADDITIONAL premiums resulting from endorsement to or audit of policies previously reported for tax purposes.)

| POLICY NO. | INSURANCE COMPANY | NAME OF INSURED AND ADDRESS | ENDORSEMENT OR AUDIT? | EFFECTIVE DATE | ADDITIONAL PREMIUM |
|------------|-------------------|-----------------------------|-----------------------|----------------|--------------------|
| | | | | | |
| | | | | | |
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| | | | | | |
| | | | | | |
| | | | | | |

TOTAL _____

State Corporation Commission

VIRGINIA
FORM SLB-8
PART 3

RETURN PREMIUMS (by Endorsement, Audits, Cancellations) - SURPLUS LINES POLICIES

For Year Ending December 31, _____ Page _____

Broker's Name

(Show RETURN premiums resulting from endorsement to, or audit, or cancellation of policies previously reported for tax purposes.)

| POLICY NO. | INSURANCE COMPANY | NAME OF INSURED AND ADDRESS | ENDORSEMENT, AUDIT OR CANCELLATION? | EFFECTIVE DATE | RETURN PREMIUM |
|------------|-------------------|-----------------------------|-------------------------------------|----------------|----------------|
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| | | | | | |

TOTAL _____

State Corporation Commission

APPENDIX 8

VIRGINIA FORM SLB-8

PART 4

(REV. 5/87)

STATE OF VIRGINIA _____ To-Wit:

County (City) of _____

This day _____

(Name)

(Title)

of _____ personally appeared before me in the County
(City) aforesaid, and verified that the foregoing report is correct.

Given under my hand this _____ day of _____, 19____

(Notary Public)

My Commission expires _____

State Corporation Commission

APPENDIX 9

VIRGINIA FORM SLB-7 (REV. 5/87)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE
Richmond, Virginia 23209

SURPLUS LINES BROKER'S

ANNUAL GROSS PREMIUMS TAX REPORT

Year ended December 31, 19____

(Surplus Lines Broker)

(Address)

TO: STATE CORPORATION COMMISSION, BUREAU OF INSURANCE, Richmond, Virginia

In compliance with §§ 38.2-4807 and 38.2-4809 of the Code of Virginia, following is a report of ALL GROSS PREMIUMS, ASSESSMENTS, DUES AND FEES charged on contracts of insurance effected in unlicensed insurers on Virginia risks by the undersigned. This report also includes details of all additional and return premiums on such business.

- 1. GROSS PREMIUMS (SLB-8, Part 1, attached, or Monthly Reports attached) \$
2. ADDITIONAL PREMIUMS (See Form SLB-8, Part 2, attached) \$
3. Less: RETURN PREMIUMS (See Form SLB-8, Part 3, attached) \$
4. BALANCE (Taxable Premium Income) \$
5. Premium Tax (2 3/4% of BALANCE, Line 4) \$
6. Assessment for Maintenance of Bureau of Insurance (based upon Taxable Premium (Line 4) at ____% (subject to a minimum of \$____) \$
7. TOTAL TAX AMOUNT DUE OR (Lines 5 & 6) \$
8. Less: QUARTERLY AMOUNT(S) PREVIOUSLY PAID (if any) \$
9. BALANCE DUE AND CHECK MADE PAYABLE TO THE TREASURER OF VIRGINIA ATTACHED \$
10. RETURN DUE IF LINE 8 IS GREATER THAN LINE 7 \$

(Date)

By

(Title)

(over)

State Corporation Commission

STATE OF VIRGINIA _____)

County (City) of _____) To-Wit:

This day _____,

_____ (Name)

_____ (Title)

of _____ personally appeared before me in the County (City) aforesaid, and verified that the foregoing report is correct.

Given under my hand this _____ day of _____, 19____.

(Notary Public)

My Commission expires _____.

State Corporation Commission

APPENDIX 10

VIRGINIA FORM SLB-9 (REV. 5/87)

DATE _____

Applicant/Insured _____

Name of Non-Admitted Insurer

(If available) _____

Policy No. _____

NOTICE TO INSURED

~~THE INSURANCE POLICY THAT YOU HAVE APPLIED FOR HAS BEEN PLACED WITH OR IS BEING OBTAINED FROM AN INSURER APPROVED BY THE STATE CORPORATION COMMISSION FOR ISSUANCE OF SURPLUS LINES INSURANCE IN THE COMMONWEALTH, BUT NOT LICENSED OR REGULATED BY THE STATE CORPORATION COMMISSION OF THE COMMONWEALTH OF VIRGINIA. THEREFORE, YOU, THE POLICYHOLDER, AND PERSONS FILING A CLAIM AGAINST YOU ARE NOT PROTECTED UNDER THE VIRGINIA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION ACT (§§ 38.2-1600 et seq.) OF THE CODE OF VIRGINIA AGAINST DEFAULT OF THE COMPANY DUE TO INSOLVENCY. IN THE EVENT OF INSURANCE COMPANY INSOLVENCY YOU MAY BE UNABLE TO COLLECT ANY AMOUNT OWED TO YOU BY THE COMPANY REGARDLESS OF THE TERMS OF THIS INSURANCE POLICY, AND YOU MAY HAVE TO PAY FOR ANY CLAIMS MADE AGAINST YOU.~~

(Name of Surplus Lines Broker)

(License Number)

(Broker's Mailing Address)

State Corporation Commission

APPENDIX 11

VIRGINIA FORM SLB-10 (5/87)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE
Richmond, Virginia 23209

SURPLUS LINES BROKER'S
QUARTERLY GROSS PREMIUMS TAX REPORT

Quarter ended _____, 19____.

(Surplus Lines Broker)

(Address)

TO: STATE CORPORATION COMMISSION, BUREAU OF INSURANCE, Richmond, Virginia

_____ In compliance with §38.2-4809 of the Code of Virginia, following is a report of ALL GROSS PREMIUMS, ASSESSMENTS, DUES AND FEES charged on contracts of insurance effected in unlicensed insurers on Virginia risks by the undersigned. This report also includes details of all additional and return premiums on such business.

| | |
|---|----------|
| 1. GROSS PREMIUMS (SLB-11, Part 1, <i>attached</i> , or Monthly Reports <i>attached</i>) | \$ _____ |
| 2. ADDITIONAL PREMIUMS (See Form SLB-11, Part 2, <i>attached</i>) | \$ _____ |
| 3. Less: RETURN PREMIUMS (See Form SLB-11, Part 3, <i>attached</i>) | \$ _____ |
| 4. BALANCE (Taxable Premium Income) | \$ _____ |
| 5. Premium Tax (2 3/4% of BALANCE, Line 4) | \$ _____ |
| TOTAL TAX AMOUNT DUE AND CHECK MADE PAYABLE TO THE TREASURER OF VIRGINIA ATTACHED | \$ _____ |

(Date)

By

(Title)

(over)

State Corporation Commission

STATE OF VIRGINIA _____)

County (City) of _____) To-Wit:

This day _____

(Name)

(Title)

of _____ personally appeared before me in the County (City) aforesaid, and verified that the foregoing report is correct.

Given under my hand this _____ day of _____, 19____

(Notary Public)

My Commission expires _____

State Corporation Commission

APPENDIX-12.
GROSS PREMIUMS - SURPLUS LINES POLICY

Broker's Name _____ Page _____

IRS or Sec. Sec. No. _____ of _____
Quarter Ending _____

| Name of Insured | Name of Unlicensed Company | Policy Number | Policy Dates (FROM-TO) | Premium | Comments |
|-----------------|----------------------------|---------------|------------------------|---------|----------|
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VIRGINIA FORM SLB-11 _____ Page Total _____ Total Including
PART 1 _____ This Page
(5/87)
\$ _____ \$ _____

VIRGINIA
 FORM SLB-11
 PART 2
 (5/87)

ADDITIONAL PREMIUMS (by Endorsement & Audits) - SURPLUS LINES POLICIES

For Quarter Ending _____

Page _____

Broker's Name _____

(Show ADDITIONAL premiums resulting from endorsement to or audit of policies previously reported for tax purposes.)

| POLICY NO. | INSURANCE COMPANY | NAME OF INSURED AND ADDRESS | ENDORSEMENT OR AUDIT? | EFFECTIVE DATE | ADDITIONAL PREMIUM |
|------------|-------------------|-----------------------------|-----------------------|----------------|--------------------|
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TOTAL _____

State Corporation Commission

VIRGINIA

FORM SLB-11

(5/87)

PART 3

RETURN PREMIUMS (by Endorsement, Audit, Cancellations) - SURPLUS LINES POLICIES

Quarter Ending _____

Page _____

Broker's Name _____

(Show RETURN premiums resulting from endorsement to, or audit, or cancellation of policies previously reported for tax purposes.)

| POLICY NO. | INSURANCE COMPANY | NAME OF INSURED AND ADDRESS | ENDORSEMENT, AUDIT OR CANCELLATION? | EFFECTIVE DATE | RETURN PREMIUM |
|------------|-------------------|-----------------------------|-------------------------------------|----------------|----------------|
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TOTAL _____

State Corporation Commission

APPENDIX 12

VIRGINIA

FORM SLB-11

PART 4

(REV. 5/87)

STATE OF VIRGINIA _____ To-Wit:

County (City) of _____

This day _____

(Name)

(Title)

of _____ personally appeared before me in the County (City) aforesaid, and verified that the foregoing report is correct.

Given under my hand this _____ day of _____, 19____.

(Notary Public)

My Commission expires _____

State Corporation Commission

APPENDIX 13

VIRGINIA FORM SLB-12 (5/87)

COMMERCIAL INSURED WAIVER

_____, I, the commercial insured named below, hereby waive the requirement of a diligent search by the surplus lines broker among companies licensed and authorized to write the class of insurance sought prior to placing my coverage with an unlicensed insurer.

_____. For the purpose of this waiver, a commercial insured is an insured (i) who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer, (ii) whose aggregate annual premiums for insurance on all risks total at least \$75,000 or (iii) who has at least twenty-five full-time employees.

Commercial Insured

Authorized Individual's
Signature-Commercial Insured

Date of Waiver

Name of Surplus Lines Broker

FINAL REGULATION

Bureau of Financial Institutions

Title of Regulation: 10 VAC 5-120-10 et seq. Security Required of Money Order Sellers and Money Transmitters (amending 10 VAC 5-120-20; adding 10 VAC 5-120-30 and 10 VAC 5-120-40).

Statutory Authority: §§ 6.1-378.1 and 12.1-13 of the Code of Virginia.

Effective Date: July 1, 1996.

Agency Contact: Copies of the regulation may be obtained from Jonathan B. Orne, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia, 23218, telephone (804) 371-9671. Copying charges are \$1.00 for the first two pages and 50¢ for each additional page.

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 27, 1996

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI960068

Ex Parte: In the matter of proposed amendment of a regulation relating to surety bonds of money order sellers and money transmitters

ORDER ADOPTING AMENDMENT TO A REGULATION

By order herein dated May 20, 1996, the Commission directed that notice be given of proposed amendment of Chapter 120 of Title 10 of the Virginia Administrative Code, entitled "Surety Bond Required of Money Order Sellers and Money Transmitters." Notice of the proposed amendment was published in the Virginia Register on June 10, 1996, and was also given to all licensees under Chapter 12 of Title 6.1 of the Virginia Code. Interested parties were afforded an opportunity to file written comments in favor of or against the proposal, and written requests for a hearing, on or before June 19, 1996, and a hearing was set at 2:00 p.m. on June 27, 1996, before the Commission.

No written comments or written requests for hearing were filed. The hearing was convened before the Commission on June 27, 1996. No appearance was made on behalf of any licensed money order seller or money transmitter, and no public witness appeared at the hearing. The proposed amendment permits money order seller and money transmitter licensees to provide security under Virginia Code § 6.1-372 by means of the deposit of cash or certain securities with a depository institution pursuant to an agreement approved by the Commissioner of Financial Institutions.

The Commission, having considered the amendment, concludes that it fulfills the "alternate security device" provisions of Virginia Code § 6.1-372, and properly protects

the interests of purchasers of money orders and money transmission services in Virginia. The Commission is, therefore, of the opinion that the amendment should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) The amended regulation entitled "Security Required of Money Order Sellers and Money Transmitters," attached hereto, is adopted effective July 1, 1996.

(2) The amended regulation shall be transmitted for publication in the Virginia Register.

(3) Copies of the amended regulation be sent by the Bureau of Financial Institutions to all licensees, and current applicants for licenses, under Chapter 12 of Title 6.1 of the Virginia Code.

(4) There being nothing further to be done in this matter, this case is dismissed and the papers herein shall be placed among the ended cases.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions.

CHAPTER 120.

SURETY BOND SECURITY REQUIRED OF MONEY ORDER SELLERS AND MONEY TRANSMITTERS.

10 VAC 5-120-20. Surety bond standards.

A. Every licensee shall be bonded in a principal amount determined by the Commissioner of Financial Institutions. The bond amount shall be equal to the licensee's Virginia average monthly money order sales during the preceding two reporting periods, or its Virginia average monthly money transmission volume during such periods, or both, as applicable, rounded to the next highest multiple of \$10,000, but not exceeding \$500,000. The commissioner, however, may increase the amount of bond required to a maximum of \$1 million upon the basis of the impaired financial condition of a licensee, as evidenced by net worth reduction, financial losses, or other relevant criteria.

B. Licensees licensed for less than three years shall file reports with the commissioner within 45 days after the end of each calendar quarter. Licensees licensed for three years or longer shall file reports with the commissioner within 45 days after the end of each semiannual reporting period. Licensees affiliated by common ownership with another licensee licensed for three years or longer, and licensees which acquire all or part of the money order sales business or money transmission business of another licensee licensed for three years or longer, shall file reports with the commissioner within 45 days after the end of each semiannual reporting period. The reports shall contain such information as the commissioner may require. The commissioner may require such additional reports as he deems necessary.

C. B. The amount of bond required of a new licensee shall be based upon the applicant's financial condition, capitalization, projected Virginia monthly money order sales and money transmission volume, experience, and other factors deemed pertinent.

D. C. The minimum bond required shall be \$25,000.

State Corporation Commission

E. D. The form of the bond will be prescribed and provided by the commissioner. The required bond shall be submitted prior to the issuance of a license, and shall be maintained continuously thereafter as long as the licensee or former licensee has money orders outstanding or unfulfilled money transmission agreements.

10 VAC 5-120-30. *Alternative to surety bond.*

A. As an alternative to the surety bond required under 10 VAC 5-120-20, in whole or in part, a licensee may be permitted to substitute the deposit of certain property with a bank, trust company or savings institution authorized to conduct business in Virginia. Such deposited property, other than cash, shall be valued at the lower of face or market value for the purposes of this regulation.

B. The deposited property may consist only of cash, or securities issued or guaranteed by the United States or any agency or instrumentality thereof, or securities issued by the Commonwealth of Virginia or any political subdivision thereof. The commissioner shall determine the amount of property deposit to be required of a licensee in accordance with the factors and limitations set forth in 10 VAC 5-120-20.

C. The property deposit shall be made upon the commissioner's authorization, and pursuant to a written agreement using a form prescribed by the commissioner. The agreement shall provide, among other things, that the commissioner shall have the authority to permit or require the substitution or liquidation of property held under the agreement, and that interest and dividends attributable to the property will be paid to the licensee making the deposit.

D. If a licensee ceases money order sales and money transmission in the Commonwealth of Virginia and surrenders its license, the commissioner shall have authority to permit reduction or elimination of the property deposit to the extent that the former licensee's obligations arising from its licensed business are reduced or eliminated, and shall have authority to permit the substitution of other means of security for the property deposit.

10 VAC 5-120-40. *Reporting requirements.*

Licensees licensed for less than three years shall file reports with the commissioner within 45 days after the end of each calendar quarter. Licensees licensed for three years or longer shall file reports with the commissioner within 45 days after the end of each semiannual reporting period. Licensees affiliated by common ownership with another licensee licensed for three years or longer, and licensees which acquire all or part of the money order sales business or money transmission business of another licensee licensed for three years or longer, shall file reports with the commissioner within 45 days after the end of each semiannual reporting period. The reports shall contain such information as the commissioner may require. The commissioner may require such additional reports as he deems necessary.

VA.R. Doc. No. R96-458; Filed July 1, 1996, 11:28 a.m.

ADMINISTRATIVE LETTERS

BUREAU OF INSURANCE

June 14, 1996

Administrative Letter 1996-6

TO: All Insurers, Health Services Plans, Health Maintenance Organizations and Other Interested Parties

RE: Legislation enacted by the 1996 Virginia General Assembly

The State Corporation Commission (Commission) has recently appointed me Acting Commissioner of Insurance while the Commission considers a permanent replacement for Steven T. Foster. Commissioner Foster resigned effective April 30, 1996. I have served as Deputy Commissioner for Financial Regulation since 1989, and have been employed with the Bureau of Insurance since 1981.

We have attached for your reference summaries of certain statutes enacted or amended and re-enacted during the 1996 Session of the Virginia General Assembly. The effective date of these statutes is July 1, 1996, except as otherwise indicated in this letter. Each organization to which this letter is being sent should review the attachments carefully and see that notice of these laws is directed to the proper persons, including appointed representatives, to ensure that appropriate action is taken to effect compliance with these new legal requirements. Please note that this document is a summary of legislation. It is neither a legal review and interpretation nor a full description of the legislative amendments made to insurance-related laws during the 1996 Session. Each organization is responsible for legal review of the statutes pertinent to its operations.

/s/ Alfred W. Gross
Acting Commissioner of Insurance

**NOTE: EXCEPT WHERE OTHERWISE INDICATED,
ALL BILLS ARE EFFECTIVE 7/1/96**

LIFE AND HEALTH INSURANCE

Chapter 201 (House Bill 87) and Chapter 155 (Senate Bill 148)

This bill adds § 38.2-3414.1 in the Accident and Sickness Provisions Chapter, and amends §§ 38.2-4319 in the Health Maintenance Organizations Chapter. The bill provides that each insurer proposing to issue individual or group hospital or major medical policies, corporations proposing to issue individual or group subscription contracts, and HMOs providing health care plans must provide coverage for postpartum services if they provide coverage for obstetrical services.

The postpartum coverage is to include benefits for inpatient care and a home visit or visits in accordance with the medical criteria outlined in the most current version of, or update to,

the current "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists (Guidelines) or the "Standards for Obstetric-Gynecological Services" prepared by the American College of Obstetricians and Gynecologists (Standards). The coverage is to incorporate any changes to the Guidelines or Standards within six months of the publication of changes or any official amendment.

The requirements of the new law apply to all policies, contracts and plans delivered, issued for delivery, reissued or extended on or after July 1, 1996, or at any time the premium is adjusted. The new law does not apply to short-term travel, accident only, limited or specified disease, or individual conversion policies or contracts, or Medicare supplement policies.

The bill also amends § 32.1-325 to require that payment for medical assistance for pregnant women receiving services under Medicaid must be in accordance with the medical criteria outlined in the most current Guidelines or Standards. Payment must be made for any postpartum home visit or visits for mothers and children within the time periods recommended by attending physicians in accordance with and as indicated by the Guidelines or Standards. Changes in the Guidelines or Standards should be adhered to within 6 months of the publication of revisions or amendments.

The bill also amends § 2.1-20.1 relating to the health coverage of state employees. Health coverage for state employees must include coverage for postpartum services providing inpatient care and a home health visit or visits in accordance with the medical criteria outlined in the most current Guidelines or Standards. The coverage is to incorporate any changes to the Guidelines or Standards within six months of publication or amendment.

Chapter 11 (House Bill 299)

This bill amends the Medicare Supplement law (§ 38.2-3600 et seq.) for purposes of conforming Virginia's law to federal requirements. The bill:

- Modifies the types of group policies that may be issued;
- Adds a non duplication of coverage provision; and
- Provides enabling authority for implementation of Medicare Select plans in Virginia.

Chapter 12 (House Bill 300)

This bill amends subsection C of § 38.2-316 to clarify existing Virginia requirements that premium rate changes applicable to individual accident and sickness policies are subject to prior approval.

Chapter 967 (House Bill 442)

This bill adds a new section, § 38.2-3407.10, in the Accident and Sickness Chapter. This bill also amends §§ 38.2-4214 and 38.2-4319 in the Health Services Plans and Health Maintenance Organization Chapters.

The bill provides that insurers, health services plans, and health maintenance organizations issuing individual and group accident and sickness policies and subscription contracts that include coverage for obstetrical or

gynecological services, shall permit any female age 13 or older direct access to the health care services of an obstetrician-gynecologist (ob/gyn) (i) authorized under the policy or plan, and (ii) selected by the female without prior approval of the primary care physician (PCP).

The bill also provides that an annual examination and routine health care services incidental to and rendered during an annual visit, may be performed without authorization by the PCP. Additional health care services may be provided, subject to the following:

- (i) consultation, which may be by phone, with the PCP for follow-up or subsequent visits;
- (ii) prior consultation and authorization by the PCP including a visit to the PCP, if determined necessary by the PCP before a patient is directed to another specialty provider; and
- (iii) prior authorization by the insurer, corporation or HMO for proposed inpatient hospitalization or outpatient surgical procedures.

The bill defines "health care services" as meaning the full scope of medically necessary services provided by the obstetrician-gynecologist in the care of or related to the female reproductive system and breasts and in performing annual screening and immunization for disorders and diseases in accordance with the most current published recommendations of the American College of Obstetricians and Gynecologists. The term includes services provided by nurse practitioners, physician's assistants, and certified nurse midwives in collaboration with the obstetrician-gynecologists providing care to individuals covered under the policies, contracts or plans.

Insurers, health services plans or health maintenance organizations must inform subscribers of the provisions of this section. This notice must be in writing.

The new law does not apply to short-term travel or accident only policies, or short-term nonrenewable policies of not more than six months' duration.

The requirements of the new law apply to all policies, contracts and plans delivered, issued for delivery reissued, renewed or extended or at any time when any term of any policy, plan or contract is changed or any premium adjustment is made.

This bill does not prohibit a requirement of written notification of a visit by the ob/gyn to the PCP.

Chapter 262 (House Bill 700)

This bill amends § 38.2-3431 of the small employer group insurance article. The bill expands the definition of a "small employer" governed by the article from "less than 50" to "less than 100."

Chapter 269 (House Bill 835)

This bill amends § 38.2-3232 of the small employer group insurance article. The bill expands the types of prior coverage for which an insurer must provide credit when determining a preexisting conditions limitation. The credit will now include coverage under (i) Medicare, Medicaid,

State Corporation Commission

Champus, the Indian Health Service Program, or any other similar publicly sponsored program, (ii) a group health insurance or health benefit arrangement that provides benefits similar to or exceeding benefits provided under the "essential" health benefit plan, or (iii) an individual health insurance policy, including coverage issued by a health maintenance organization, health services plan, or fraternal benefit society that provides benefits similar to or exceeding the benefits provided under the "essential" health benefit plan.

Chapter 425 (House Bill 897)

This bill is intended to clarify existing law concerning charitable gift annuities by amending § 38.2-106 and adding two new sections designated §§ 38.2-106.1 and 38.2-3113.2.

The amendment to § 38.2-106 states that the term "annuities" does not include "qualified charitable gift annuities." New § 38.2-106.1 defines charitable gift annuities as a class of insurance and also distinguishes "qualified charitable gift annuities." A "qualified charitable gift annuity" is one which satisfies several stated conditions and also conforms to the requirements of specific sections of the Internal Revenue Code (IRS Code).

Provisions of new § 38.2-3113.2 state that the issuance of a qualified charitable gift annuity does NOT constitute either the business of insurance or a violation of the Unfair Trade Practices Act. These provisions also "grandfather" certain qualified charitable gift annuities issued prior to the effective date of the new law, if they conform to the requirements of the specified sections of the IRS Code.

The bill also includes disclosure provisions so that donors are advised that qualified charitable gift annuities are not insurance, and are not protected under the Virginia Life, Accident and Sickness Insurance Guaranty Association Act.

Chapter 550 (House Bill 1026)

This bill amends § 38.2-3514.2 in the Accident and Sickness Insurance Policies Chapter. The bill also amends §§ 38.2-4214 and 38.2-4319 in the Health Services Plans Chapter and the Health Maintenance Organizations Chapter to clarify that the provisions apply to those entities. The bill requires that individual policies and subscription contracts delivered, issued for delivery or renewal in Virginia provide for the renewability of the coverage at the sole option of the insured, policyholder, subscriber, or enrollee. Insurers, health services plans or health maintenance organizations (HMOs) issuing the policy, contract or plan can refuse to renew only for one of five reasons. The allowable reasons for nonrenewal are (i) nonpayment of premium; (ii) a documented pattern of abuse or misuse of a provider network for a period of no less than 2 years; (iii) fraud or material misrepresentation by the individual with respect to his application for coverage, subject to the time limits in § 38.2-3503.2, or in regulations adopted by the Commission governing HMOs; (iv) eligibility for Medicare; or (v) the individual, subscriber or enrollee has not maintained a legal residence in the service area of the insurer, health services plan or HMO for a period of at least 6 months.

The bill does not apply to short-term travel policies, accident-only policies, disability income policies, limited or specified

disease contracts, long-term care insurance and short-term nonrenewable policies or contracts of not more than 6 months duration subject to no medical underwriting or minimal underwriting.

The bill includes a second clause that requires the Joint Commission on Health Care (JCHC), in cooperation with the Commission's Bureau of Insurance, to study additional reforms in the individual market including guaranteed issue requirements and modified community rating for the essential and standard benefit plans. The JCHC is also to evaluate MEWAs and out of state group trusts, and the impact of guaranteed issue requirements on the taxation of open enrollment carriers. The JCHC is to report its findings to the Governor and the 1997 General Assembly by October 1, 1996.

Chapter 628 (House Bill 1130)

The bill adds § 38.2-226.1 to exempt specific long-term care prepaid health plans sponsored by the Department of Medical Assistance Services (the pre-Pace plans) from regulation under Title 38.2 of the Code of Virginia until July 1, 1997. The bill also provides that the Joint Commission on Health Care, in cooperation with the Department of Medical Assistance Services and the Bureau of insurance, shall conduct a study to (i) determine whether the exemptions established by the bill should be continued in existing or modified form beyond July 1, 1997; and (ii) identify an appropriate state regulatory policy for pre-PACE and PACE projects which may provide coverage for individuals who are not eligible for Medicaid. The Joint Commission on Health Care is to report its findings to the 1997 Session of the Virginia General Assembly.

Chapter 776 (House Bill 1393)

This bill adds § 38.2-3407.10 to the Accident and Sickness Insurance Provisions Chapter. The bill also amends §§ 38.2-4219 and 38.2-4319 in the Health Services Plans and Health Maintenance Organizations Chapters and § 38.2-4509 in the Dental or Optometric Services Plans Chapter.

The bill defines the term "carrier" to mean:

1. any insurer proposing to issue individual or group accident and sickness policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis;
2. any corporation providing individual or group accident and sickness subscription contracts;
3. any health maintenance organization providing health care plans for health care services;
4. any corporation offering prepaid dental or optometric services plans; or
5. any other person or organization that provides health benefit plans subject to state regulation, and includes an entity that arranges a provider panel for compensation.

The bill also defines the terms "enrollee," "provider" and "provider panel."

The bill includes requirements for the establishment and use of a provider panel. The requirements include filing a notice

of the development of each panel with the Department of Health Professions.

Included in the bill are requirements that procedures be established for notification to providers and notification to purchasers of the health benefit plans.

The notification of purchasers of health benefit plans is to include a description of all types of payment arrangements which the carrier uses to compensate providers, including withholds, bonus payments, capitation and fee-for-service discounts, and the "practical" application of the terms of the plan.

The bill prohibits denial of an application to participate on a panel or termination of a panel member due to gender, race, age, religion or national origin.

The bill provides that providers may continue to provide services to certain enrollees for 60 days after notice of termination, unless the PCP is terminated for cause. Because of this provision, carriers must reimburse for services provided based on the carrier's agreement with the providers.

Additional provisions require that a new enrollee be given a list of members in its panel and those not accepting new patients.

A contract between a carrier and provider must permit and require the provider to discuss medical treatment options with patients.

The bill prohibits limits on discussion of medical treatment options between a patient and a provider, and also prohibits waivers to rights of legal redress against the carrier by the provider.

Also, contracts shall not require a provider to indemnify a carrier for the carrier's negligence, willful misconduct or breach of contract.

A provider must provide reasonable notice to his patients in the event that the provider's contract with the patient's carrier is terminated.

The Commission has no jurisdiction to adjudicate controversies arising out of this bill.

The bill also requires the Joint Commission on Health Care (JCHC), in cooperation with the Bureau of Insurance and the Division of Legislative Services, to study the need to require a point-of-service feature which would allow an enrollee the option to receive health care services outside the provider panel. The study is to include the extent to which provider panels that may not be regulated are forming; the impact of such panels on enrollees; the impact of these panels on access to quality, affordable health care and the need to extend the provisions of § 38.2-3407.10 to such panels. The JCHC must report the findings and recommendations to the Governor and the 1997 General Assembly by December 1, 1996.

The bill applies to all policies, contracts and plans delivered, issued for delivery, reissued or extended on or after July 1, 1996, or any time after the effective date when the terms of the policy, contract or plan are changed or the premium is adjusted. The section applies to contracts between carriers

and providers entered into or renewed on or after July 1, 1996.

Chapter 704 (Senate Bill 335)

This bill amends § 38.2-508.4 in the Unfair Trade Practices Chapter and § 38.2-613 in the Insurance Information and Privacy Protection Chapter. The bill defines "genetic information" as meaning information about genes, gene products, or inherited characteristics that may derive from the individual or a family member. The bill also defines "genetic test" as meaning a test for determining the presence or absence of genetic characteristics in an individual in order to diagnose a genetic characteristic.

"Genetic characteristic" means any scientifically or medically identifiable gene or chromosome, or alteration thereof, which is known to be a cause of a disease or disorder, or determined to be associated with a statistically increased risk of development of a disease or disorder, and which is asymptomatic of any disease or disorder.

The bill provides that no person proposing to issue, re-issue, or renew any policy, contract, or plan of accident and sickness insurance defined in § 38.2-109, excluding disability income, issued by insurers providing hospital, medical and surgical or major medical coverage on an expense incurred basis, corporations providing a health services plan, or health maintenance organizations (HMOs) providing a health care plan, shall on the basis of genetic information obtained concerning an individual or their request for genetic services, terminate, restrict, limit or otherwise apply conditions to coverage of an individual or restrict the sale to an individual; cancel or refuse to renew coverage, exclude an individual, impose a waiting period prior to "commencement of coverage"; impose a rider that excludes coverage for benefits and services; or establish differences in premiums for coverage.

The bill also prohibits discrimination in the "fees or commissions of an agent or agency" for enrollment, subscription, or renewal of an enrollment or subscription of any person on the basis of a person's genetic characteristics.

The bill provides that all information obtained from genetic screening or testing done prior to the repeal of § 38.2-508.4 is to be confidential.

The information is not to be made public or used in any way in whole or in part, to cancel, refuse to issue or renew, or limit benefits under any policy, contract, or plan subject to the section.

The bill provides in § 38.2-613.B.1. that no person proposing to issue, re-issue, or renew any policy, contract, or plan of accident and sickness insurance defined in § 38.2-109, excluding disability income insurance, shall disclose any genetic information about an individual or a member of such individual's family collected or received in connection with any insurance transaction unless there is written authorization from the individual. Agents and insurance support organizations are subject to the provisions in § 38.2-613.B to the extent of their participation in the issue, re-issue, or renewal of any policy, contract, or plan of accident and sickness insurance defined in § 38.2-109, excluding disability

State Corporation Commission

income insurance. The provisions in the Unfair Trade Practices Act (§ 38.2-508.4) expire on July 1, 1998.

Chapter 610 (Senate Bill 431)

This bill amends § 38.2-3418.1 to change the existing mandated offer of coverage for mammograms to a mandated benefit that must be provided in all individual or group accident and sickness policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis, including those issued by "Blue" plans and HMOs. The bill also deletes the requirement that such coverage be provided in Medicare Supplement policies.

Chapter 611 (Senate Bill 432)

This bill adds at § 38.2-3418.1:2 and § 38.2-4319 a new mandated benefit applicable to all individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis, including those issued by "Blue" plans and HMOs. Each such policy delivered, issued for delivery or renewed in Virginia on or after July 1, 1996 must provide coverage for an annual PAP smear.

Chapter 75 (Senate Bill 437)

This bill amends §§ 38.2-3407.1 and 38.2-4306.1 to require insurers and HMOs, respectively, to pay interest on claims regardless of the amount (current law exempts interest payment if the interest is less than \$5). The bill also contains an exemption conforming the requirement for HMOs to the requirement for other carriers. Under this new exemption, interest need not be paid when payment has been or will be made directly to the health care provider pursuant to a negotiated reimbursement arrangement requiring uniform or periodic interim payments to be applied against the HMO's obligation on such claims.

Chapter 41 (Senate Bill 490)

This bill amends § 38.2-3412.1 to revise the current mandate of coverage for mental health and substance abuse services so as to include outpatient services in individual contracts in the same manner as already mandated for group contracts, i.e.:

- a minimum of 20 visits for an adult, child or adolescent each policy or contract year;
- limits on the benefits not to be more restrictive than benefits for physical illness, but the coinsurance factor for the 6th and subsequent visits in a policy/contract year must be at least 50%;
- medication management visits are to be treated the same as for physical illness and are not to count toward the benefit; and
- if all of the expenses for an outpatient visit apply to any policy/contract deductible the visit is not to count toward the benefit maximum.

The bill also makes the section applicable to individual conversion contracts.

PROPERTY AND CASUALTY INSURANCE

Chapter 250 (House Bill 209)

This bill amends §§ 38.2-1904 and 38.2-2005 to allow workers' compensation rates for volunteer firefighters, volunteer lifesaving, and volunteer rescue squad members to be calculated based on the combined experience of both paid and volunteer members. The bill requires the rate to be the same for both the paid and the volunteer members with a minimum premium of \$40 per year for any volunteer firefighter or rescue squad member. The Workers' Compensation Code has also been amended under § 65.2-101 to require the premium calculations for volunteer firefighters, volunteer lifesaving, and volunteer rescue squad members to be based on a payroll of \$300 per month.

Chapter 966 (House Bill 417)

This bill amends §§ 59.1-435, 59.1-436, 59.1-437 and 59.1-440 by allowing certain third party obligors of extended service contracts to be regulated under that title rather than Title 38.2. The bill requires a third party obligor to prove that it has a net worth of at least \$100 million, or that it has liability coverage equal to 100% of its service contract liabilities. The third party obligor's parent company may show proof that it has a net worth of at least \$100 million if the parent company agrees to guarantee the obligations of the third party obligor relating to service contracts sold in the Commonwealth.

Chapter 489 (House Bill 524) and Chapter 474 (Senate Bill 554) - Effective January 1, 1997

This bill amends Title 46.2 (Motor Vehicles) by changing DMV's insurance monitoring system. Insurance companies will have to make a monthly electronic filing to DMV whenever they cancel or provide liability coverage. Insurers having less than 1,000 policies are allowed to report the information manually rather than electronically. Under the new system, if no record of liability insurance is found for a motor vehicle owner, the DMV may require the owner to verify insurance coverage.

Chapter 259 (House Bill 611)

The bill amends the definition of "utilization review" has been amended in § 38.2-5300 to exempt property and casualty insurers from the provisions of Chapter 53 (Private Review Agents) and Chapter 54 (Utilization Review Standards and Appeals) of Title 38.2 of the Code of Virginia.

Chapter 232 (House Bill 759)

This bill amends § 38.2-5016 by giving the Board of the Birth-Related Neurological Injury Compensation Program the authority to purchase real estate and personal property, and to place such property in trust for the benefit of claimants.

Chapter 237 (House Bill 975)

This bill amends § 38.2-231 by waiving the cancellation/non-renewal notice requirements for insurers that terminate a commercial liability or commercial automobile policy at the request of the named insured or his duly constituted attorney-in-fact. The bill also amends § 38.2-2114 by waiving the cancellation/non-renewal notice requirements for insurers

that terminate a homeowners policy at the request of the named insured's duly constituted attorney-in-fact.

Chapter 239 (House Bill 1120) and Chapter 206 (Senate Bill 555)

This bill amends § 38.2-2212 by allowing an insurer to cancel a motor vehicle insurance policy mid-term if the named insured or his duly constituted attorney-in-fact has notified the insurer that he has changed his legal residence from Virginia to another state, and that his vehicle will be garaged in the new state of residence.

Chapter 516 (House Bill 1404)

This bill amends § 8.01-413.01 of the Civil Remedies Code by creating a rebuttable presumption that the bills for medical expense benefits payable under a motor vehicle insurance policy issued pursuant to §§ 38.2-124 and 38.2-2201 are reasonable.

Chapter 276 (House Bill 1405)

This bill amends §§ 38.2-124 and 38.2-2201 by requiring insurers to pay the covered injured person when making payments under medical expense and loss of income benefits. Currently, insurers may make payment to either the injured person or the medical provider.

Chapter 31 (Senate Bill 232)

This bill repeals § 38.2-2228 (medical malpractice claims reports) and § 38.2-2228.1 (commercial liability claims reports). Currently, § 38.2-2228 requires all medical malpractice claims opened, settled, adjudicated, or closed without payment to be reported annually to the Commission, and § 38.2-2228.1 requires all commercial liability claims to be reported annually to the Commission.

Chapter 373 (Senate Bill 361)

This bill amends § 38.2-2119 by allowing insurers to offer, as an option, functional replacement cost coverage. Currently, § 38.2-2104 requires insurers to insure property for at least the actual cash value, and to repair or replace property with material of like kind and quality. This bill will permit loss settlement of property with property that serves a functionally equivalent purpose. A disclosure notice must be included with each new policy or original premium notice when coverage is sold on a functional replacement cost basis. Language for the disclosure notice is stated in the bill.

FINANCIAL REGULATION OF INSURANCE

Chapter 47 (House Bill 364)

This bill amends § 38.2-1317 to authorize the Commission to accept an examination report of a foreign or alien insurer when the Commission determines, in its sole discretion, that the examination was performed in a manner consistent with standards and procedures employed by the Commission in the examination of domestic insurers, and the report is duly authenticated by the insurance supervisory official of the insurer's state of domicile.

Chapter 81 (House Bill 430)

This bill amends §§ 38.2-1509 and 38.2-1514 to re-order the priority of liquidation payments in the event of an insolvency. This amendment will give claims of policyholders priority over the payment of tax liens of the United States, and also over the priority given by § 38.2-1514 to the payment of wages to employees of an insurer for services rendered before the commencement of the delinquency proceedings.

Recent court decisions, including the decision by the United States Supreme Court in U.S. Department of the Treasury vs. Fabe, (113 S.Ct. 2202) have affirmed the right of state insurance laws to afford priority to the claims of policyholders and the costs of administering the liquidation of an insurance company over claims of the United States.

Chapter 77 (House Bill 489)

This bill amends § 38.2-1432 and other provisions throughout the Code of Virginia to substitute the phrase "savings and loan association" for the term "savings institution."

Chapter 801 (House Bill 1471) and Chapter 831 (Senate Bill 590)

This bill adds § 38.2-1005.1 to identify procedures and matters for the Commission's determination when approving a conversion of a domestic mutual insurer to a domestic stock insurer. The new provisions require that policyholders be given notice and an opportunity to be heard and a determination by the Commission that the plan is fair and equitable to policyholders and subject to approval by a vote that meets statutory prescriptions.

Additional provisions in subsection B (4) require distributions to the State Treasurer. These provisions apply only to a domestic mutual insurer that converted from a health services plan that was in existence prior to December 31, 1987.

The new law provides that a plan of conversion that utilizes a statutory merger may be approved under this new section rather than the existing provisions of § 38.2-1018.

Chapter 304 (Senate Bill 225)

This bill adds §§ 38.2-1230 and 38.2-1231 to the Reciprocal Insurance Chapter to require disclosure of certain material transactions when the transaction involves more than 0.5% of the insurer's admitted assets; prior approval if the transaction involves more than 5% of the reciprocal's admitted assets; and an annual filing of and an audited financial report of the attorney-in-fact's financial position.

Affected transactions are "material transactions" between a domestic reciprocal, or an "affiliate" of the reciprocal, and the attorney of the reciprocal or other specified entities, including affiliates of the attorney, other insurers managed by the attorney or an affiliate of the attorney, and persons who act on behalf of or at the direction of the attorney or an affiliate of the attorney.

Other provisions in § 38.2-1230 require that transactions be fair and equitable and accurately disclosed in the books of each party; that fees be reasonable; and expense allocation equitable and accounting in conformity with statutory

State Corporation Commission

accounting practices consistently applied. When prior approval is required, failure of the Commission to act within 60 days of notification by the insurer shall constitute approval.

Chapter 32 (Senate Bill 250)

This bill adds § 38.2-1306.1 to authorize the Commission to give confidential treatment to confidential documents and information received from insurance departments of other states. This bill will clearly recognize that confidential information may be provided to other regulators directly or indirectly through officials at the National Association of Insurance Commissioners (NAIC). This new provision will allow the Commission to give to other state regulators the same level of confidential treatment that those regulators are expected to give to documents provided to them by the Commission. (The other provisions contained in this bill are outlined in the Insurance Agents and Continuing Education section of this administrative letter.)

SURPLUS LINES INSURANCE

Chapter 240 (House Bill 1121)

This bill amends § 38.2-4806 to remove the requirement that a surplus lines broker file an affidavit for each policy of insurance procured by the broker which states that such policy was procured in compliance with the Code of Virginia. In addition, the requirement that surplus lines brokers summarize the information in a monthly report is also removed from § 38.2-4806. This bill, which provides for the filing of a combined quarterly affidavit and detailed report covering all insurance policies procured during a particular quarter, will not diminish the amount of information the Commission receives from surplus lines brokers on surplus lines business in Virginia.

TITLE INSURANCE

Chapter 494 (House Bill 613)

This bill adds § 38.2-4610.2 to the Code of Virginia to require a title insurer to evaluate annually the adequacy of its total reserves in a report prepared by a qualified actuary. If statutory reserves held by an insurer are less than those indicated by the report, the company must establish an additional reserve to cover the short-fall.

Chapter 883 (House Bill 1229)

This bill amends § 38.2-4614 by adding to the title insurance kickback provision the term "thing of value" which is defined as any payment, advance, funds, loan, service or other consideration. The bill prohibits any kickback, rebate, commission, thing of value or other payment pursuant to any agreement or understanding, oral or otherwise, that business incident to the issuance of any title insurance be referred to any title insurer, title insurance agency or agent. Bona fide advertising and marketing promotions are not considered violations of the kickback provision, nor is providing educational materials or classes to a group of persons or entities pursuant to a bona fide marketing or educational effort. Payment of a bona fide salary or compensation or other payment for services actually performed for the

business of the title insurer, title agency or agent is also permitted.

INSURANCE AGENTS AND CONTINUING EDUCATION

Chapter 10 (House Bill 295)

This bill amends §§ 38.2-1831, 38.2-1843, 38.2-1855 and 38.2-1863 in the Insurance Agents Chapter. Each of these code sections lists a number of reasons pursuant to which the Commission may refuse to issue, suspend or revoke the license of an agent, consultant, managing general agent, and reinsurance intermediary, respectively. The amendment to each section will provide clear statutory authority for the Commission to refuse to issue, suspend, or revoke such licenses on the grounds that the agent violated a prior order of the Commission.

Chapter 989 (House Bill 757) - Effective April 17, 1996

This bill adds § 38.2-1812.1 and amends § 38.2-1839 to provide that no agent may provide or offer to provide, directly or indirectly, insurance products to a public body while concurrently on the body's behalf (i) evaluating proposals from other insurance agents; and (ii) recommending the placement of insurance. The bill also provides that no insurance consultant may provide or offer to provide, directly or indirectly, insurance products to a public body while concurrently on the body's behalf (i) evaluating proposals from other insurance agents; and (ii) recommending the placement of insurance.

The bill also adds § 11-44.1 providing that notwithstanding any other provision of law, neither an insurance company authorized in Virginia, nor an approved surplus lines carrier may be excluded from presenting an insurance bid to a public body in response to a request for proposal, or an invitation to bid, unless the insurer or surplus lines carrier has otherwise been debarred.

Chapter 32 (Senate Bill 250)

This bill adds § 38.2-234 to provide authority for the Commission to share information with databases developed by the NAIC. This is enabling authority for the Commission to participate in the NAIC's Producer Database and PIN systems, and to utilize agents' social security numbers as identifiers.

Chapter 159 (Senate Bill 506)

This bill amends the Continuing Education (C.E.) law (§ 38.2-1866 et seq.), to make a number of substantive changes:

- Requires that proof of compliance with the C.E. requirements be received by the Continuing Education Board (Board) on or before December 31 of each even-numbered year (except for the 1995-1996 biennium, where agents will continue to have until January 15, 1997).
- Removes the 2 SCC employee members from the Board, and revises the Board's title to clarify that it is no longer an "advisory" board.
- Requires that requests for hardship waivers be made no later than 3 months before the end of the biennium.

- Clarifies that the Board is exempt from the Administrative Process Act.
- Deletes the provision that was applicable only for the first biennium, which has been completed.
- Requires that agents receive a status report from the Board if they have not complied with the C.E. requirement by the 18th (starting with the 1997-1998 biennium) and 23rd month of the biennium; the failure to receive the status report is not a basis for special consideration.
- Clarifies that failure to receive the 30-day warning letter may not be the basis for requesting special consideration.
- Clarifies that the Variable Life and Variable Annuities license, since it is tied to possession of a Life and Health license, will terminate if an agent's Life and Health license terminates for failure to comply with C.E. requirements.
- Permits agents who will lose their licenses because of noncompliance with C.E. requirements to take the study course and examination within 4 months of the date their license will be terminated.
- Does not permit voluntary surrender or moving out-of-state to be used as a means to circumvent the C.E. requirements.
- Clarifies what kinds of situations qualify for waiver of C.E. requirements.
- Removes the requirement that the Commission approve the outside administrator selected by the Board.
- Codifies the date that the Board or its administrator must provide final data to the Commission on an agent's compliance with the C.E. requirements.
- Clarifies that the administrative termination of licenses for noncompliance with C.E. requirements is carried out by operation of law.
- Clarifies that the Board and its administrator will be granted limited access to agent information held by the Commission.
- Clarifies that the Board's legal fees and other legal expenses are to be paid from the fees generated by the C.E. program, and removes the requirement that the Commission approve the way fees are determined.
- Clarifies criteria for creation and amendment of the Board's Plan of Operation, including the appeal process.
- Clarifies that there is no liability on the part of Board members, employees, or the Commission or its representatives because of actions taken or statements made because of good faith performance of duties under the continuing education law.

Chapter 473 (Senate Bill 542)

This bill adds § 38.2-514.1 to require agents to provide a written disclosure to their applicants when they are selling an insurance policy with an automobile club service agreement

or with an accidental death and dismemberment policy. The disclosure must give (i) the name or type of each insurance policy and automobile club service agreement the applicant has agreed to purchase; (ii) the premium quotation for each insurance policy and cost of the automobile club service agreement; and (iii) a statement that the applicant has elected to purchase these policies or automobile club service agreement. The disclosure must be signed and dated by the agent and the applicant. This provision does not apply to the sale of group insurance, and only applies to the original issuance of insurance policies and automobile club service agreements covering person, family or household needs.

VA.R. Doc. No. R96-448; Filed June 24, 1996, 10:27 a.m.

June 21, 1996

Administrative Letter 1996-10

TO: All Property and Casualty Insurers Licensed in Virginia
RE: Termination of Policies Covering Churches and Other Places of Worship

It has come to the attention of the Bureau of Insurance of the State Corporation Commission that certain churches and other places of worship, which have recently been the victims of vandalism and burnings, have had their insurance policies terminated by non-renewal or cancellation or have experienced difficulties in obtaining comparable replacement coverages as a result of such heinous acts.

The purpose of this administrative letter is to inform all insurers licensed to do business in this Commonwealth that the Bureau of Insurance of the State Corporation Commission does not condone such practices and adjures all insurers to discontinue such practices.

Moreover, the Bureau urges all insurers to exercise restraint in reacting to the plight of churches and other places of worship with regard to rate increases and coverage restrictions. All such activities, including terminations and non-renewals, will be monitored by the Bureau for compliance with law and with an eye toward the recommendation of legislation to the General Assembly of Virginia should insurer conduct as a result of these tragic events so warrant.

/s/ Alfred W. Gross
Acting Insurance Commissioner

VA.R. Doc. No. R96-456; Filed June 27, 1996, 11:06 a.m.

MARINE RESOURCES COMMISSION

MARINE RESOURCES COMMISSION

NOTICE: The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

Title of Regulation: 4 VAC 20-750-10 et seq. Pertaining to Crab Dredge License Sales (amending 4 VAC 20-750-10 and 4 VAC 20-750-40).

Statutory Authority: §§ 28.2-201 and 28.2-204.1 of the Code of Virginia.

Effective Date: July 1, 1996.

Preamble:

This regulation limits the sale of crab dredge licenses for the 1994/95 crab dredge season to those persons who held licenses and were actively engaged in the dredge fishery as of March 31, 1994. This regulation further limits the sale of crab dredge licenses for the 1995/96 crab dredge season and each season thereafter to those persons who held a crab dredge license and were actively engaged in the crab dredge fishery during the previous crab dredge season. No crab dredge license will be issued to any new applicant after March 31, 1996, and no crab dredge license will be issued to any new applicant until the number of crab dredge licenses drops below 225 and that thereafter, the number of crab dredge licensees allowed in the fishery will be set at 225. This regulation is promulgated pursuant to authority contained in §§ 28.2-201 and 28.2-204.1 of the Code of Virginia. This regulation amends and readopts previous 4 VAC 20-750-10 et seq. (VR 450-01-0098), which was adopted on March 28, 1995, and was effective on April 13, 1995. The effective date of these amendments is July 1, 1996.

4 VAC 20-750-10. Purpose.

The purpose of this chapter is to limit the number of crab dredge licenses issued for the 1994/95 season and each season thereafter. This chapter is part of recent restrictions adopted by the Marine Resources Commission in response to recommendations concerning control of fishing effort contained in the Chesapeake Bay Blue Crab Management Plan of the Chesapeake Bay Program concerning control of fishing effort.

4 VAC 20-750-40. Exceptions to limit transfers of crab dredge licenses.

~~A. The commission may grant exceptions to the limitation of the issuance of crab dredge licenses based on scientific, economic, biological, sociological and hardship factors. A review board, appointed by the commissioner and consisting of at least one associate member of the commission, may grant exceptions to the limitations on the issuance of crab dredge licenses, based on scientific, economic, biological, sociological and hardship factors. Under no circumstances will an exception be granted solely on the basis of economic hardship. The review board will meet once in October and either approve or reject a request for exception. The~~

applicant shall provide a written request for exception to the commissioner, and any request must be received in the commission office by October 1. Any applicant denied an exception may appeal the decision to the commission. The commission will review appeals at its November meeting, and the applicant shall provide the commission with a written request of appeal, at least 10 days in advance of the November meeting. Any decision of the review board may be investigated by the commission.

B. A crab dredge licensee may transfer his license to a member of his immediate family, provided that the family member holds a current commercial registration license. A member of the immediate family shall mean a father, mother, daughter, son, brother, sister, or spouse. A crab dredge licensee also may transfer his license to the buyer of his boat and crab dredge gear provided that the buyer holds a current commercial registration license. Any transfer of a crab dredge license shall be in writing and shall be validated by a marine patrol officer.

VA.R. Doc. No. R96-457; Filed June 28, 1996, 3:25 p.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Board of Coal Mining Examiners

Title of Regulation: 4 VAC 25-20-10 et seq. Board of Examiners Certification Regulations.

The following new form has been filed by the Board of Coal Mining Examiners to use in processing applicants for continuing education pursuant to 4 VAC 25-20-10 et seq.

Verification for Training Completed for Continuing Education, DM-BCME-4 (Issued 5/31/96)

Copies of the form may be obtained from the Department of Mines, Minerals and Energy, Ninth Street Office Building, 8th Floor, 202 North Ninth Street, Richmond, VA 23219, telephone (804) 692-3200.

Board of Coal Mining Examiners
P. O. Drawer 900
Big Stone Gap, VA 24219
(540) 523-8149



Verification of Training Completed for Continuing Education

Type or print in ink and submit to the Board of Coal Mining Examiners. Check the appropriate box below that relates to type of continuing education requirement completed. Complete a form for each continuing education requirement completed.

- Advanced first aid, Diesel engine mechanic, First class mine foreman, Surface foreman

1. Full Name _____ S.S. # _____

2. Address _____
Street or P.O. Box City State Zip Code

3. Home Phone No. (____) _____ Date of Employment _____

4. Employer Company Name _____

Mine Name and Index # _____

Address _____
Street or P.O. Box City State Zip Code

5. I received continuing education training _____ on _____ In addition to the four hours required,
hours date

I completed _____ to be carried over to meet continuing education requirements for _____.
hours year

I hereby certify that the above answers are true to the best of my knowledge and belief.

Signed _____
Signature of applicant Cert. # Date

I hereby certify to the BCME that the training I provided to the applicant set forth above meets the requirements of Virginia Code § 45.1-161.34 and Virginia Administrative Code 4 VAC 25-20.

Name printed and signed _____
Instructor approved by DM providing training

Instructor's Cert # _____

Instructor's S.S. # _____

Forms

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: 22 VAC 40-170-10 et seq. Voluntary Registration of Family Day Homes--Requirements for Contracting Organizations.

The following forms used in administering the regulation, 22 VAC 40-170-10 et seq., are being amended or repealed as follows:

Family Day Home Recommendation to Deny, Revoke, or Refuse to Renew, or *Withdraw* Certificate of Registration, 032-05-209/1 (eff. ~~2/93~~ rev. 06/96)

~~Family Day Home Recommendation for Certificate of Registration (eff. 2/93)~~

Copies of the form may be obtained from the Department of Social Services, Division of Licensing Programs, 7th Floor, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1798.

Title of Regulation: 22 VAC 40-180-10 et seq. Voluntary Registration of Family Day Homes--Requirements for Providers.

The following forms used in administering the regulation, 22 VAC 40-180-10 et seq., are being amended or added as follows:

Voluntary Registration Health and Safety Checklist (rev. 7/93)

Voluntary Registration Provider Application Form, 032-05-210/1 (eff. ~~2/93~~ rev. 07/96)

Copies of the forms may be obtained from the Department of Social Services, Division of Licensing Programs, 7th Floor, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1798.

Voluntary Registration Health and Safety Checklist

VERIFY EACH ITEM THAT IS CURRENTLY TRUE FOR YOUR HOME BY INSERTING A **P** (PROVIDER) IN THE FIRST SLOT PROVIDED BEFORE THE ITEM. THE SCREENER WILL PLACE AN **S** (SCREENER) IN THE SECOND SLOT WHEN THIS INFORMATION IS VERIFIED DURING THE VISIT TO YOUR HOME. MARK THE ITEM **N/A** IF THE ITEM IS NOT APPLICABLE TO YOUR HOME.

Section 1. I AM PREPARED TO DEAL WITH EMERGENCIES:

_____ I have a medical release form from each family to permit emergency care. I also have the names and phone numbers of one or more persons besides the family who may be contacted in case of an emergency.

_____ I have an operable telephone, or have easy access to one, with a 911 sticker or emergency telephone numbers posted in clear view.

_____ My address or equivalent identifying information is easily seen from the street or parking lot.

_____ Exit ways, hallways and stairways are always well lighted and free of obstructions.

_____ I have a first aid kit and an operable flash-light available at all time.

_____ I practice fire drills monthly to the point of exit from the home and have a posted evacuation plan.

_____ I have working smoke detectors on floors where children are in care.

VR-615-35-01-1/93
Virginia Department of Social Services.

Section 2. I TAKE PRECAUTIONS TO PREVENT ACCIDENTS AND INJURIES:

_____ I have taken steps to safeguard the outdoor play area used by children in my home from open and obvious hazards, such as: standing water, animal fecal material, construction materials, poison ivy, dangerous lawn and garden tools, tools, and traffic. (Fencing or other barriers might be needed when play area is next to a body of water or busy street.)

_____ My home is in good repair, with no peeling lead paint.

_____ Steps and stairs accessible to children are in good repair with hand or guard rails.

_____ I have taken steps to safeguard my home from open and obvious household hazards, such as loose carpeting, unmarked glass doors, and small items that could be swallowed.

_____ Cribs or playpens that meet the current consumer Product Safety Commission (CPSC) federal standards for cribs are used for children under 18 months of age. The service side of an occupied crib is accessible. Crib slats are no more than 2 3/8 inches apart.

_____ I use screened doors and windows for ventilation.

Voluntary Registration Health and Safety Checklist

_____ Protective barriers, including but not limited to safety gates, are placed on stairways that are accessible to children. Safety gates that are used meet the Consumer Product Safety Commission (CPSC) federal standards for juvenile products.

_____ Electrical outlets are child-proof in all areas accessible to children. Multi-plug adapters that are used have fuse safety features.

_____ I place barriers around space heaters, fireplaces, wood stoves, and fans when in use.

_____ I keep flammable or combustible liquids away from heat sources and out of the reach of children.

_____ I keep materials that burn easily (such as newspaper, wood, cloth) at least three feet from appliances and other heat sources.

_____ All portable heating appliances are UL or FM approved.

_____ My fireplaces, heating system, and duct work are in good repair.

_____ My washer, dryer and dryer vent are kept free of lint.

_____ My electrical panel is easily accessible to adults, free of loose connections and fraying wiring, and has no missing fuses. There is no frayed or uninsulated wiring anywhere in the house.

_____ I keep medications and toxic household products in areas inaccessible to children and away from food products.

_____ I keep dangerous objects, such as knives, out of the reach of children, unless under supervi-

sion, e.g., when children are using these objects in planned activities.

_____ I ensure that small appliances are not accessible to children, unless under supervision, e.g., when children are using these appliances in planned activities.

_____ I keep firearms unloaded, apart from ammunition, and in a locked place.

_____ My kitchen appliances are in good working order, with range, oven and hood clean and free of grease.

Section 3. I TAKE PRECAUTIONS TO PROTECT THE HEALTH OF THE CHILDREN ENTRUSTED TO ME:

_____ I keep a copy of the physical examination results obtained on each child before or within 30 days after enrollment, and up-to-date immunization records on each child in care, unless I have a statement of medical or religious exemption.

_____ My hands and children's hands are washed with soap before meals and after toileting and diapering.

_____ I serve nutritious meals and snacks to children.

_____ Rooms used by children are dry, well lighted, and kept at least 68 degrees during heating season.

_____ I have indoor running water and bathrooms.

_____ My bathrooms are kept clean and have working toilets and sinks, tissues, soap, and disposable or individually assigned towels.

Voluntary Registration Health and Safety Checklist

Drinking water is available to children at all times.

I allow only one child to occupy a crib or playpen at a time.

My refrigerator is kept at no more than 45 degrees (F), food is kept from spoilage, and children's food brought from home and infant formula are clearly labeled with their names.

My home is free of insect and rodent infestation.

I agree to provide a smoke-free environment in rooms accessible to children while children are in care.

My dogs and cats have up-to-date rabies shots and are kept from food preparation surfaces.

Section 4. I ENCOURAGE CHILDREN TO DEVELOP THEIR OWN SKILLS AND PERSONALITIES:

I plan for adequate rest and play for children in care.

I encourage children to participate in activities appropriate to their ages and levels of development.

I never use discipline which would demean or belittle a child and never use physical (corporal) punishment.

Section 5. I AM MINDFUL OF MY RESPONSIBILITIES TO UPHOLD LAWS AND REGULATIONS IMPORTANT TO THE PROTECTION OF CHILDREN:

I am at least 18 years of age and have not been convicted of any offenses specified in So3.1-198.1 of the Code of Virginia.

My physical and mental condition are such that I am able to care for children.

My family day home is not required to be licensed under state law. I make sure that the number of children receiving care, other than my own children and children residing in the home, is not more than five at any one time.

I adhere to the following adult to child ratios and point system required to supervise children receiving care:

- When children are in the same age groups, adult to child ratios: 1:4 children from birth to 15 months; 1:3 children from 16 months through 23 months; 1:3 children from two years through four years of age, and 1:16 children from five years to nine years of age;
When children's ages are mixed, an adult may carry no more than 16 points; children from birth through 15 months count as four points; children 16 months through 23 months count as three points; children from two years through four years of age count as two points; and children from five years through nine years of age count as one point.
I understand that my own children and children residing in the home who are under eight years of age are included in the ratios and the point system.

Voluntary Registration Health and Safety Checklist

I never leave children alone with an assistant younger than 18 years of age. I make sure children are properly supervised at all times.

I make sure that all care givers are familiar with the Requirements for Providers.

I report cases of suspected child abuse and neglect and other hazardous situations as described in the Requirements for Providers.

I make sure that any adult (18 years of age or older), including any adult household member, who comes in contact with children or will provide ongoing care to children has a tuberculosis (TB) test, criminal records check and Child Protective Services Central Registry Clearance; and I will not allow them to use alcohol or illegal drugs while children are in care.

If I transport children, I make sure any vehicle used to transport children meets the standards set by the Division of Motor Vehicles and is equipped with the proper restraining devices required by law.

I will comply with the Requirements for Providers and permit and participate in an evaluation of my home by the department or contracting organization; and, I will maintain the records listed in the Requirements for Providers and make them available for review by an authorized screener.

I understand that the contracting agency and the Virginia Department of Social Services stand ready to help me provide good care to children and that I may ask for help or advice as needed.

I, the undersigned, agree to comply with these requirements.

Signature:

Name (print)

Address:

Phone Number: () - -

Days/Hours of operation:

[For Agency Use Only]

I, _____

(screener), verify that the provider meets the health and safety standards and has agreed to comply with the above requirements.

Agency conducting evaluation:

Check only one:

Initial Verification

Monitoring Visit

Renewal Visit

Other (Specify):

Time of Visit:

Date:

**VOLUNTARY REGISTRATION
PROVIDER APPLICATION FORM**

PART I OF II

PLEASE PRINT. Please read this application carefully. Make sure that the application is filled in completely.

NAME: _____
(FIRST) (MIDDLE) (LAST) Social Security Number

ADDRESS: _____
City State Zip

TELEPHONE: _____
(Area Code) - Local Number

- I am applying for:
 - an initial certificate of registration
 - a renewal certificate of registration (Certificate # _____)
 - address change only. Certificate # _____
- How many adults live in the family day care home?
 - One Two Three Four More than four (Number) _____
- Are you interested in serving as a substitute for other providers when vacant slots are available? Yes No
- Are you currently participating in the USDA Food Program?
 - Yes Name of sponsoring agency: _____ No
- If no, are you interested in participating in the food program?
 - Yes No

(FOR AGENCY USE ONLY)

Date application and check received by contracting agency ____/____/____

RECOMMENDATION FOR CERTIFICATE OF REGISTRATION

STIPULATIONS:

I certify that the Standards for Voluntary Registration of Family Day Homes have been reviewed at the home named above and that these requirements have been met by the provider. I recommend a Certificate of Registration be issued with an effective date of: _____ through _____.

Executive Director/Agency Representative _____ Contracting Organization _____ Date _____

032-05-210/1 A (07/96)

**VOLUNTARY REGISTRATION
PROVIDER APPLICATION FORM**

Part II OF II

NAME OF PROVIDER _____ SOCIAL SECURITY # _____

PROVIDER'S DATE OF BIRTH - ____/____/____ FEMALE MALE

NAME OF CITY/COUNTY IN WHICH PROVIDER LIVES _____

IF YOU HAVE AN ASSISTANT, PLEASE PROVIDE THE FOLLOWING INFORMATION:

NAME OF ASSISTANT - _____ DATE OF BIRTH - ____/____/____

NAME OF ASSISTANT - _____ DATE OF BIRTH - ____/____/____

IF YOU HAVE A SUBSTITUTE PROVIDER, PLEASE PROVIDE THE FOLLOWING INFORMATION:

NAME OF SUBSTITUTE - _____ DATE OF BIRTH - ____/____/____

NAME OF SUBSTITUTE - _____ DATE OF BIRTH - ____/____/____

LIST THE NAMES OF ALL PERSONS OTHER THAN PROVIDER WHO ARE AT LEAST 18 YEARS OF AGE AND RESIDE IN THE HOME: (Verify with Part I of II, #2)

SWORN DISCLOSURE STATEMENT: (This statement must be signed in the presence of a notary).

I certify that the information submitted on this application is true to the best of my knowledge and belief.

Provider's Signature _____ Date _____

City/County of _____; State of _____

subscribed and sworn to before me this ____ day of _____, 19__.

My commission expires _____, 19__.

(Notary Public)

(OVER)

032-05-210/1 B (7/96)

VOLUNTARY REGISTRATION
 PROVIDER APPLICATION FORM
 Part II of II

FAMILY DAY HOME
 RECOMMENDATION TO DENY, REVOKE
 REFUSE TO RENEW, or WITHDRAW
 CERTIFICATE OF REGISTRATION

LIST THE NAMES AND BIRTH DATES OF ALL CHILDREN IN THE HOME WHO ARE UNDER THE AGE OF 13 (12 YEARS OLD AND YOUNGER). IF MORE THAN FIVE (5) NONEXEMPT CHILDREN ARE LISTED, ATTACH A SCHEDULE OF WHEN THE CHILDREN ARE IN THE HOME (TO BE ELIGIBLE FOR VOLUNTARY REGISTRATION, NO MORE THAN FIVE NONEXEMPT CHILDREN MAY BE IN THE HOME AT ONE TIME).

____ CHECK HERE IF ALL OF THE CHILDREN LISTED BELOW ARE THE GRANDCHILDREN OF THE PROVIDER.

-----CHECK ONLY ONE----->

| NAME OF CHILD | BIRTH DATE | SON OR DAUGHTER | RESIDING IN HOME | NON-EXEMPT |
|---------------|------------|-----------------|------------------|------------|
| 1. | | | | |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |
| 7. | | | | |
| 8. | | | | |
| 9. | | | | |
| 10. | | | | |
| 11. | | | | |
| 12. | | | | |
| 13. | | | | |
| 14. | | | | |
| 15. | | | | |
| 16. | | | | |

Provider Name: _____

Provider Address: _____

CHECK ONE OF THE FOLLOWING:

____ Deny
 ____ Revoke
 ____ Refuse to Renew
 ____ Withdraw certificate # _____

REASON: (specifically state the standard(s) not met)

 Authorized Agency Representative

 Contracting Organization

____/____/____
 Date

*** Attach Part I and II of the Completed Application Form***

Mail to:
 Voluntary Registration Technician
 Division of Licensing Programs
 Virginia Department of Social Services
 730 East Broad Street
 Richmond, VA 23219

032-05-209/1 (06/96)

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

DEPARTMENT OF HEALTH PROFESSIONS

Title of Regulation: 18 VAC 75-30-10 et seq. Regulations Governing Standards for Dietitians and Nutritionists.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: June 14, 1996

VA.R. Doc. No. R96-462; Filed July 1, 1996, 10:47 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-10-10 et seq. State Plan for Medical Assistance Services: General Provisions (amending 12 VAC 30-10-60 and 12 VAC 30-10-530). 12 VAC 30-120-360 et seq. Part VII: MEDALLION II.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: June 14, 1996

VA.R. Doc. No. R96-463; Filed July 1, 1996, 10:47 a.m.

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

Title of Regulation: 18 VAC 115-20-10 et seq. Regulations Governing the Practice of Professional Counseling.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: May 31, 1996

VA.R. Doc. No. R96-461; Filed July 1, 1996, 10:47 a.m.

Title of Regulation: 18 VAC 115-30-10 et seq. Regulations Governing the Certification of Substance Abuse Counselors.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: May 31, 1996

VA.R. Doc. No. R96-460; Filed July 1, 1996, 10:47 a.m.

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: 9 VAC 20-101-10 et seq. Vegetative Waste Management and Yard Waste Composting Regulations.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: May 7, 1996

VA.R. Doc. No. R96-459; Filed July 1, 1996, 10:47 a.m.

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in *The Virginia Register of Regulations* on July 11, 1994 (10:21 VA.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in *The Virginia Register of Regulations*. This section of the *Virginia Register* has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

DEPARTMENT OF PERSONNEL AND TRAINING

COMPREHENSIVE REVIEW OF EXISTING AGENCY REGULATIONS

In accordance with the Governor's Executive Order Number Fifteen (94), effective June 21, 1994, the Department of Personnel and Training has reviewed all of its existing regulations. The purpose of this review was to reduce the burden imposed by regulations by ensuring that the only regulations in effect are those that are essential to protect the health, safety, and welfare of citizens or for the efficient and economical performance of an important governmental function. The review also ensures that the regulations are clearly written and easily understandable and evaluated as to the effectiveness of the regulations in meeting their stated purpose.

Regulations Reviewed:

1 VAC 20-10-10 et seq. Public Participation Guidelines. This regulation provides guidelines for soliciting input from interested parties in the formation, development and revision of regulations by the Department of Personnel and Training.

1 VAC 20-20-10 et seq. Commonwealth of Virginia Health Benefits Program. This regulation establishes a health benefits program to provide accident or health benefit protection, including but not limited to chiropractic treatment, hospitalization, medical, surgical and major medical coverage for state employees and the employees of participating local employers.

Comments: Comments on these regulations must be received on or before August 23, 1996.

Agency Contact: Gina Irby, Officer of Health Benefits, Department of Personnel and Training, 101 North Fourteenth Street, 13th Floor, Richmond, Virginia 23219.

GENERAL NOTICES/ERRATA

Symbol Key

† Indicates entries since last publication of the *Virginia Register*

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Edward Byrne Memorial Formula Grant Program Funding Application

The Department of Criminal Justice Services will submit, on or before June 29, 1996, an application to the Bureau of Justice Assistance, U. S. Department of Justice, to obtain FY 1996 funding available through the Edward Byrne Memorial Formula Grant Program. The application requests a total of \$11,309,000 in federal funds. The department and the Criminal Justice Services Board anticipates using these funds during the fiscal year starting on July 1, 1996, to support local and state agency projects in drug enforcement and prosecution; crime prevention; training and technical assistance and other criminal justice system improvements which have previously received funding through this grant program.

The application is available for public review at the department's offices at 805 East Broad Street, Richmond, Virginia 23219; comments from the public are welcome. Inquiries should be directed to Joe Marshall, Grants Administrator, at (804) 786-1577.

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 FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

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 OBJECTIONS -
RR08

CALENDAR OF EVENTS

Symbol Key

† Indicates entries since last publication of the *Virginia Register*

♿ Location accessible to handicapped

☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

July 22, 1996 - 10 a.m. -- Open Meeting

July 23, 1996 - 8 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.♿

(Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action. The meeting will include receipt of committee reports and discussion of disciplinary cases. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Aquaculture Advisory Board

† August 15, 1996 - 10:30 a.m. -- Open Meeting

Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.♿

The board will meet in regular session to discuss issues related to the Virginia aquaculture industry. 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 accommodations in order to participate at the meeting should contact T. Robins Buck at least five days before the meeting date so that suitable arrangements can be made.

Contact: T. Robins Buck, Secretary, Virginia Aquaculture Advisory Board, P.O. Box 1163, Suite 211, Richmond, VA 23209, telephone (804) 371-6094.

Board of Agriculture and Consumer Services

July 23, 1996 - 9 a.m. -- Open Meeting

Dorey Recreational Center, 7200 Dorey Park Drive, Henricus Room, Richmond, Virginia.♿

A regular meeting of the board to discuss regulations and fiscal matters and to 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 the other business, the board will review public comments for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535.

Virginia Horse Industry Board

August 20, 1996 - 10 a.m. -- Open Meeting

Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia.♿

A meeting to review the budget for the 1995-1996 fiscal year and to discuss recently awarded grants and the 1997 proposed educational seminar. The board will also discuss additional avenues to market the economic impact study of the industry. 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 accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD

Virginia Soybean Board

August 2, 1996 - Noon -- Open Meeting
4899 White Marsh Road, Wakefield, Virginia.

The board will meet in regular session to discuss issues related to the soybean industry and the status of the 1996 crop and how it will reflect checkoff collections for 1996. 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 accommodations in order to participate at the meeting should contact Phil Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Phil Hickman, Program Director, Virginia Soybean Board, 1100 Bank St., Suite 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

Virginia Winegrowers Advisory Board

NOTE: CHANGE IN MEETING DATE

July 26, 1996 - 10 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia.

An annual meeting to induct new board members and elect officers for the upcoming year. 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 accommodations in order to participate at the meeting should contact Mary E. Davis-Barton at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Mary E. Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, 1100 Bank St., Room 1010, Richmond, VA 23219, telephone (804) 786-0481.

STATE AIR POLLUTION CONTROL BOARD

August 7, 1996 - 7:30 p.m. -- Public Hearing
Northern Virginia Community College, 8333 Little River Turnpike, Route 236, Forum Room, Annandale, Virginia.

August 8, 1996 - 10:30 a.m. -- Public Hearing
Loudoun County Government Center, 1 Harrison Street, Board Room, Leesburg, Virginia.

August 8, 1996 - 7:30 p.m. -- Public Hearing
Stafford County Administration Center, 1300 Courthouse Road, Board Room, Stafford, Virginia.

September 9, 1996 -- Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to **repeal** regulations entitled: **9 VAC 5-90-10 et seq., Regulations for the Control of Motor Vehicle Emissions, 9 VAC 5-100-10 et seq., Regulations for Vehicle Emissions Control Program Analyzer Systems, and 9 VAC 5-110-10 et seq., Regulations for the Control of Motor Vehicles Emissions;** and **adopt** regulations entitled: **9 VAC 9-91-10 et seq., Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area.** The purpose of the regulation is to require that motor vehicles undergo periodic emissions inspection and be maintained in compliance with emission standards in order to reduce harmful emissions of hydrocarbons, carbon monoxide and oxides of nitrogen. The regulation is being promulgated in response to state and federal laws requiring the emissions inspection program. The regulation applies to vehicles that have actual gross weights of 10,000 pounds or less and are registered in the Counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, and Fauquier and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. It requires biennial emissions inspections in order to register the motor vehicle in the area described above. The regulation also describes requirements for inspection stations, inspectors, repair facilities and repair technicians.

It is further proposed that the board authorize for public comment the repeal of existing regulations to be replaced by 9 VAC 5-91-10 et seq. Specifically, the proposal is to repeal:

- 9 VAC 5-90-10 et seq. Regulation for the Control of Motor Vehicle Emissions (present program)
- 9 VAC 5-100-10 et seq. Regulation for Vehicle Emission Control Program Analyzer Systems (present program)
- 9 VAC 5-110-10 et seq. Regulation for the Enhanced Motor Vehicle Emissions Inspection Program in the Northern Virginia Area (test-only regulations)

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: The following localities will bear a disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

The Counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, and Fauquier and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the Department's Office, Nonattainment and Mobile Sources Planning (Eighth Floor), 629 East Main Street, Richmond, Virginia and the

Calendar of Events

Department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia 22401
Ph: (540) 899-4600

Springfield Satellite Office
Department of Environmental Quality
Springfield Corporate Center, Suite 310
6225 Brandon Avenue
Springfield, Virginia 22150
Ph: (703) 644-0311

Lorton Mobile Sources Operations
Department of Environmental Quality
7240-D Telegraph Square Drive
Lorton, Virginia 22079

Statutory Authority: §§ 46.2-1178.1, 46.2-1179, 46.2-1180 and 46.2-1187.2 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on Monday, September 9, 1996, to the Director, Office of Nonattainment and Mobile Sources Planning, Department of Environmental Quality, 629 East Main Street, Eighth Floor, P.O. Box 10009, Richmond, Virginia 23240.

Contact: David J. Kinsey, Policy Analyst, Office of Nonattainment and Mobile Sources, Air Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4432 or (FAX) (804) 698-4510.

July 23, 1996 - 10 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, First Floor, Training Room, Richmond, Virginia.

August 9, 1996 -- Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-20-10 et seq., General Provisions and 9 VAC 5-80-10 et seq., Permits for New and Modified Sources.** The amendments concern provisions covering prevention of significant deterioration and include: (i) revision of the maximum allowable increases for particulate matter from being based on total suspended particulate to being based on particulate with an aerodynamic diameter of less than or equal to 10 micrometers; (ii) revision of the "Guideline on Air Quality Models"; (iii) exclusion of certain pollutants when determining whether an emissions increase is considered significant; and (iv) updating the notification process to comply with the Code of Virginia and changing the regulation's internal numbering system to reflect requirements of the Registrar of Regulations.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the Department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office
Department of Environmental Quality
355 Deadmore Street
Abingdon, Virginia
Ph: (540) 676-4800

West Central Regional Office
Department of Environmental Quality
Executive Office Park, Suite D
5338 Peters Creek Road
Roanoke, Virginia
Ph: (540) 561-7000

Lynchburg Satellite Office
Department of Environmental Quality
7701-03 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Valley Regional Office
Department of Environmental Quality
116 North Main Street
Bridgewater, Virginia 22812
Ph: (540) 828-2595

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia
Ph: (540) 899-4600

Piedmont Regional Office
Department of Environmental Quality
4949-A Cox Road
Innsbrook Corporate Center
Glen Allen, Virginia
Ph: (804) 527-5020

Tidewater Regional Office
Department of Environmental Quality
Old Greenbrier Village, Suite A
2010 Old Greenbrier Road
Chesapeake, Virginia
Ph: (804) 424-6707

Springfield Satellite Office

Department of Environmental Quality
Springfield Corporate Center, Suite 310
6225 Brandon Avenue
Springfield, Virginia
Ph: (703) 644-0311

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. August 9, 1996, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Karen Sabasteanski, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426.

† **August 13, 1996 - 9 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

A regular meeting of the board.

Contact: Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

ALCOHOLIC BEVERAGE CONTROL BOARD

July 29, 1996 - 9:30 a.m. -- Open Meeting
August 12, 1996 - 9:30 a.m. -- Open Meeting
August 26, 1996 - 9:30 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ♿

A meeting to receive and discuss reports from and activities of staff members. Other matters have not yet been determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

Board for Architects

† **August 30, 1996 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that

suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ♿

Board for Land Surveyors

July 25, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ♿

July 26, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct an examination workshop. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: George O. Bridewell, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ♿

VIRGINIA AVIATION BOARD

† **August 21, 1996 - 9 a.m.** -- Open Meeting
† **August 23, 1996 - 9 a.m.** -- Open Meeting
Hotel Roanoke and Conference Center, 110 Shenandoah Avenue, Roanoke, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board, funding allocations will be announced, and other matters of interest to the Virginia aviation community will be discussed. This meeting is being held in conjunction with the 23rd Annual Virginia Aviation Conference. For further information on the conference being held at the Hotel Roanoke and Conference Center on August 21-23, 1996, contact Betty Wilson at (804) 225-3783. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Calendar of Events

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3630, FAX (804) 236-3625, or (804) 236-3624/TDD ☎

BOARD FOR BARBERS

August 5, 1996 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least two weeks prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

BOARD FOR BRANCH PILOTS

† **August 6, 1996 - 9:30 a.m.** -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Northern Area Review Committee

August 13, 1996 - 2 p.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to 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 committee meeting; however, written comments are welcome.

Contact: Florence E. J. Dickerson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone

(804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

August 13, 1996 - 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)

A meeting to 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 committee meeting; however, written comments are welcome.

Contact: Florence E. J. Dickerson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

CHILD DAY-CARE COUNCIL

August 8, 1996 - 9:30 a.m. -- Open Meeting
Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level Conference Room, Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The council will meet to discuss issues and concerns that impact child day centers, camps, school-age programs, and preschool/nursery schools. Public comment period will be at noon. Please call ahead of time for possible changes in meeting time.

Contact: Rhonda Harrell, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1775.

July 23, 1996 - 9 a.m. -- Open Meeting
Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level Conference Room, Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The council will meet to discuss committees' work.

Contact: Rhonda Harrell, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1775.

COMPENSATION BOARD

July 25, 1996 - 11 a.m. -- Open Meeting
August 29, 1996 - 11 a.m. -- Open Meeting
Ninth Street Office Building, 202 North Ninth Street, 9th Floor, Room 913/913A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A routine business meeting.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 10, Richmond, VA 23218-0710, telephone (804) 786-0786, FAX (804) 371-0235, or (804) 786-0786/TDD ☎

COMPREHENSIVE SERVICES ACT FOR AT RISK YOUTH AND THEIR FAMILIES

State Executive Council

July 26, 1996 - 9 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level, Room 2, Richmond, Virginia.

The council provides interagency programmatic and fiscal policies, oversees the administration of funds appropriated under the Comprehensive Services Act, and advises the Governor.

Contact: Alan G. Saunders, Director, State Executive Council, 730 E. Broad St., Richmond, VA 23219, telephone (804) 786-5382.

DEPARTMENT OF CONSERVATION AND RECREATION

Nottoway Scenic River Advisory Board

August 6, 1996 - 7 p.m. -- Open Meeting
Southampton County Office Building, Courtland, Virginia.

A meeting to discuss river related issues.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899 or (804) 786-2121/TDD ☎

BOARD FOR CONTRACTORS

Recovery Fund Committee

† September 10, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to consider claims against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discussion may be conducted in Executive Session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Holly Erickson at least two weeks prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561.

DEPARTMENT OF CORRECTIONAL EDUCATION

† July 22, 1996 - 2 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A monthly meeting to discuss general business.

Contact: Patty Ennis, Board Clerk, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219-3678, telephone (804) 225-3314.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Advisory Board

August 7, 1996 - 10 a.m. -- Open Meeting
Department for the Deaf and Hard-of-Hearing, Washington Building, 1100 Bank Street, 11th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly business meeting of the advisory board. Public comment will be received with advance notice.

Contact: Gloria Cathcart, Human Services Program Specialist, Department for the Deaf and Hard-of-Hearing, Washington Bldg., 1100 Bank St., 11th Floor, Richmond, VA 23219, telephone (804) 371-7892 (V/TTY), toll-free 1-800-552-7917(V/TTY), FAX (804) 552-7882 or (804) 225-2570/TDD ☎

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

Board of Directors

July 24, 1996 - 10 a.m. -- Open Meeting
Riverfront Plaza, West Tower, 901 East Byrd Street, 19th Floor, Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss matters related to the newly-formed Virginia Economic Development Partnership.

Contact: Julie Gibbons, Executive Assistant, Virginia Economic Development Partnership, 901 E. Byrd St., 19th Floor, Richmond, VA 23219, telephone (804) 371-8100, FAX (804) 371-8112, or (804) 371-0327 ☎

Calendar of Events

LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF BRISTOL

July 24, 1996 - 1 p.m. -- Open Meeting
Main Fire Station, 211 Lee Street, Bristol, Virginia.

A meeting of local persons who have responsibilities under the emergency plan of the city. The meeting is open to other interested parties to exchange information about the needs of the city and to update the Emergency Operations Plan.

Contact: J. L. Myers, Lieutenant of Police, 415 Cumberland St., Bristol, VA 24201, telephone (804) 645-7407.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Technical Advisory Committee for Solid Waste Management Regulations

† **September 13, 1996 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street,
First Floor Training Room, Richmond, Virginia. ☎

The Board of Waste Management and the Department of Environmental Quality are considering the amendment of the Solid Waste Management Regulations, 9 VAC 20-80-10 et seq., and have formed a technical committee to advise them on the contents of the proposed amendment. This committee will reconvene to continue their work on this project.

Contact: Wladimir Gulevich, Director of the Office of Technical Services, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4218, FAX (804) 698-4327, (804) 698-4021/TDD ☎, or e-mail at wgulevich@deq.state.va.us.

BOARD FOR GEOLOGY

July 22, 1996 - 11 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A workshop to discuss regulatory review. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least two weeks prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2406, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

July 23, 1996 - 8 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special

accommodations or interpreter services should contact the department at least two weeks prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2406, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

DEPARTMENT OF HEALTH

† **August 21, 1996 - 10 a.m.** -- Public Hearing
3600 Centre, 3600 West Broad Street, 3rd Floor Conference Room, Richmond, Virginia.

† **September 20, 1996** -- Public 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 Health intends to **repeal** regulations entitled: **12 VAC 5-370-10 et seq., Rules and Regulations for the Licensure of Nursing Homes**, and **adopt** regulations entitled: **12 VAC 5-371-10 et seq., Regulations for the Licensure of Nursing Homes**. The proposed regulations constitute a comprehensive revision of the Commonwealth's existing regulations addressing nursing homes, which were adopted in 1980. This area of the health care field has changed dramatically since then and the proposed regulations are intended to address current conditions, while assuring safe, adequate, and efficient nursing home operations and promoting health safety and adequate care of nursing home residents.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Contact: Nancy R. Hofheimer, Director, Office of Health Facilities Regulations, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2102 or FAX (804) 367-2149.

Biosolids Use Regulations Advisory Committee

July 31, 1996 - 10 a.m. -- Open Meeting
UVA Richmond Center, 7740 Shrader Road, Suite E,
Richmond, Virginia. ☎

A meeting to discuss issues concerning the implementation and proposed revisions of the Biosolids Use Regulations involving land application, distribution, or marketing of biosolids.

Contact: C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, Office of Water Programs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 371-2891.

BOARD OF HEALTH PROFESSIONS

August 23, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health Professions intends to adopt regulations entitled: **Regulations Governing Standards for Dietitians and Nutritionists**. The regulation establishes minimal standards for the use of the titles of dietitian or nutritionist in accordance with provisions of § 54.1-2731 of the Code of Virginia.

Statutory Authority: §§ 54.1-2400 and 54.1-2731 of the Code of Virginia.

Contact: Elaine J. Yeatts, Senior Regulatory Analyst, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9918.

BOARD FOR HEARING AID SPECIALISTS

† **September 9, 1996 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, 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) 367-8507, FAX (804) 367-2475 or (804) 367-9753/TDD ♿

VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

July 25, 1996 - 10 a.m. -- Open Meeting

August 22, 1996 - 1 p.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia. ♿

A regular meeting.

Contact: Diana F. Cantor, Executive Director, Virginia Higher Education Tuition Trust Fund, James Monroe Building, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 746-3634.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

August 6, 1996 - 9 a.m. -- Open Meeting

September 3, 1996 - 9 a.m. -- Open Meeting

Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ♿ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

COUNCIL ON INFORMATION MANAGEMENT

† **August 2, 1996 - 10 a.m.** -- Open Meeting
Washington Building, 1100 Bank Street, Suite 901, Richmond, Virginia. ♿

A regular bi-monthly meeting.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or toll free 1-800-828-1120/TDD ♿

STATE BOARD OF JUVENILE JUSTICE

July 31, 1996 - 9 a.m. -- Open Meeting
Department of Juvenile Justice, 700 East Franklin Street, Richmond, Virginia. ♿

Beginning at 9 a.m., committees will meet to review secure and nonsecure programs; the full board will meet at 10 a.m. to consider program certification issues, approval of various projects proposed by localities, policies and regulatory matters affecting programs and services in the juvenile justice system.

Contact: Donald R. Carignan, Policy Coordinator, State Board of Juvenile Justice, 700 E. Franklin St., P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

LONGWOOD COLLEGE

Board of Visitors

July 26, 1996 - 9:30 a.m. -- Open Meeting
Longwood College, Virginia Room, W. Ruffner, Farmville, Virginia. ♿

A meeting of the Academic Affairs/Student Affairs Committees, and Facilities and Services/Finance Committees to conduct routine business.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2001 or FAX (804) 395-2821.

July 26, 1996 - 3:30 p.m. -- Open Meeting
Longwood College, Lancaster Building, Farmville, Virginia. ♿

A meeting to conduct routine business.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2004 or FAX (804) 395-2821.

Calendar of Events

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

August 9, 1996 -- Public 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 Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-95 through 12 VAC 30-80-310. Amount, Duration and Scope of Services, and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates--Other Types of Care.** The purpose of this proposal is to promulgate regulations which would allow DMAS to require the use of prescription orders for certain over-the-counter (OTC) therapeutic products as a first approach to drug therapy where these products may be used in place of a more expensive legend-only drug. Payment for the more expensive legend drug would be denied, except in a few specified conditions, unless initial treatment was initiated using these less costly OTC drugs and the results of the OTC therapy were found to be unsatisfactory.

DMAS must implement cost-saving measures in its covered pharmacy services. Among these, enhancements to the Point-of-Service (POS) automated system related to the Prospective Drug Utilization Review (ProDUR) program have been identified as a priority. Additionally, DMAS must develop a Prior Authorization (PA) program. The two initiatives, in tandem, are well suited to implementation in the interest of economy and patient safety. This OTC program will enable the partial fulfillment of the required budget reduction.

Historically, the Joint Legislative Audit and Review Commission recommended, in 1993, that Medicaid cover OTC drugs. Also, in 1994, the American Medical Association adopted a policy which recommended to physicians that they adopt the practice of prescribing OTC medications to their patients.

As a result of the increased movement of drug products from prescription only (legend) to OTC status during recent years, a large number of effective drug products are available to the public in dosage forms/strengths previously obtainable only on prescription. These have been reviewed extensively by expert panels at the U.S. Food and Drug Administration (FDA) and deemed safe and effective. The increased efficacy and cost savings of using these products justifies the initiation of a program to enhance the pharmacy services by providing certain OTC drugs as therapeutic alternatives to costly legend products.

DMAS expects this proposed policy to have a positive impact on families because it recommends the expansion of covered pharmacy services to include certain OTC drugs which, at least for the noninstitutionalized population, have heretofore not been covered. This will alleviate some of this financial burden which has been borne by families.

These savings are a part of the savings which are required in Chapter 853, item (E)(8), the 1995 Appropriations Act. This initiative should produce cost saving in individual patient care in the proposed categories. The extent will vary with the product category. Overall, the initiative should result in cost

savings. While individual patient costs may decrease, the population served is composed of those having high utilization problems, such as ulcer patients and patients suffering with inflammatory diseases such as arthritis. Therefore, early intervention with these products in a larger population may result in a smaller decrease in expenditures than might otherwise be anticipated. However, cost savings in the program as a whole may be significant if this early intervention results in fewer serious complications and hospitalizations.

The numbers of prescribers and pharmacy providers should not be affected. The program will be implemented statewide and no negative impact is anticipated to providers. Recipients who may have been taking OTC products in the past with good success, will be allowed under this initiative to obtain those products by doctor's orders. This will result in a savings to the patient, who will now pay only the co-pay instead of full OTC price. Patient compliance should improve as a result, thereby decreasing the potential for additional, more costly therapies. The overall effect is expected to be cost savings to the public in the Medicaid program.

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

Public comments may be submitted until August 9, 1996, to David Shepherd, Pharmacy Services, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

August 23, 1996 -- Public 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 Medical Assistance Services intends to **amend** regulations entitled: **12 VAC 30-10-10 et seq. State Plan for Medical Assistance Services: General Provisions** and **adopt** regulations entitled: **12 VAC 30-120-360 et seq. Part VI, Medallion II.** The proposed regulations govern mandatory HMO enrollment in accordance with the 1995 Appropriations Act. Several technical changes are also being made.

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

Public comments may be submitted until August 23, 1996, to Susan Prince, Program Delivery Systems, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

Drug Utilization Review Board

August 22, 1996 - 2 p.m. -- Open Meeting
 Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A meeting to conduct routine business.

Contact: Marianne R. Rollings, Pharmacist Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820 or FAX (804) 786-0414.

Virginia Medicaid Pharmacy Prior Authorization Committee

August 12, 1996 - 1 p.m. -- Public Hearing
 General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☎

A public hearing to receive comments on pharmaceutical products that will be recommended for prior authorization to the Board of Medical Assistance Services.

Contact: David Shepherd, Pharmacy Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820 or FAX (804) 786-0414.

Pharmacy Liaison Committee

August 7, 1996 - 1 p.m. -- Open Meeting
 Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A meeting to conduct routine business.

Contact: Marianne R. Rollings, Pharmacist Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820 or FAX (804) 786-0414.

Prior Authorization/Virginia Health Outcomes Partnership Advisory Committee

August 8, 1996 - 10 a.m. -- Open Meeting
 Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A meeting to conduct routine business of the committee, including a discussion of implementation of a prior authorization program for Virginia Medicaid.

Contact: David Shepherd, Pharmacist Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820 or FAX (804) 786-0414.

BOARD OF MEDICINE

Informal Conference Committee

† **August 15, 1996 - 9 a.m.** -- Open Meeting
 Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

August 23, 1996 - 9 a.m. -- Open Meeting
 Fort Magruder Inn, Route 60, Conference Center, Williamsburg, Virginia.

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **August 23, 1996 - 9 a.m.** -- Public Hearing
 Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Building, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A public hearing to receive public comments on the Virginia Substance Abuse Prevention and Treatment and Community Mental Health Services Block Grant Applications for Federal Fiscal Year 1997. Copies of this application are available for review at the Office of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Building, 12th Floor, and each community services board office. Comments may be made at the hearing or in writing by no later than August 23, 1996, to the Office of the Commissioner, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218. Any person wishing to make a presentation at the hearing may call Sterling Deal, Ph.D., Office of Mental Health, Mental Retardation and Substance Abuse Services, at (804) 371-2148 or (804) 371-8977/Voice and TDD. Copies of oral statements should be filed at the time of the hearing. Translators for the deaf are available on request.

Contact: Sterling Deal, Ph.D., Resource Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-2148, FAX (804) 371-0000, (804) 371-8977/Voice and TDD ☎

Calendar of Events

Secretary of Health and Human Resources System Reform Task Force

† August 8, 1996 - 1:30 p.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Auditorium, Richmond, Virginia.

A meeting to review comments on the proposed system reform pilot projects proposed by the Department of Mental Health, Mental Retardation and Substance Abuse Services/Community Services Board Technical Work Group. Final proposals will be presented to the joint subcommittee established by House Joint Resolution No. 240 to study the publicly funded mental health system.

Contact: Cheryl Crawford, Administrative Assistant, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23236, telephone (804) 371-5682 or FAX (804) 371-0091.

State Human Rights Committee

July 26, 1996 - 9 a.m. -- Open Meeting
Sheraton Inn, 2350 Seminole Trail, Charlottesville, Virginia.

A regular meeting of the committee to discuss business and conduct hearings relating to human rights issues. Agenda items are listed for the meeting.

Contact: Kli Kinzie, State Human Rights Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988, FAX (804) 371-2308, toll-free 1-800-451-5544 or (804) 371-8977/TDD ☎

VIRGINIA MILITARY INSTITUTE

Board of Visitors

September 21, 1996 - 8:30 a.m. -- Open Meeting
Virginia Military Institute, Smith Hall, Lexington, Virginia. ♿

A regular meeting. There will be an opportunity for public comment at approximately 9 a.m. immediately after the Superintendent's comments.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Board of Visitors, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206.

VIRGINIA MUSEUM OF FINE ARTS

Board of Trustees

July 31, 1996 - Noon -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ♿

The Buildings and Grounds Committee will meet with architects to discuss the renovation project for the Center

for Education and Outreach. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

† August 10, 1996 - 7 a.m. -- Open Meeting
English Inn, 2000 Morton Drive, Charlottesville, Virginia. ♿

A meeting of the Research and Collections Committee to discuss (i) appointment of research associates; (ii) appointment of senior fellow; and (iii) revisions to collections policy.

Contact: Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

† August 10, 1996 - 7:45 a.m. -- Open Meeting
English Inn, 2000 Morton Drive, Charlottesville, Virginia. ♿

A meeting of the Development Committee to discuss development issues related to "Dinosaurs" exhibit.

Contact: Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

BOARD OF NURSING

July 22, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf
provided upon request)

A Special Conference Committee will conduct informal conferences with licensees and certificate holders to determine what, if any, action should be recommended to the Board of Nursing. The Education Special Conference Committee will meet to review proposals and reports and prepare recommendations for the board. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

July 22, 1996 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf
provided upon request)

Two Special Conference Committees will conduct informal conferences in the morning. A panel of the Board of Nursing will conduct formal hearings. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

July 23, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the Board of Nursing to consider matters relating to education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. Public comment will be received during an open forum beginning at 11 a.m.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

July 24, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct formal hearings.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

July 25, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A panel of the Board of Nursing will conduct formal hearings with licensees and certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD OF PHARMACY

† **July 23, 1996 - 9 a.m. -- Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

† **July 30, 1996 - 9 a.m. -- Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

A meeting to conduct informal conferences. Public comments will not be received.

Contact: Scotti Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

† **August 5, 1996 - 9 a.m. -- Open Meeting**
† **August 6, 1996 - 9 a.m. (if needed) -- Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A formal hearing before a panel of the board. Public comments will not be received.

Contact: Scotti Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

† **August 8, 1996 - 2 p.m. -- Public Hearing**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

† **August 12, 1996 - 4 p.m. -- Public Hearing**
Cavaller Hotel, Oceanfront and 42nd Streets, Coral Reef Room, Virginia Beach, Virginia.

† **August 21, 1996 - 11 a.m. -- Public Hearing**
Northern Virginia Community College, 8333 Little River Turnpike, Seminar Rooms B, C, and D, Annandale, Virginia.

† **August 27, 1996 - 1 p.m. -- Public Hearing**
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Salon D, Roanoke, Virginia.

A public hearing to receive information concerning the impact of workload and workplace conditions on a pharmacist's ability to provide safe and effective pharmacy services to the public.

Contact: Scotti Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

July 23, 1996 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

August 23, 1996 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to amend regulations entitled: **18 VAC 115-20-10 et seq. Regulations Governing the Practice of Professional Counseling.** The purpose of the proposed amendments is to reduce fees for application processing, registration of supervision, and renewal of license.

Statutory Authority: §§ 54.1-113, 54.1-2400, and 54.1-3503 of the Code of Virginia.

Contact: Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

Calendar of Events

July 23, 1996 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 1, Richmond, Virginia.

August 23, 1996 - Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of
the Code of Virginia that the Board of Professional
Counselors and Marriage and Family Therapists intends
to amend regulations entitled: **18 VAC 115-30-10 et
seq. Regulations Governing the Certification of
Substance Abuse Counselors.** The purpose of the
proposed amendments is to reduce fees for application
processing, registration of supervision, and renewal of
certificate.

Statutory Authority: §§ 54.1-2400 and 54.1-3503 of the Code
of Virginia.

Contact: Janet Delorme, Deputy Executive Director,
Department of Health Professions, 6606 W. Broad St., 4th
Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX
(804) 662-9943, or (804) 662-7197/TDD ☎

† **August 23, 1996 - 8:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ♿

An Executive Committee meeting to review credentials,
beginning at 8 a.m.. Public comment will not be heard.
At 9 a.m., there will be regular meeting to conduct
general board business; consider committee reports,
correspondence, and any other matters under the
jurisdiction of the board; conduct regulatory review; and
consider proposed regulations for marriage and family
therapists. This is a public meeting and there will be a
30-minute general public comment period, beginning at
9:45 a.m.

Contact: Evelyn B. Brown, Executive Director, or Joyce D.
Williams, Administrative Assistant, Board of Professional
Counselors and Marriage and Family Therapists, 6606 W.
Broad St., 4th Floor, Richmond, VA 23230, telephone (804)
662-9912.

REAL ESTATE APPRAISER BOARD

August 27, 1996 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A general business meeting. Persons desiring to
participate in the meeting and requiring special
accommodations or interpreter services should contact
the department at least two weeks prior to the meeting
so that suitable arrangements can be made. The
department fully complies with the Americans with
Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department
of Professional and Occupational Regulation, 3600 W. Broad
St., Richmond, VA 23230, telephone (804) 367-0500, FAX
(804) 367-2475 or (804) 367-9753/TDD ☎

REAL ESTATE BOARD

August 8, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct regulatory review. Persons desiring
to participate in the meeting and requiring special
accommodations or interpreter services should contact
the board at least two weeks prior to the meeting. The
department fully complies with the Americans with
Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department
of Professional and Occupational Regulation, 3600 W. Broad
St., Richmond, VA 23230, telephone (804) 367-8552, FAX
(804) 367-2475, or (804) 367-9753/TDD ☎

August 22, 1996 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A general business meeting. Persons desiring to
participate in the meeting and requiring special
accommodations or interpreter services should contact
the board at least two weeks prior to the meeting. The
department fully complies with the Americans with
Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department
of Professional and Occupational Regulation, 3600 W. Broad
St., Richmond, VA 23230, telephone (804) 367-8552, FAX
(804) 367-2475, or (804) 367-9753/TDD ☎

August 22, 1996 - 9 a.m. -- Open Meeting
Alcoholic Beverage Control Board, 501 Montgomery Street,
Alexandria, Virginia. ♿

A meeting to conduct a formal hearing pursuant to the
Administrative Process Act in regard to the Real Estate
Board v. Paulette Heins, File Number 93-01863.

Contact: Stacie Camden, Legal Assistant, Department of
Professional and Occupational Regulation, 3600 W. Broad
St., Richmond, VA 23230, telephone (804) 367-2393, FAX
(804) 367-2475, or (804) 367-9753/TDD ☎

VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

Waste Tire Subcommittee

† **July 23, 1996 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia.

A meeting to review waste tire program and end-user
reimbursements. The subcommittee will make formal

recommendations to the full council. Please call Mike Murphy at (804) 698-4003 for details.

Contact: Michael P. Murphy, Director, Office of Intergovernmental Affairs and Compliance Assistance, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4003 or FAX (804) 698-4319.

BOARD OF REHABILITATIVE SERVICES

July 25, 1996 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting to conduct board business. Persons desiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting so that suitable arrangements can be made.

Contact: John R. Vaughn, Commissioner, Board of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

July 25, 1996 - 5 p.m. -- Open Meeting
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor, Classroom, Richmond, Virginia.

A monthly board meeting to discuss nursing home operations and related matters.

Contact: Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, 700 E. Main St., Suite 904, Richmond, VA 23204-0548, telephone (804) 782-1938.

DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

Protection and Advocacy for Individuals with Mental Illness Advisory Council

† August 15, 1996 - 9 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Koger Center, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regularly scheduled bi-monthly meeting of the council. There will be an opportunity for public comment beginning at 11 a.m.

Contact: Jim Hobgood, Program Coordinator, Department for Rights of Virginians with Disabilities, Ninth Street Office Building, 202 N. 9th St., 9th Floor, Richmond, VA 23219,

telephone (804) 225-2042, FAX (804) 225-3221, or toll-free 1-800-552-3962.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

August 21, 1996 - 10 a.m. -- Open Meeting
Henrico County Government Center, Administrative Board Room, Parham and Hungary Springs Roads, Richmond, Virginia.

The board will 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 12 VAC 5-610-10, Sewage Handling and Disposal Regulations.

Contact: Beth Bailey Dubis, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 115, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

COMMONWEALTH TRANSPORTATION BOARD

† August 14, 1996 - 2 p.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

† August 15, 1996 - 10 a.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

Calendar of Events

TREASURY BOARD

August 21, 1996 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☎

A regular meeting.

Contact: Gloria Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD OF VETERINARY MEDICINE

August 10, 1996 -- Public 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 Veterinary Medicine intends to amend regulations entitled: **18 VAC 150-20-10 et seq. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed amendments is to establish approved providers of continuing education requirements for retention of documents and conditions for waivers. This action will replace emergency regulations which became effective February 6, 1996.

Statutory Authority: §§ 54.1-2400 and 54.1-3805.2 of the Code of Virginia.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7691, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Vocational Rehabilitation Advisory Council

September 21, 1996 - 10 a.m.-- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for blind and visually impaired citizens of the Commonwealth.

Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD ☎

VIRGINIA WASTE MANAGEMENT BOARD

July 29, 1996 - 1 p.m. -- Public Hearing
Loudoun County Office Building, 1 Harrison Street, Southeast, Board of Supervisors Meeting Room, Leesburg, Virginia.

July 30, 1996 - 10 a.m. -- Public Hearing
James City County Government Center, 101 C Mounts Bay Road, Building C, Board of Supervisors Room, Williamsburg, Virginia.

August 1, 1996 - 10 a.m. -- Public Hearing
Roanoke County Administration Center, 5204 Bernard Drive, Board of Supervisors Meeting Room, Roanoke, Virginia.

August 23, 1996 -- Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to **repeal** regulations entitled: **9 VAC 20-100-10 et seq., Yard Waste Composting Facility Regulations** and **adopt** regulations entitled: **9 VAC 20-101-10 et seq., Vegetative Waste Management and Yard Waste Composting Regulations.** 9 VAC 20-100-10 et seq. is being simultaneously incorporated into the Vegetative Waste Management and Yard Waste Composting Regulations and are therefore redundant and unnecessary. 9 VAC 20-101-10 et seq. compiles, establishes, and provides requirements for certain facilities that may be exempted from some or all of the Solid Waste Management Regulations or subject to simplified procedures.

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

Contact: Robert G. Wickline, P.E., Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4213.

STATE WATER CONTROL BOARD

July 24, 1996 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Training Room, 629 East Main Street, Richmond, Virginia.

A meeting to discuss the proposed repeal of the Toxics Management Regulation (VR 680-14-03) (9 VAC 25-50-10 et seq.). This meeting is being held in response to the May 22, 1996, directive from the board that the staff revisit the proposed repeal of this regulation. The board and the DEQ staff encourage anyone interested in the proposed repeal to attend the meeting and make their viewpoint known. The staff plans to bring this proposal to the board in September and will consider all comments received at this meeting in developing the recommendation to the board.

Contact: Richard Ayers, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23240, telephone (804) 698-4075.

INDEPENDENT

STATE LOTTERY BOARD

† **July 24, 1996 - 9:30 a.m.** -- Open Meeting
 State Lottery Department, 900 East Main Street, Richmond,
 Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. One period for public comment is scheduled.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

August 28, 1996 - 9:30 a.m. -- Public Hearing
 State Lottery Department, 900 East Main Street, Richmond, Virginia.

July 26, 1996 -- Public 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 Lottery Board intends to amend regulations entitled: **11 VAC 5-20-10 et seq. Administration Regulations.** The purpose of the proposed amendments is to clarify procurement exemptions and restrictions, clarify board meeting requirements, remove sections that are duplicative of Code of Virginia provisions when practical, and incorporate housekeeping changes.

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

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774.

August 28, 1996 - 9:30 a.m. -- Public Hearing
 State Lottery Department, 900 East Main Street, Richmond, Virginia.

July 26, 1996 -- Public 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 Lottery Board intends to amend regulations entitled: **11 VAC 5-30-10 et seq. Instant Game Regulations.** The purpose of the proposed amendments is to clarify revocation or suspension of a lottery retailer's license, authorize cashing at lottery headquarters, eliminate claim form requirements, delete sections that are unnecessary or duplicative, and make housekeeping changes.

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

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774.

August 28, 1996 - 9:30 a.m. -- Public Hearing
 State Lottery Department, 900 East Main Street, Richmond, Virginia.

July 26, 1996 -- Public 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 Lottery Board intends to amend regulations entitled: **11 VAC 5-40-10 et seq. On-Line Game Regulations.** The purpose of the proposed amendments is to clarify revocation or suspension of a lottery retailer's license, authorize cashing at lottery headquarters, eliminate claim form requirements, revise subscription plan, and make housekeeping changes.

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

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774.

LEGISLATIVE

ADMINISTRATIVE LAW ADVISORY COMMITTEE

Ex Parte Communications Subcommittee

July 31, 1996 - 3 p.m. -- Public Hearing
 State Capitol, Capitol Square, House Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A public hearing on the advisability of requiring state agencies to adopt policies regarding ex parte (off-the-record) communications with decision makers during agency permitting, hearings and appeals. A copy of proposed legislation (SB 479, 1996) and a list of salient topics is available upon request. Written comments will be accepted until August 7, 1996.

Contact: Lyn Hammond, Program Coordinator, Administrative Law Advisory Committee, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

COMMISSION ON YOUTH

August 5, 1996 - 10 a.m. -- Open Meeting
 General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss youth gangs in Virginia.

Calendar of Events

Contact: Joyce Huey, General Assembly Bldg., 910 Capitol St., Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

September 24, 1996 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss status offenders.

Contact: Joyce Huey, General Assembly Bldg., 910 Capitol Square, Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

July 22

Accountancy, Board for
† Correctional Education, Board of
Geology, Board for
Nursing, Board of

July 23

Accountancy, Board for
Agriculture and Consumer Services, Department of
- Board of Agriculture and Consumer Services
Child Day-Care Council
Geology, Board for
Nursing, Board of
† Pharmacy, Board of
† Recycling Markets Development Council, Virginia
- Waste Tire Subcommittee

July 24

Economic Development Partnership, Virginia
Emergency Planning Committee, Local - City of Bristol
† Lottery Board, State
Nursing, Board of
Water Control Board, State

July 25

Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Land Surveyors
Compensation Board
Higher Education Tuition Trust Fund, Virginia
Nursing, Board of
Rehabilitative Services, Board of
Richmond Hospital Authority

July 26

Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Land Surveyors
Comprehensive Services Act for At Risk Youth and Their
Families

- State Executive Council
Longwood College Board of Visitors
- Academic Affairs/Student Affairs Committees
- Facilities and Services/Finance Committees
Mental Health, Mental Retardation and Substance Abuse
Services, Department of
- State Human Rights Committee

July 29

Alcoholic Beverage Control Board, Virginia

July 30

† Pharmacy, Board of

July 31

Biosolids Use Regulations Advisory Committee
Juvenile Justice, State Board of
Museum of Fine Arts, Virginia
- Board of Trustees

August 2

Agriculture and Consumer Services, Department of
- Virginia Soybean Board
† Information Management, Council on

August 5

Barbers, Board for
† Pharmacy, Board of
Youth, Commission on

August 6

† Branch Pilots, Board for
† Conservation and Recreation, Department of
- Nottoway Scenic River Advisory Board
Hopewell Industrial Safety Council
† Pharmacy, Board of

August 7

Deaf and Hard-of-Hearing, Department for the
- Advisory Board
Medical Assistance Services, Department of
- Pharmacy Liaison Committee

August 8

Child Day-Care Council
Medical Assistance Services, Department of
- Prior Authorization/Virginia Health Outcomes
Partnership (PA/VHOP) Advisory Committee
† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Secretary of Health and Human Resources System
Reform Task Force
Real Estate Board

August 10

† Museum of Natural History, Virginia
- Board of Trustees

August 12

Alcoholic Beverage Control Board

August 13

† Air Pollution Control Board, State
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
- Southern Area Review Committee

August 14

† Transportation Board, Commonwealth

August 15

† Agriculture and Consumer Services, Department of
- Virginia Aquaculture Advisory Board
† Medicine, Board of
† Rights of Virginians with Disabilities, Department for
- Protection and Advocacy for Individuals with Mental
Illness Advisory Council
† Transportation Board, Commonwealth

August 20

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board

August 21

† Aviation Board, Virginia
Sewage Handling and Disposal Appeals Review Board
Treasury Board

August 22

Higher Education Tuition Trust Fund, Virginia
Medical Assistance Services, Department of
- Drug Utilization Review Board
Real Estate Board

August 23

† Aviation Board, Virginia
Medicine, Board of
† Professional Counselors and Marriage and Family
Therapists, Department of

August 26

Alcoholic Beverage Control Board

August 27

Real Estate Appraiser Board

August 29

Compensation Board

August 30

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
- Board for Architects

September 3

Hopewell Industrial Safety Council

September 9

† Hearing Aid Specialists, Board for

September 10

† Contractors, Board for

September 13

† Environmental Quality, Department of
- Technical Advisory Committee for Solid Waste
Management Regulations

September 21

Military Institute, Virginia
- Board of Visitors
Visually Handicapped, Department for the
- Vocational Rehabilitation Advisory Council

September 24

Youth, Commission on

PUBLIC HEARINGS

July 23

Air Pollution Control Board, State
Professional Counselors and Marriage and Family
Therapists, Board for

July 29

Waste Management Board, Virginia

July 30

Waste Management Board, Virginia

July 31

Administrative Law Advisory Committee
- Ex Parte Communications Subcommittee

August 1

Waste Management Board, Virginia

August 7

State Air Pollution Control Board

August 8

State Air Pollution Control Board
† Pharmacy, Board of

August 12

Medical Assistance Services, Department of
- Virginia Medicaid Pharmacy Prior Authorization
Committee
† Pharmacy, Board of

August 21

† Health, Department of
† Pharmacy, Board of

August 23

† Mental Health, Mental Retardation and Substance
Abuse Services, Department of

August 27

† Pharmacy, Board of

August 28

Lottery Board, State
