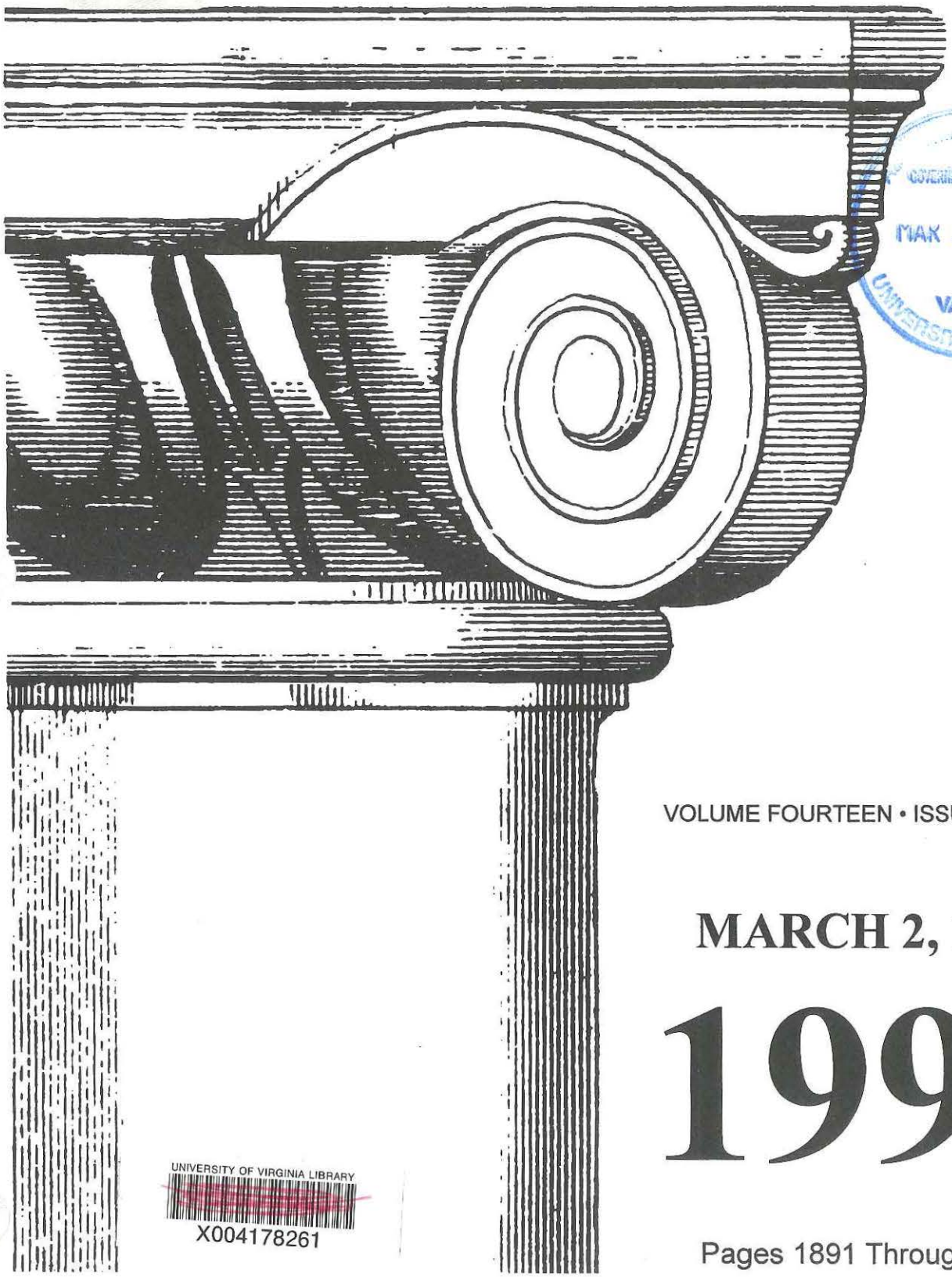
THE VIRGINIA REGISTER

OF REGULATIONS



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Pages 1891 Through 1958

THE VIRGINIA REGISTER INFORMATION PAGE

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) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation; and (ii) file the proposed regulation with the Registrar 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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The Virginia Register of Regulations is published pursuant to Article 7 (§ 9-6.14:22 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia. Individual copies, if available, may be purchased for $4.00 each from the Registrar of Regulations.

PUBLICATION DEADLINES AND SCHEDULES

This schedule is available on the *Register*'s Internet home page (http://legis.state.va.us/codecomm/regindex.htm).

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Volume:Issue	Material Submitted By Noon*	Will Be Published On
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*Filing deadlines are Wednesdays unless otherwise specified.

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Symbol Key
† Indicates entries since last publication of the *Virginia Register*

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

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 5-610-10 et seq. Rules Governing the Solicitation of Contributions.** The purpose of the proposed action is to clarify the general application of the Virginia Solicitation of Contributions (VSOC) Law, to include recent changes to the VSOC Law, as well as to review the current regulation for effectiveness and continued need. This is necessary because six additional amendments to the VSOC Law have been passed since 1991 which need to be addressed. The contemplated amendments to the current regulation would bring the regulation into conformity with these amendments in the VSOC Law, streamline the charities' application procedures for exemption from registration, establish disclosure procedures for compliance by professional solicitors with the VSOC Law, and assure uniform regulation of charitable solicitations throughout the Commonwealth. The agency invites comment on whether there should be an advisor appointed for the present regulatory action. An advisor is (i) a standing advisory panel, (ii) an ad-hoc advisory panel, (iii) consultation with groups, (iv) consultation with individuals, or (v) any combination thereof. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 57-66 of the Code of Virginia.

Public comments may be submitted until March 5, 1998, to Jo Freeman, Senior Investigator, Department of Agriculture and Consumer Services, Office of Consumer Affairs, P.O. Box 1163, Richmond, VA 23218.

Contact: Evelyn A. Jez, Manager, Strategic Support Unit, Department of Agriculture and Consumer Services, Office of Consumer Affairs, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1308, FAX (804) 371-7479, toll-free 1-800-552-9963 or 1-800-828-1120/TDD ☎

VA.R. Doc. No. R98-168; Filed December 30, 1997, 9:35 a.m.

TITLE 9. ENVIRONMENT

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 amending regulations entitled: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution: Existing Stationary Sources (Rev. GG).** The regulation is being proposed to meet the requirements of §§ 111(d) and 129 of the federal Clean Air Act, and 40 CFR Part 60 Subpart Cb of federal regulations.

Public Meeting: A public meeting will be held by the Department in the Training Room, Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, at 9 a.m. on Tuesday, March 24, 1998, 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.

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted until 4:30 p.m., Wednesday, March 25, 1998, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Public Hearing Plans: 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 amendments drafted pursuant to this notice.

Need: The contemplated regulation is essential (i) to protect the health, safety or welfare of citizens and (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

As a result of municipal solid waste combustion, many substances of concern are emitted to the atmosphere: organics (including dioxins and furans), metals (including particulate matter), and acid gases (including sulfur dioxide and hydrogen chloride). This mixture is considered a composite pollutant, MWC emissions. Failure to develop an

adequate program to control MWC emissions will have adverse impacts on public health and welfare. For example:

1. Dioxins and furans are among the most toxic chemicals known. Excessive exposure to dioxin, for example, can cause severe reproductive, dermatological, cardiovascular, respiratory, pancreatic, and urinary disorders; dioxins and furans are also suspected carcinogens.

2. Particulate emissions can absorb heavy metals and organics and lodge in human lungs, acting as irritants and causing chronic health problems. Additionally, visibility deteriorates, due to haze, with increases of particulate matter emissions. This directly affects national parks, where clear visibility is at a premium.

3. In addition to causing eye and respiratory irritation, sulfur dioxide and hydrogen chloride also aggravate asthma and other chronic lung diseases. They may enhance the toxic effects of heavy metals. Acid gases also contribute to the development of acid rain, which has adverse effects on wildlife, vegetation, and property.

Finally, failure to develop an adequate regulation will result in imposition of a federal program. Meeting the basic requirements of the law and its associated regulations will ensure that Virginia retains its rights to govern Virginia sources.

Alternatives: Alternatives to the proposed regulation amendments being considered by the department are discussed below.

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option is being considered because it meets the stated purpose of the regulation: to bring the regulations into compliance with federal law and regulation.

2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being considered because it does not necessarily meet the stated purpose of the regulation. Further, alternative regulatory changes could also go beyond the stated purpose by imposing requirements that may not be consistent with federal statutory and regulatory requirements.

3. Take no action to amend the regulations. This option is not being considered because it would not accomplish the goals of federal statutory and regulatory requirements or the stated purpose of the regulation. Furthermore, not taking any action would lead to the imposition of a federal program on Virginia.

Costs and Benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable Statutory Requirements: The contemplated regulation is mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

MWC emissions are a "designated" pollutant under § 111(d) of the Clean Air Act. Designated pollutants are pollutants which are not included on a list published under § 108(a) of the Act ("criteria" pollutants), or § 112(b)(1)(A) ("hazardous" pollutants), but for which standards of performance for new sources have been established under § 111(b). When the U.S. Environmental Protection Agency (EPA) establishes a new source performance standard, states are required to develop standards for existing facilities based on EPA emission guidelines. Designated pollutant controls are critical for two reasons. First, only a limited number of air pollutants potentially harmful to human health are regulated at the federal level. Second, health risks from small exposures to designated air pollutants can be high, depending on the substances involved.

EPA has determined that MWC facilities should be regulated under § 111 (New Source Performance Standards) of the Clean Air Act because:

1. MWC emissions may be reasonably anticipated to contribute to the endangerment of public health and welfare.

2. The range of health and welfare effects and the range and uncertainties of estimated cancer risks do not warrant listing MWC emissions as a hazardous pollutant under § 112 of the Act.

3. Section 112 of the Act could not be used to address particular constituents or subgroups of emissions (such as hydrogen chloride).

4. Section 111(d) of the Act would permit a more thorough evaluation of existing MWCs at the state level than would be feasible in a general rulemaking at the federal level.

The 1990 Clean Air Act Amendments added a new § 129 to the Act that applies to solid waste incinerators, including MWCs, medical waste incinerators, and industrial waste incinerators. Section 129 of the Act and its associated standards were promulgated because EPA determined that incinerator emissions cause or contribute significantly to air pollution which may reasonably be expected to endanger public health and welfare. The intended effect of the standards and guidelines is to form a basis for state action to develop state regulations controlling MWC emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, non-air quality health and environmental impacts, and energy requirements.

Section 129 of the Act directs that the standards and guidelines for MWCs be broadened, and provides the schedule for this activity. First, § 129 directs EPA to promulgate these standards and guidelines for individual MWC units with a larger than 250 tpd capacity. Second, § 129 requires EPA to review and revise these promulgated standards and guidelines within one year, to be fully consistent with § 129. This will result in a number of additions to the standards and guidelines, including the

addition of numerical emission limits for mercury, cadmium, and lead emissions. Third, § 129 directs that standards and guidelines, fully consistent with § 129, be promulgated for MWCs with a less than 250 tpd capacity within two years.

Regulating MWC emissions for new sources under § 111(b) of the Act (New Source Performance Standards) establishes MWC emissions as a designated pollutant, and requires the EPA to promulgate guidelines under § 111(d) for states to use in developing regulations to control pollutants from existing MWCs. Emissions guidelines for existing MWCs that began construction on or before December 20, 1989, have been promulgated under §§ 111(d) and 129 of the Act. In order for §§ 111 and 129 to be effected, the specific guidelines are promulgated in the Code of Federal Regulations (CFR) (subpart Ca 40 CFR Part 60). State regulations must be at least as stringent as the guidelines.

On December 20, 1989, EPA proposed standards and guidelines for MWCs in subparts Ea and Ca of 40 CFR 60, respectively. Subparts Ea and Ca were promulgated on February 11, 1991, and were developed under authority of paragraph (b) of § 111 of the Clean Air Act of 1977. The 1990 Amendments required EPA to review these emission standards and guidelines and determine if they were fully consistent with the requirements of § 129. EPA reviewed the subpart Ea standards and subpart Ca guidelines and concluded that they were not fully consistent with the requirements of § 129. Therefore, EPA proposed to revise the standards and guidelines in a September 20, 1994, proposal to make the standards and guidelines fully consistent with the requirements of § 129.

The final rule published by EPA in the Federal Register of December 19, 1995 (60 FR 65382), applies to existing MWCs as follows. Municipal waste combustors that begin construction after September 20, 1994, or that begin modification or reconstruction after June 19, 1996, and that meet all other applicability criteria are subject to the revised standards (subpart Eb). Municipal waste combustors that were constructed on or before September 20, 1994, and that meet all other applicability criteria are subject to the revised guidelines (subpart Cb). Municipal waste combustors that were constructed after December 20, 1989, and on or before September 20, 1994, and that meet all other applicability criteria are subject to both the subpart Ea standards (1991 standards for new sources) and the subpart Cb guidelines (1995 retrofit guidelines for existing sources). EPA also withdrew the subpart Ca guidelines (1991 guidelines for existing sources) and published a direct final rule revising the text of subpart Ea.

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

Public comments may be submitted until 4:30 p.m., Wednesday, March 25, 1998, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TDD ☎

VA.R. Doc. No. R98-189; Filed January 27, 1998, 3:27 p.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

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 Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care Services; 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure Quality of Care; and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates—Other Types of Care.** The purpose of the proposed action is to establish Medicaid coverage policies for licensed clinical nurse specialists, making them eligible for direct payment for the provision of services that they are licensed to provide. The Notice of Intended Regulatory Action for this regulation was originally published in 13:20 VA.R. June 23, 1997, with public comments accepted until July 23, 1997. The agency has requested a second publication of the notice with the public comment period extended until March 4, 1998. The agency does not intend to hold a public hearing on the proposed regulations after publication.

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

Public comments may be submitted until March 4, 1998, to Roberta J. Jonas, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R97-538; Filed January 14, 1998, 9:15 a.m.

TITLE 17. LIBRARIES AND CULTURAL RESOURCES

DEPARTMENT OF HISTORIC RESOURCES

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 Historic Resources intends to consider promulgating regulations entitled: **17 VAC 10-30-10 et seq. Historic Rehabilitation Tax Credit.** The purpose of the proposed action is to define a process for certification of rehabilitations of historic buildings so that the property owners may qualify for a state income tax credit. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 10.1-2202 and 58.1-339.2 of the Code of Virginia.

Public comments may be submitted until March 4, 1998.

Contact: John E. Wells, Tax Act Coordinator, Department of Historic Resources, 221 Governor St., Richmond, VA 23219 (after February 15, 1998, the address will be 2801 Kensington Avenue, Richmond, VA 23221), telephone (804) 371-6495 or FAX (804) 371-6025.

VA.R. Doc. No. R98-181; Filed January 14, 1998, 10:19 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF OPTOMETRY

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 Optometry intends to consider amending regulations entitled: **18 VAC 105-20-10 et seq. Regulations of the Virginia Board of Optometry.** The purpose of the proposed action is to amend regulations in order to provide guidance on conditions and provisions that would permit an optometrist to practice adjacent to a commercial or mercantile establishment. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-3205 of the Code of Virginia.

(NOTE: EXTENSION OF COMMENT PERIOD.)
Public comments may be submitted until March 15, 1998.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or FAX (804) 662-9943.

VA.R. Doc. No. R98-159; Filed January 28, 1998, 11:38

BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE TREATMENT PROFESSIONALS

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 Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals intends to consider amending regulations entitled: **18 VAC 115-30-10 et seq. Regulations Governing the Certification of Substance Abuse Counselors.** The purpose of the proposed action is to promulgate amendments for clarification, simplification and reduction in regulatory burden pursuant to Executive Order 15 (94) as follows: (i) provide for endorsement of applicants who are certified by national certifying bodies, and simplify the application process for these applicants and for those who are currently certified by other states by substantially equivalent requirements; (ii) review the education requirements to ensure that they meet the minimum standards for professional competency as necessary to protect the public; (iii) broaden the credentials acceptable for providing supervision to allow individuals in remote areas of the state to find supervision more readily; (iv) accept certain nationally-recognized professional certifications for endorsement of applicants to certification in Virginia in lieu of requiring those holding such certifications to follow the application process outlined in regulation; (v) simplify the renewal process for extended late renewals; (vi) eliminate unnecessary fees; (vii) strike language which is duplicative of statute and update the regulation as needed to comply with any recent statutory change; and (viii) clarify language outlining educational and experience requirements and Standards of Practice governing confidentiality and dual relationships. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-3503 of the Code of Virginia.

Public comments may be submitted until March 4, 1998.

Contact: Janet D. Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9575 or FAX (804) 662-9943.

VA.R. Doc. No. R98-179; Filed January 12, 1998, 2:05 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 Board of Licensed Professional

Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals intends to consider amending regulations entitled: **18 VAC 115-50-10 et seq. Regulations Governing the Practice of Marriage and Family Therapy.** The purpose of the proposed action is to develop a mechanism to allow individuals whose marriage and family therapy graduate programs currently fall short of regulations to meet the requirements for licensure, and to further amend the regulations as follows: (i) clarify the one-year internship requirement by expressing in terms of equivalent semester hours and consider reducing the client contact hour requirement for the internship; (ii) determine work experience equivalencies for the supervised experience requirement for endorsement of individuals with lengthy experience licensed in other jurisdictions and clarify that the official transcript is required for documentation of the education requirement; (iii) include acceptance of programs accredited by agencies whose accreditation requirements are equivalent to COAMFTE; (iv) adjust the supervision hours if Executive Order 15 (94) amendments to the Regulations Governing the Practice of Professional Counseling result in inconsistencies; (v) determine what specific training or experience in the supervision of marriage and family therapy would be acceptable to the board; (vi) consider alternatives to meeting the education and experience requirements for supervisors to allow "grandfathered" individuals to provide supervision; and (vii) include a licensure expiration date in the regulations. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Public comments may be submitted until March 4, 1998.

Contact: Janet D. Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9575 or FAX (804) 662-9943.

VA.R. Doc. No. R98-178; Filed January 12, 1998, 2:05 p.m.

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.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

May 1, 1998 - 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 30-20-10 et seq. Administration of Medical Assistance, and 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality of Care.** These regulations amend the specialized care program to update the definitions of provider and recipient criteria, as required by legislation.

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

Public comments may be submitted until May 1, 1998, to Regina Anderson-Cloud, LTC Policy, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **Specialized Care Services.**
12 VAC 30-20-10 et seq. Administration of Medical Assistance Services (amending 12 VAC 30-20-170).
12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-40, 12 VAC 30-60-320, and 12 VAC 30-60-340).

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

Public Hearing Date: N/A – Public comments may be submitted until May 1, 1998.
(See Calendar of Events section for additional information)

Basis: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. Sections 9-6.14:7.1 and 9-6.14:9.1 of the Administrative Process Act (APA) provide for this agency's promulgation of proposed regulations subject to the Governor's review.

Subsequent to an emergency adoption action, the agency is initiating the public notice and comment process as contained in Article 2 of the APA. The emergency regulation became effective on August 14, 1997. Section 9-6.14:4.1 C of the Code of Virginia requires the agency to file the Notice of Intended Regulatory Action no later than 60 days after the effective date of the emergency regulation if it intends to promulgate a permanent replacement regulation. The Notice of Intended Regulatory Action for this regulation was filed with the Virginia Register on December 31, 1996.

Chapter 924 of the Acts of the Assembly, Item 322 D 2 a required the Department of Medical Assistance Services to promulgate regulations, to be effective July 1, 1997, ".... to implement other appropriate changes in service limits, program category criteria, utilization control methods, and provider contract standards consistent with the recommendations of the study."

Purpose: The purpose of this proposal is to amend the specialized care program to update the definitions of provider and recipient criteria as required by legislation. The proposed changes in category areas of comprehensive rehabilitation, mechanical ventilation, and complex health care will better assure that recipients who require a higher acuity of care will be routed to and placed in specialized care when appropriate. The changes in the criteria will also assist in deterring inappropriate utilization of specialized care reimbursement.

Substance and Analysis: On October 1, 1991, the Department of Medical Assistance Services implemented a new reimbursement system for nursing facilities based on patient care intensity and a new level of service called specialized care. Specialized care was described as care required by residents who have long-term health conditions which demand close medical supervision, 24-hour licensed nursing care, and specialized services or equipment. For payment purposes, services for specialized care residents were grouped into four categories: comprehensive rehabilitation, complex care, ventilator dependent, and AIDS.

The specialized care program was the Department of Medical Assistance Services' response to the need for access to care and the appropriate provision of services to those Medicaid recipients who required more intensive resources than average nursing facility residents. The Department of Medical Assistance Services' *Virginia Medicaid Nursing Home Manual* states that specialized care includes residents "...who have needs that are so intensive or nontraditional that they cannot be adequately captured by a patient intensity rating system, e.g., ventilator dependent or AIDS patients."

Expenditures, utilization, and provider participation have increased dramatically since the inception of the specialized care program in 1991. After careful analysis of the specialized care program, the Department of Medical Assistance Services reported that the actual costs to providers of specialized care services appeared to be well below the flat rates that the providers were being reimbursed. Recommendations for reductions in the specialized care rates were submitted to the General Assembly. Hearings and discussions ensued between the legislature, the Department of Medical Assistance Services, and the provider community which resulted in the legislature mandating a formal study of the specialized care program.

The study group that was organized to evaluate the specialized care program included the Department of Medical Assistance Services staff, representatives from industry trade associations (including the Virginia Health Care Association and the Virginia Hospital and Healthcare Association), and supporting staff from the Center for Health Policy Studies, commissioned by the Department of Medical Assistance Services. The study group produced a report providing a comprehensive review of the existing specialized care program. The report examines resident and provider criteria governing participation in the specialized care program, provides an overview of the Department of Medical

Assistance Services Utilization Review (UR) and Control guidelines and processes for specialized care providers, reviews Medicare and the Department of Medical Assistance Services specialized care payment policies and issues for nursing facility services, and describes the new payment methodology developed for the specialized care program.

The report presents the Department of Medical Assistance Services' recommendations for a collection of changes in the specialized care program. These recommendations include changes in specialized care categories and payment methodologies, and clarifications and changes in specialized care resident and provider criteria. In December 1996, the Department of Medical Assistance Services implemented emergency regulations for the payment methodologies based upon two broad recommendations from the report. Those emergency regulations addressed the recommendations in the report for changes in specialized care payment methodologies and an elimination of the existing AIDS category of care due to nonutilization. The remaining recommendations from the report primarily addressed changes in specialized care resident and provider criteria.

A. Recipient medical eligibility criteria. The medical eligibility criteria for the specialized care program currently are established in two sets of criteria. There is a distinct set of medical criteria for individuals over the age of 21. Those under the age of 21 are classified as pediatric or adolescent and fall into a separate category. Both sets of criteria require further medical criteria definition. The criteria have not been updated since the implementation of the program in 1991. As services have been studied, and as utilization has increased resulting in great diversity among the recipients served by the program, a need to provide more concrete service definitions in some areas has been demonstrated. The proposed changes in category areas of comprehensive rehabilitation, mechanical ventilation, and complex health care will better assure that recipients who require a higher acuity of care will be routed to and placed in specialized care when appropriate. The changes in the criteria will also assist in deterring inappropriate utilization of specialized care reimbursement.

B. Contract approval. The provider criteria have not been updated or significantly revised since the implementation of the program in 1991. As the program history has been studied, and as utilization has increased, the Department of Medical Assistance Services has determined that provider standards must be more specifically designated in regulation so that the medically compromised recipients receiving specialized care services can be assured that contracting specialized care providers maintain all required services and are able to provide quality services. To address these concerns, these regulations seek to apply standards to specialized care contract approval.

The contract approval process will ensure that providers seeking specialized care contracts can provide an adequate quality of nursing facility care, as well as meet the scope of service provisions for specialized care. The criteria will designate quantifiable standards to clearly delineate acceptable provider participation requirements which are supported within a provider's history of administering institutional health care services. The Department of Medical Assistance Services has piloted these criteria standards since the program implementation in 1991 with the exception of the references to the Health Care Financing Administration's (HCFA) sanctioning guidelines which were implemented as applicable to all nursing facilities in 1996. Prior to the federal changes in the nursing facility guidelines, the Department of Medical Assistance Services reviewed the now obsolete level classification system formerly mandated by HCFA for nursing facility surveys. With the changes that HCFA implemented in the sanctioning and deficiency classification matrix in 1996, the Department of Medical Assistance Services deemed it necessary to develop regulatory approval standards that more accurately utilized the current HCFA classifications.

Issues: The changes will be advantageous to providers and recipients because program criteria and requirements will be more specifically defined. It is anticipated that this will result in greater continuity in service provision as well as lend to ensuring quality in the services provided.

A. Recipient criteria. Providers may voice concerns regarding added parameters and limitations inserted into the recipient criteria for medical eligibility for the program. However, the specialized care study recommended the addition of parameters in certain areas as well as the clarification of some criteria standards. These recommendations were made as a result of identified lack of clarity and specification in certain areas. In addition, some definitions and parameters were added due to concerns voiced by providers over time that certain areas required further clarification. For example, such concerns prompted the addition of quantifiable standards for reimbursement retractions in the comprehensive rehabilitation category of care.

While the Department of Medical Assistance Services does seek to add parameters and limitations to some aspects of recipient criteria, these recommendations are made after careful study and cooperative work and comment with the nursing home trade associations. These standards are felt to most accurately represent the needs of the program based on the program's historical experience as well as based on provider feedback from over the years.

B. Provider criteria. Some providers may also voice concern about the inclusion of the provider approval standards into the regulations. However, the nursing home trade associations did not voice concern over the inclusion of provider approval standards during the course of discussions with them during and in follow up to the specialized care study. A need for clear specifications is deemed necessary for adequate administration of the program. These changes will benefit providers in that clear, quantifiable criteria will be available to assist in provider decision making about whether to apply for participation in the program. The Department of Medical Assistance Services has a need for such standards because this level of care is geared toward a medically fragile

population with care needs that are generally above the acuity and resource utilization of the average nursing facility level of care. If a provider cannot meet minimum general standards for nursing facilities and demonstrate good compliance over time, the Department of Medical Assistance Services would be concerned about such a provider attempting to provide care to medically fragile recipients with greater needs. The proposed regulations incorporate approval criteria from standards of the Virginia Department of Health, the Long-Term Care Ombudsman Program, and the Department of Medical Assistance Services.

Fiscal/Budget Impact: There are no localities which are uniquely affected by these regulations as they apply statewide. The changes proposed for the provider and recipient criteria will not financially impact providers or recipients. By adding more specific parameters to some recipient criteria areas, a small, yet undetermined, cost savings may be realized by the Department of Medical Assistance Services. There are no localities which are uniquely affected by these regulations as they apply statewide.

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 impacts.

Summary of the proposed regulation. DMAS was required to submit to the General Assembly a formal study of its Specialized Care Program. This proposal is an outgrowth of that study. The purpose of this proposal is to amend the Specialized Care program to update the definitions of provider and recipient criteria. Provider criteria are adjusted to ensure that the contracting specialized care providers maintain all required services and are able to provide quality services. The new provider criteria specify quantifiable standards that clearly delineate acceptable provider participation requirements.

The new recipient criteria add specific parameters and limitations for medical eligibility for services covered by this program. The changes are intended to ensure that the higher-cost services paid for by this program are medically necessary.

Estimated economic impact. There are two reasons why it is important to specify carefully both the provider and recipient criteria for specialized care services. First, this is a medically fragile population with acute medical needs. The costs of even temporary lapses in the quality or intensity of care could have catastrophic consequences for the patient. Second, specialized care is very expensive because of the intensity and quality of services required. Having a person treated under the specialized care provisions when less intensive care would be more appropriate would impose a significant, unnecessary expenditure on Virginia taxpayers.

Provider Criteria: More specific provider criteria could force some providers out of the business of providing specialized care. If the provider approval standards in the regulation are closely related to the quality of services offered, then disqualifying some providers could actually indicate improved performance of the program. The standards for providers, as laid out in 12 VAC 30-60-40 address two performance measures for facilities: the history of service quality and the demonstrated ability to provide the specific intensity of care demanded by recipients in this program. As such, these standards appear to be rationally related to ensuring that quality is maintained. It would be a reasonable conclusion that those facilities unable to meet these standards are at higher risk of failing to meet the acute care requirements of this program. Implementation of these provisions can reasonably be expected to improve the performance of the program and produce a net economic benefit.

Recipient Criteria: The study of this program that DMAS carried out resulted in a series of recommendations to improve the clarity of certain provisions and to provide greater specificity about eligibility for services under this program. Some of the changes in this proposal were added in response to provider comment and suggestions. The primary function of these criteria is to ensure that those treated in this program require the costly care for which this program was designed. A second benefit of improved criteria is that providers will have greater assurance that those admitted for specialized care do, indeed, qualify for it and that DMAS will reimburse the provider at the higher rate implied by the higher levels of care. This will allow providers to make more consistently correct decisions and reduce the financial risk of potential incorrect treatment decisions.

Those who do not qualify for reimbursement under the specialized care program will generally qualify for care under less intensive programs, so tightening the criteria does not mean that the recipients will not receive appropriate medical care.

These changes may be expected to produce a small net economic benefit by ensuring that compensation for care is appropriate to the level of medical services required.

Businesses and entities affected. DMAS indicates that there are 51 facilities currently offering specialized care services. These are the businesses that will experience the direct impact of these changes.

Localities particularly affected. No localities are particularly affected by these changes.

Projected impact on employment. It is unlikely that these changes will result in any changes in employment in Virginia.

Effects on the use and value of private property. While this proposal does change certain rules pertaining to the operation of specialized care nursing facilities, it is unlikely that there will be any significant net change in the value of ownership interests in these facilities. It is possible that one or more establishments previously performing these services may find it unprofitable to continue to do so under the new rules. However, others may find that the clarified rules make participation in the program less risky and, therefore, more attractive. Experience to date indicates a net increase in facilities performing these services. Given that experience, there is no reason to believe that this proposal will have a negative impact on the use and value of private property.

Summary of analysis. These regulations can be expected to produce a net economic benefit for Virginia.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning Specialized Care Nursing Facility Services: Provider and Recipient Criteria.

Summary:

These regulations amend the specialized care program to update the definitions of provider and recipient criteria as required by legislation.

On October 1, 1991, the Department of Medical Assistance Services implemented a new reimbursement system for nursing facilities based on patient care intensity and a new level of service called specialized care. Specialized care was described as care required by residents who have long-term health conditions which demand close medical supervision, 24-hour licensed nursing care, and specialized services or equipment. For payment purposes, services for specialized care residents were grouped into four categories: comprehensive rehabilitation, complex care, ventilator dependent, and AIDS.

The specialized care program was the Department of Medical Assistance Services' response to the need for access to care and the appropriate provision of services to those Medicaid recipients who required more intensive resources than average nursing facility residents. Expenditures, utilization, and provider participation have increased dramatically since the inception of the specialized care program in 1991. After careful analysis of the specialized care program, the Department of Medical Assistance Services reported that the actual costs to providers of specialized care services appeared to be well below the flat rates that the providers were being reimbursed. Recommendations for reductions in the specialized care rates were submitted to the General Assembly. Hearings and discussions ensued between the legislature, the Department of Medical Assistance Services, and the provider community which resulted in the legislature mandating a formal study of the specialized care program. The report presents the Department of Medical Assistance Services' recommendations for a collection of changes in the specialized care program.

These recommendations include changes in specialized care categories and payment methodologies, and clarifications and changes in specialized care resident and provider criteria. In December 1996, the Department of Medical Assistance Services implemented emergency regulations for the payment methodologies based upon two broad recommendations from the report. Those emergency regulations addressed the recommendations in the report for changes in specialized care payment methodologies and an elimination of the existing AIDS category of care due to nonutilization. The remaining recommendations from the report primarily addressed changes in specialized care resident and provider criteria.

12 VAC 30-20-170. Basis of payment for reserving beds during a recipient's absence from an inpatient facility.

~~1.~~ Payment is made for reserving beds in long-term care facilities for recipients during their temporary absence for the following purpose:

For leaves of absence up to 18 days per year for any reason other than inpatient hospital admissions. *The Department of Medical Assistance Services does not provide payment for reserving beds during inpatient hospital admissions and does not provide payment beyond 18 days per year for leaves of absence for any nursing facility or specialized care resident. For recipients that are qualified for specialized care, the facility will receive payment at the nursing facility rate for any leave days taken up to the maximum 18 days.*

12 VAC 30-60-40. Utilization control: Nursing facilities.

A. Long-term care of residents in nursing facilities will be provided in accordance with federal law using practices and procedures that are based on the resident's medical and social needs and requirements. All nursing facility services, including specialized care, shall be provided in accordance with guidelines found in the Virginia Medicaid Nursing Home Manual.

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

C. The Department of Medical Assistance Services shall periodically conduct a validation survey of the assessments *and medical records* completed by nursing facilities to determine ~~that~~ *whether* services provided to the residents are

medically necessary and that needed services are provided. The survey will be composed of a sample of Medicaid residents and will include review of both current and closed medical records. *If provision of or need for services or the appropriate level of care are not demonstrated in the medical record, the Department of Medical Assistance Services shall deny reimbursement, retract reimbursement, or adjust case-mix calculations to accurately reflect the services and level of care provided or that should appropriately have been provided to any Medicaid recipient.*

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

E. In order for reimbursement to be made to the nursing facility for a recipient's care, the recipient must meet nursing facility criteria as described in 12 VAC 30-60-300 (Nursing Facility Criteria).

In order for reimbursement to be made to the nursing facility for a recipient requiring specialized care, the recipient must meet specialized care criteria as described in 12 VAC 30-60-320 (Adult Specialized Care Criteria) or 12 VAC 30-60-340 (Pediatric/Adolescent Specialized Care Criteria). *In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. Further specialized care services requirements are set forth as follows. In each case for which payment for nursing facility or specialized care services is made under the state plan, a physician must recommend at the time of admission or, if later, the time at which the individual applies for medical assistance under the State Plan, that the individual requires nursing facility care.*

F. Reimbursement for specialized care must be preauthorized by the Department of Medical Assistance Services *according to established Department of Medical Assistance guidelines. If it is not demonstrated in the preauthorization process that a recipient meets the established nursing facility and specialized care criteria set forth in 12 VAC 30-60-320 or 12 VAC 30-60-340, the Department of Medical Assistance Services shall deny reimbursement.* ~~In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. Further specialized care services requirements are set forth below.~~

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

~~F.~~ *G.* For nursing facilities, a physician must approve a recommendation that an individual be admitted to a facility. The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.

~~G.~~ *H.* When the resident no longer meets nursing facility criteria or requires services that the nursing facility is unable to provide, then the resident must be discharged. *On the day that the resident no longer meets the specialized care criteria set forth in 12 VAC 30-60-320 or 12 VAC 30-60-340, the resident must be discharged to the nursing facility level of care or other appropriate lower level of care.*

~~H.~~ *I.* Specialized care services~~.~~*: contract and scope of services requirements.*

1. Providers must be nursing facilities certified by the Division of Licensure and Certification, State Department of Health, and must have a current signed participation agreement with the Department of Medical Assistance Services to provide nursing facility care. *In addition, providers must be certified to provide skilled nursing services by the Medicare program as it applies to Part A skilled (SNF) services.*

2. Providers must ~~agree~~ *contract* to provide care to at least four residents who meet the specialized care criteria for children/adolescents or adults.

3. Providers must assist Medicaid recipients in applying for third party benefits for which recipients may be eligible (including, but not limited to, assisting with the application for Medicare coverage, including assistance with the appropriate disability determination process to secure skilled (SNF) coverage and other applicable Medicare benefits or other third party coverage).

4. Providers must meet the contract approval standards that are set forth in subsection J of this section to receive a new contract for specialized care services. As part of the review process for providers seeking a contract to provide specialized care services, the Department of Medical Assistance Services shall complete a comprehensive two-year history review of the facility which will include (i) an examination of the licensure and certification survey reports from the Virginia Department of Health; (ii) reviews conducted by the Department of Medical Assistance Services; and (iii) complaints received by the Department of Health, the Department of Medical Assistance Services, and the Department for the Aging (State Long-Term Care Ombudsman Program). If the provider is a new nursing facility provider and does not have a two-year history of providing nursing facility level of care, the Department of Medical Assistance Services shall conduct a comprehensive review of the provider's status as a health care provider and make determinations based on the quality standards that reflect the criteria in this section deemed appropriate for

contracting nursing facilities. If the facility has not been providing health care for at least two years, it will not be eligible for a contract for specialized care services.

5. In addition to the review specified in subdivision 4 of this subsection, the provider must document the ability to provide the services in accordance with the program scope of service requirements. Each component of the review will be evaluated according to the provider's ability to successfully meet all component requirements. If a requester does not meet one or more of the requirements, the request for contract will be rejected. A provider will not be awarded a contract if it is demonstrated in the two-year review history that the provider has not been able to provide an adequate quality of nursing facility care as demonstrated according to the requirements set forth in subsection J of this section, or if the provider is unable to document the ability to provide the scope of service requirements as described in subsection K of this section.

J. Contract approval standards. The provider standards that must be met for new specialized care contracts are set forth in this subsection.

1. During the most recent two years, the provider cannot have been found to have "substandard quality of care" (as defined in the Health Care Financing Administration's nursing facility sanctioning guidelines) during the survey process by the Department of Health. The provider will not be allowed to participate in the program until a two-year history is demonstrated without any "substandard quality of care" deficiency ratings.

2. During the most recent two years, the provider cannot have any more than three justified complaints in any of the following category areas confirmed by the Department of Health, the Department of Medical Assistance Services, or the State Long-Term Care Ombudsman Program and can have no more than eight total justified complaints confirmed among the following categories: residents rights; admission, transfer, and discharge rights; resident behavior and facility practices; quality of life; resident assessment; quality of care; nursing services; dietary services; physician services; specialized rehabilitative services; dental services; pharmacy services; infection control; physical environment; administration.

3. During the most recent two years, the provider cannot have demonstrated a significant lack of compliance as identified in the Department of Medical Assistance Services utilization review findings.

4. The provider must be able to document within the written contract application request the ability to provide all required services as specified in the contractual guidelines as defined in the scope of required services for specialized care in subsection K of this section.

5. If any of the above specified contract approval standards are not met by the requesting provider, the provider will not meet all components of the contract approval process and will not be granted specialized care reimbursement. A provider may reapply for a contract after the deficient area is corrected in accordance with this subsection.

~~2.~~ *K. Scope of required services.* Providers must ~~be able to~~ *provide* the following specialized services to Medicaid specialized care recipients:

~~a.~~ *1.* Physician visits *by the attending physician* at least once ~~weekly (after initial physician visit, subsequent visits may alternate between physician and physician assistant or nurse practitioner);~~ *every 30 days. The attending physician must make the required 30-day visit. If a resident must be seen more frequently than once very 30 days, visits occurring in between the required 30-day visits may be conducted by a qualified physician assistant or certified nurse practitioner at the attending physician's discretion;*

~~b.~~ *2.* Skilled nursing services by a registered nurse available 24 hours a day. *A registered nurse must function in a "charge nurse" capacity whose sole responsibility is the designated nursing unit on which the specialized care residents reside. If specialized care residents are residing on more than one designated nursing unit within the facility, a registered nurse must fulfill the above specified requirement for each separate nursing unit housing specialized care residents.*

For comprehensive rehabilitation residents, nursing staff are responsible for rehabilitative nursing and supporting documentation. Rehabilitative nursing shall include the practice of skills learned or acquired during therapy sessions and the ongoing clinical assessment and documentation of rehabilitative progress as a component of the required nursing documentation. The documentation must incorporate nursing-related impressions of the outcomes of the overall therapeutic regime, including progress as assessed on the unit. A registered nurse is responsible for the oversight of rehabilitative nursing practice, clinical assessment, and documentation required to meet the rehabilitative nursing requirement;

~~c.~~ *3.* Coordinated multidisciplinary team approach to meet the needs of the resident;

~~d.~~ *4.* Infection control;

~~e.~~ *5.* For residents under age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of ~~90 minutes each day, five days per week~~ *450 therapy minutes per week (every seven days);*

~~f.~~ *6.* For residents over age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of ~~two~~

~~hours per day, five days a week~~ *600 therapy minutes per week (every seven days)*;

~~g.~~ *7.* Ancillary services related to a plan of care;

~~h.~~ *8.* Respiratory therapy services by a board-certified therapist (for ventilator patients, these services must be available 24 hours per day) *related to the plan of care. Providers must assure that all residents who are ventilator dependent or who are receiving respiratory therapy in the complex health care category as defined in 12 VAC 30-60-320 or 12 VAC 30-60-340 are seen by a respiratory therapist at least once every 14 days*;

~~i.~~ *9.* Psychology services by a board-certified psychologist or by a licensed clinical social worker under the direct supervision of a licensed clinical psychologist or a licensed psychologist clinical related to a plan of care;

~~j.~~ *10.* Necessary durable medical equipment and supplies as required by the plan of care;

~~k.~~ *11.* Nutritional elements as required *by the plan of care*;

~~l.~~ *12.* ~~A plan to assure that specialized care residents have~~ The same opportunity *for specialized care residents* to participate in integrated nursing facility activities as other residents;

~~m.~~ *13.* Nonemergency transportation *afforded in a manner consistent with transportation to community activities and events that is provided to all other nursing facility residents*;

~~n.~~ *14.* Discharge planning *and ongoing utilization review. Discharge planning shall begin at admission and be an ongoing process for all residents during a specialized care stay. Utilization review shall be conducted and documented in the medical record by the interdisciplinary care plan team at least every 30 days to support that the resident continues to meet the specified criteria requirements for specialized care reimbursement. This review shall also be substantiated by the physician's documentation of utilization review of the necessary criteria and written support in the medical record of the resident's continued need for specialized care stay at least every 30 days*; and

~~o.~~ *15.* Family or caregiver training.

~~3.~~ Providers must coordinate with appropriate state and local agencies for educational and habilitative needs for Medicaid specialized care recipients who are ~~under the age of 21~~ *eligible for such services.*

L. Contract termination. The specialized care provider contract shall be terminated upon the demonstration of one or more of the following conditions:

1. The provider is no longer certified to participate in the Medicare or Medicaid programs.

2. The provider violates provisions of the written contract for specialized care.

3. The provider gives written notice to the Department of Medical Assistance Services at least 30 days in advance that it wishes to terminate the contract.

12 VAC 30-60-320. Adult specialized care *admission and continued stay* criteria.

~~§ 2.0.~~ *A.* General description. *A resident must meet all aspects of the nursing facility criteria as set forth in 12 VAC 30-60-300 (nursing facility criteria) before being considered for specialized care reimbursement. A provider must also have a contract to provider specialized care before being eligible to receive specialized care reimbursement* The resident must ~~have~~ *demonstrate* long-term health conditions requiring close medical supervision *in a nursing facility, a need for* 24-hour licensed nursing care, and *require* specialized services ~~or equipment~~ *as defined in the categories of specialized care. Residents must be discharged from specialized care services to the nursing facility level or other appropriate level of care when the program criteria are no longer met.*

~~§ 2.1.~~ *B.* Targeted population. *Individuals requiring specialized care must meet the specified general program criteria in subsection C of this section, and the criteria defined in at least one of the three specified categories of care in subsection D of this section. These categories are: comprehensive rehabilitation, mechanical ventilation, complex health care. The general program criteria and specific category criteria are set forth in subsection C of this section.*

~~A. Individuals requiring mechanical ventilation~~

~~B. Individuals with communicable diseases requiring universal or respiratory precautions~~

~~C. Individuals requiring ongoing intravenous medication or nutrition administration~~

~~D. Individuals requiring comprehensive rehabilitative therapy services~~

~~§ 2.2.~~ *C.* Criteria. ~~A.~~ The individual must require ~~at a minimum~~:

1. Nursing facility level of care;

~~1.~~ 2. Physician visits at least once ~~weekly (the initial physician visit must be made by the physician personnally. Subsequent required physician visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.)~~ *every 30 days;*

~~2.~~ *3.* Skilled *registered* nursing services 24 hours a day (a registered nurse must ~~be on~~ *supervise* the nursing unit on which the resident resides, ~~24 hours a day~~ *in a "charge nurse" capacity*, whose sole responsibility is ~~the designated~~ *that* unit)*; and*

~~3.~~ *4. A* coordinated multidisciplinary team approach to meet needs.

~~B.~~ *D.* In addition *to the general criteria in subsection C of this section*, the individual must ~~meet~~ *require* one of the following ~~requirements~~ *three categories of care*:

1. Comprehensive rehabilitation category. All of the following category criteria must be met to qualify for the comprehensive rehabilitation category.

~~1.~~ *a.* Must require two out of three of the following rehabilitative services *which are required at an acuity that is not available at the nursing facility level of care*: physical therapy, occupational therapy, *or* speech-pathology services~~; therapy must be provided at a minimum of 2 hours of therapy per day, 5 days per week; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or~~.

b. Must receive a minimum of 600 therapy minutes per week. No more than 180 minutes on any one therapy day shall count toward the 600 weekly minutes. Daily therapy should not exceed a resident's ability to effectively participate in the therapeutic regime.

c. Must have a stable medical condition which is compatible with an active comprehensive rehabilitation program. In the event the recipient experiences an acute medical instability (one- to two-day illness or less) providers shall adjust the therapy regime to assure the required weekly 600 minute schedule is completed. If the resident's acute medical instability is too severe or too long to permit completion of the required weekly 600 minute schedule, the resident may be placed on a reduced therapy schedule. For the purposes of this subsection, the period during which the recipient is placed on a reduced therapy schedule is called "medical hold." The Department of Medical Assistance Services shall continue specialized care reimbursement in this category for one medical hold period of no more than three days per rehabilitation stay. To qualify for reimbursement, the medical hold or reduced therapy schedule must be ordered by the physician and the medical record must support that the resident, due to acute illness or acute medical instability, was unable to tolerate or reasonably make up the required therapy time toward the 600 required weekly minutes. If a resident should require more than one medical hold during a rehabilitative stay, the Department of Medical Assistance Services shall determine, at its sole discretion, whether an additional medical hold period is permitted based on the resident's medical status and overall rehabilitative progress. If any period of medical hold is not ordered by the physician and substantiated in the medical record as determined by the Department of Medical Assistance Services, the department shall deny or retract reimbursement for such periods.

If the full 600 minutes of rehabilitation therapies are not provided during any seven-day period without an acceptable, substantiated, and ordered medical hold period, the Department of Medical Assistance Services shall deny or retract specialized care reimbursement. If the resident does not receive the full 600 minutes of required therapy during a seven-day week, the following reimbursement denial or retraction scale shall apply:

480-599 minutes received = 1 day retraction
360-479 minutes received = 2 days retraction
240-359 minutes received = 3 days retraction
120-239 minutes received = 4 days retraction
0-119 minutes received = 5 days retraction.

In addition to the above scale, if the resident is missing therapy time and is found not to be making significant measurable progress in the rehabilitation program, a full denial of specialized care reimbursement shall occur from the point that the resident is documented, as determined by the Department of Medical Assistance Services, to have ceased making significant rehabilitation progress in the medical record.

d. Must be able to benefit from the services to be provided, based on physician assessment of rehabilitation potential, with the expectation that the condition of the resident will improve significantly in a reasonable and generally predictable period of time in accordance with medical practice standards, or, based on physician assessment, must require rehabilitative services to establish a safe and effective maintenance program provided for a specific medical diagnosis. Once a resident is no longer able to benefit from this level of rehabilitation, has ceased to make significant progress in the rehabilitation program, or once rehabilitation or maintenance programming can be provided at the nursing facility or other lower level of care, the resident must be discharged from the specialized care program.

e. Must demonstrate significant, measurable progress in the overall rehabilitative plan of care on a monthly (30-day) basis.

2. ~~Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac) kinetic therapy; or~~ *Mechanical ventilation category.*

a. The recipient must meet both of the following category criteria, and must meet the criteria specified in subdivisions 2 b and c of this subsection if applicable to the patient's treatment status, to qualify for the mechanical ventilation category.

(1) Must require daily mechanical ventilation which may be for all or a specified part of a 24-hour period; and

(2) Must require a visit from a respiratory therapist at least once every 14 days.

b. If a CPAP (assist device with continuous positive airway pressure), BiPAP (intermittent assist devise with inspiratory and expiratory positive airway pressure), or other similar mechanical respiratory assist device is used instead of a continuous mechanical ventilator, the resident must require other 24-hour specialized care services, such as frequent monitoring and nursing intervention for desaturation. A resident would not meet this (mechanical respiratory assist device) criteria if such device is only used without significant other medical/nursing needs which require specialized care.

c. If a resident has been successfully weaned from the support of a mechanical ventilator, the Department of Medical Assistance Services will continue specialized care reimbursement for up to five days after the resident has not been ventilator dependent for 24 hours. This five-day period begins after the resident completes a 24-hour period with no ventilatory support and demonstrates respiratory stability. If during the five days, the resident requires ventilatory support or demonstrates marked respiratory instability, the resident may continue in the mechanical ventilation category until five consecutive days of respiratory stability are demonstrated. Continued instability must be documented by the physician in the medical record.

3. ~~Individuals that require~~ *Complex health care category.* At least one of the following special services *must be met to qualify for the complex health care category:*

a. ~~Ongoing~~ *Must require daily* administration of intravenous *pain management* medications ~~of~~ *for terminal illness diagnoses, such as cancer, or must require intravenous* nutrition (i.e., TPN~~, antibiotic therapy, narcotic administration, etc.~~).

b. *Must require* special infection control precautions ~~(universal or respiratory precaution; this does not include handwashing precautions only)~~ *that necessitate isolation with negative pressure ventilation or other specialized infection control interventions that cannot be adequately managed in a medically necessitated private room.*

c. *Must require* dialysis treatment that is provided on-unit *within the nursing facility* (i.e., peritoneal dialysis).

d. *Must require* daily respiratory therapy treatments that must be provided by a skilled nurse or respiratory therapist. *The respiratory condition being treated must require chest physiotherapy (PT) followed by a nebulizer treatment four times per day and suctioning at least every two hours, chest PT followed by a nebulizer treatment four times per day for a resident with a tracheostomy, chest PT four times per day for a resident with a tracheostomy requiring suctioning at least every two hours, nebulizer treatments four times per day for a resident with a tracheostomy, or ongoing assessment and monitoring of respiratory/cardiac status for a resident with a chest tube. Residents receiving these services must require a visit from a respiratory therapist at least once every 14 days.*

e. *Must require* extensive wound care ~~requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti~~ *for at least one stage IV pressure ulcer (decubitus), a* large surgical ~~wounds~~ *wound* that cannot be closed, *or* second or third degree burns covering more than 10% of the body~~)~~. *These wounds must require debridement, irrigation, packing, etc., more than two times a day or ongoing consistent utilization of kinetic therapy (low air loss, air fluidized, or rotating or turning specialty beds) as ordered by the physician in combination with other appropriate, aggressive wound care treatment.*

f . *Must have* multiple unstable ostomies (a single ostomy does not constitute a requirement for ~~special~~ *specialized* care) requiring frequent care (i.e., suctioning every hour, stabilization of feeding~~;~~, stabilization of elimination). *The instability of more than one ostomy must be demonstrated in the medical record such that it can be determined that extensive daily care and intervention at the specialized care level of care is necessitated.*

12 VAC 30-60-340. Pediatric and adolescent specialized care *admission and continued stay* criteria.

~~§ 3.0~~ *A.* General description. *A child or adolescent must meet all aspects of the nursing facility criteria as set forth in 12 VAC 30-60-300 (nursing facility criteria) before being considered for specialized care reimbursement. A provider must also have a contract to provide pediatric specialized care before being eligible to receive specialized care reimbursement. To receive the pediatric specialized care rate for services to children under the age of 14, the provider must provide care to the child within a distinct part unit (DPU) of eight or more dedicated pediatric beds.* The child must ~~have~~ *demonstrate* ongoing health conditions requiring close medical supervision, ~~24-hours~~ *24-hour* licensed nursing supervision *in a nursing facility*, and *require* specialized services ~~or equipment~~ *as defined in the categories of specialized care. Residents must be discharged from specialized care services to the nursing facility level or other appropriate level of care when the program criteria are no longer met.* The recipient must be age 21 or under.

~~§ 3.1~~ B. Targeted population. *A child or adolescent requiring specialized care must meet the specified general program criteria in subsection C of this section and the criteria defined in at least one of three specified categories of care in subsection D of this section. These categories are: comprehensive rehabilitation, mechanical ventilation, and complex health care. The general program criteria and specific category criteria are set forth in subsections C and D of this section.*

~~A. Children requiring mechanical ventilation~~

~~B. Children with communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.)~~

~~C. Children requiring ongoing intravenous medication or intravenous nutrition administration~~

~~D. Children requiring daily dependence on device based respiratory or nutritional support (tracheostomy, gastrostomy, etc.)~~

~~E. Children requiring comprehensive rehabilitative therapy service~~

~~F. Children with terminal illness~~

~~§ 3.2~~ *C.* Criteria *for children.*

~~A.~~ *1.* The child must require ~~at a minimum~~:

a. Nursing facility level of care;

~~1.~~ *b.* Physician visits at least once weekly ~~(the initial physician visit must be made by the physician personnally. Subsequent required physician visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.)~~ *every 30 days;*

~~2.~~ *c.* Skilled *registered* nursing services 24 hours a day (a registered nurse must ~~be on~~ *supervise* the nursing unit on which the resident resides, ~~24 hours a day~~ *in a "charge nurse" capacity*, whose sole responsibility is ~~the designated~~ *that* unit);

~~3.~~ *d. A* coordinated multidisciplinary team approach to meet needs; *and*

~~4.~~ *2.* The nursing facility must coordinate with appropriate state and local agencies for the educational and habilitative needs of the child. ~~These services must be age appropriate and appropriate to the cognitive level of the child. Services must also be individualized to meet the specific needs of the child and must be provided in an organized and proactive manner.~~ Services may include but are not limited to school, active treatment for mental retardation, habilitative therapies, social skills and leisure activities. ~~The services must be provided for a total of 2 hours per day, minimum.~~

~~B.~~ *D.* In addition *to the general criteria in subsection C of this section*, the child must ~~meet~~ *require* one of the following ~~requirements~~ *three categories of care*:

1. Comprehensive rehabilitation category. All of the following category criteria must be met to qualify for the comprehensive rehabilitation category.

~~1.~~ *a.* Must require two out of three of the following rehabilitative services *which are required at an acuity that is not available at the nursing facility level of care*: physical therapy, occupational therapy, *or* speech-pathology services~~; therapy must be provided at a minimum of 6 therapy sessions, (minimum of 15 minutes per session) per day, 5 days per week; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or~~ .

b. Must receive a minimum of 450 therapy minutes per week. No more than 135 minutes on any one therapy day shall count toward the 450 weekly minutes. Daily therapy should not exceed a resident's ability to effectively participate in the therapeutic regime.

c. Must have a stable medical condition which is compatible with an active comprehensive rehabilitation program. In the event the recipient experiences an acute medical instability (one- to two-day illness or less) providers shall adjust the therapy regime to assure the required weekly 450 minute schedule is completed. If the resident's acute medical instability is too severe or too long to permit completion of the required weekly 450 minute schedule, the resident may be placed on a reduced therapy schedule. For the purposes of this subsection, the period during which the recipient is placed on a reduced therapy schedule is called "medical hold." The Department of Medical Assistance Services shall continue specialized care reimbursement in this category for one medical hold period of no more than three days per rehabilitation stay. To qualify for reimbursement, the medical hold or reduced therapy schedule must be ordered by the physician and the medical record must support that the resident, due to acute illness or acute medical instability, was unable to tolerate or reasonably make up the required therapy time toward the 450 required weekly minutes. If a resident should require more than one medical hold during a rehabilitative stay, the Department of Medical Assistance Services shall determine, at its sole discretion, whether an additional medical hold period is permitted based on the resident's medical status and overall rehabilitative progress. If any period of medical hold is not ordered by the physician and substantiated in the medical record as determined by the Department of Medical Assistance Services, the department shall deny or retract reimbursement for such periods.

If the full 450 minutes of rehabilitation therapies are not provided during any seven-day period without an acceptable, substantiated, and ordered "medical hold" period, the Department of Medical Assistance Services shall deny or retract specialized care reimbursement. If the resident does not receive the full 450 minutes of required therapy during a seven-day week, the following reimbursement denial or retraction scale shall apply:

360-449 minutes received = 1 day retraction
270-359 minutes received = 2 days retraction
180-269 minutes received = 3 days retraction
90-179 minutes received = 4 days retraction

0-89 minutes received = 5 days retraction.

In addition to the above scale, if the resident is missing therapy time and is found not to be making significant measurable progress in the rehabilitation program, a full denial of specialized care reimbursement shall occur from the point that the resident is documented, as determined by the Department of Medical Assistance Services, to have ceased making significant rehabilitation progress in the medical record.

d. Must be able to benefit from the services to be provided, based on physician assessment of rehabilitation potential, with the expectation that the condition of the resident will improve significantly in a reasonable and generally predictable period of time in accordance with medical practice standards, or, based on physician assessment, must require rehabilitative services to establish a safe and effective maintenance program provided for a specific medical diagnosis. Once a resident is no longer able to benefit from this level of rehabilitation, has ceased to make significant progress in the rehabilitation program, or once rehabilitation or maintenance programming can be provided at the nursing facility or other lower level of care, the resident must be discharged from the specialized care program.

e. Must demonstrate significant, measurable progress in the overall rehabilitative plan of care on a monthly (30-day) basis.

2. ~~Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac) kinetic therapy, etc., or~~ *Mechanical ventilation category:*

a. The recipient must meet both of the following category criteria and must meet the criteria specified in subdivisions 2 b and c of this subsection if applicable to the patient's treatment status, to qualify for the mechanical ventilation category.

(1) Must require daily mechanical ventilation which may be for all or a specified part of a 24-hour period.

(2) Must require a visit from a respiratory therapist at least once every 14 days.

b. If a CPAP (assist device with continuous positive airway pressure), BiPAP (intermittent assist devise with inspiratory and expiratory positive airway pressure), or other similar mechanical respiratory assist device is used instead of a continuous mechanical ventilator, the resident must require other 24-hour specialized care services, such as frequent monitoring and nursing intervention for desaturation. A resident would not meet this (mechanical respiratory assist device) criteria if such device is only used without significant other medical/nursing needs which require specialized care.

c. If a resident has been successfully weaned from the support of a mechanical ventilator, the Department of Medical Assistance Services will continue specialized care reimbursement for up to five days after the resident has not been ventilator dependent for 24 hours. This five-day period begins after the resident completes a 24-hour period with no ventilatory support and demonstrates respiratory stability. If during the five days, the resident requires ventilatory support or demonstrates marked respiratory instability, the resident may continue in the mechanical ventilation category until five consecutive days of respiratory stability are demonstrated. Continued instability must be documented by the physician in the medical record.

3. ~~Children that require~~ *Complex health care category.* At least one of the following special services *must be met to qualify for the complex health care category:*

a. ~~Ongoing~~ *Must require daily* administration of intravenous *pain management* medications *for terminal illness diagnoses, such as cancer, or must require intravenous* nutrition (i.e., TPN~~, antibiotic therapy, narcotic administration, etc.~~).

b. *Must require* special infection control precautions ~~(universal or respiratory precaution; this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.)~~ *that necessitate isolation with negative pressure ventilation or other specialized infection control interventions that cannot be adequately managed in a medically necessitated private room.*

c. *Must require* dialysis treatment that is provided *on-unit* within the *nursing* facility (i.e., peritoneal dialysis).

d. *Must require* daily respiratory therapy treatments that must be provided by a skilled nurse or respiratory therapist. *The respiratory condition being treated must require chest physiotherapy (PT) followed by a nebulizer treatment four times per day and suctioning at least every two hours, chest PT followed by a nebulizer treatment four times per day for a resident with a tracheostomy, chest PT four times per day for a resident with a tracheostomy requiring suctioning at least every two hours, nebulizer treatments four times per day for a resident with a tracheostomy, or ongoing assessment and monitoring of respiratory/cardiac status for a resident with a chest tube. Residents receiving these services must require a visit from a respiratory therapist at least once every 14 days.*

e. *Must require* extensive wound care ~~requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti;~~ *for at least one stage IV pressure ulcer (decubitus), a* large surgical ~~wounds~~ *wound* that cannot be closed, *or* second or third degree burns covering more than 10% of the body~~)~~. *These wounds must require debridement,*

irrigation, packing, etc., more than two times per day or ongoing, consistent utilization of kinetic therapy (low air loss, air fluidized, or rotating or turning specialty beds) as ordered by the physician in combination with other appropriate, aggressive wound care treatment.

f. *Must require* ostomy care requiring *the* services *of* ~~by~~ a licensed nurse.

g. *Must require* care for terminal illness. *The child's condition must be documented by the physician as terminal with life expectancy of less than six months.*

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TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) pursuant to § 9-6.14:4.1 A 4; however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: **13 VAC 10-10-10 et seq. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority (amending 13 VAC 10-10-20).**

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

Summary:

The proposed amendments delete the specific income limits set forth in these rules and regulations for occupancy of a multi-family dwelling unit financed by an authority mortgage loan and provide that such income limits shall be established by or pursuant to rules and regulations of the authority. Therefore, the occupancy of a dwelling unit shall be subject to the income limits established by or pursuant to the rules and regulations applicable to the authority mortgage loan which finances such dwelling unit.

13 VAC 10-10-20. Eligibility for occupancy.

A. The board shall from time to time establish, by resolution or by rules and regulations, income limitations with respect to single family dwelling units financed or to be financed by the authority. Such income limits may vary based upon the area of the state, type of program, the size and circumstances of the person or family, the type and characteristics of the single-family dwelling unit, and any other factors determined by the board to be necessary or appropriate for the administration of its programs. Such resolution or rules and regulations shall specify whether the person's or family's income shall be calculated as adjusted family income or gross income. To be considered eligible for the financing of a single family dwelling unit, a person or family shall not have an adjusted family income or gross income, as applicable, which exceeds the applicable limitation established by the board. It shall be the responsibility of each applicant for the financing of a single family dwelling unit to report accurately and completely his adjusted family income or gross income, as applicable, household composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority with verification thereof.

B. To be considered eligible for occupancy of a multi-family dwelling unit financed by an authority mortgage loan, a person or family shall not have an adjusted family income greater than ~~(i) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan prior to November 15, 1991, seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the board may from time to time establish, by resolution or by rules and regulations, lower income limits for occupancy of such dwelling unit; and provided further that in the case of any dwelling unit for which no amounts are payable by or on behalf of such person or family or the amounts payable by or on behalf of such person or family are deemed by the board not to be rent, the income limits shall be established by the board by resolution or by rules and regulations; or (ii) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan on or after November 15, 1991, such percentage of the area median gross income as the board may from time to time establish by resolution or by rules and regulations for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the mortgagor and the authority may agree to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above~~ *the applicable income limit established by or pursuant to rules and regulations of the authority.*

C. It shall be the responsibility of the housing sponsor to examine and determine the income and eligibility of applicants for occupancy of multi-family dwelling units, report such determinations to the authority in such form as the executive director may require, reexamine and redetermine the income and eligibility of all occupants of such dwelling units every three years or at more frequent intervals if required by the executive director, and report such redeterminations to the authority in such form as the executive director may require. It shall be the responsibility of each applicant for occupancy of a multi-family dwelling unit, and of each occupant of such dwelling units, to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the housing sponsor and the authority with verification thereof at the times of examination and reexamination of income and eligibility as aforesaid.

D. With respect to a person or family occupying a multi-family dwelling unit, if a periodic reexamination and

redetermination of the adjusted family's income and eligibility as provided in subsection C of this section establishes that such person's or family's adjusted family income then exceeds the maximum limit for occupancy of such dwelling unit applicable at the time of such reexamination and redetermination, such person or family shall be permitted to continue to occupy such dwelling unit; provided, however, that during the period that such person's or family's adjusted family income exceeds such maximum limit, such person or family may be required by the executive director to pay such rent, carrying charges or surcharge as determined by the executive director in accordance with a schedule prescribed or approved by him. If such person's or family's adjusted family income shall exceed such maximum limit for a period of six months or more, the executive director may direct or permit the housing sponsor to terminate the tenancy or interest by giving written notice of termination to such person or family specifying the reason for such termination and giving such person or family not less than 90 days (or such longer period of time as the authority shall determine to be necessary to find suitable alternative housing) within which to vacate such dwelling unit. If any person or family residing in a housing development which is a cooperative is so required to be removed from the housing development, such person or family shall be discharged from any liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed for all sums paid by such person or family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy in such cooperative and any additional sums payable to such person or family in accordance with a schedule prescribed or approved by the authority, subject however to the terms of any instrument or agreement relating to such cooperative or the occupancy thereof.

VA.R. Doc. No. R98-194; Filed February 11, 1998, 10:37 a.m.

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Title of Regulation: **13 VAC 10-20-10 et seq. Rules and Regulations for Multi-Family Housing Developments (amending 13 VAC 10-20-20).**

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

Summary:

The proposed amendments change the income limits on units in multi-family developments financed under the authority's rules and regulations to 150% of the area median gross income, except that units in developments which are currently subject to an income limit equal to seven times the applicable rent (including utilities, except telephone) shall remain subject to that income limit.

13 VAC 10-20-20. Income limits and general restrictions.

~~Under the authority's rules and regulations, to be eligible for occupancy of a multi-family dwelling unit, a person or family shall not have an adjusted family income (as defined therein) greater than (i) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan prior to November 15, 1991, seven times the annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the authority's rules and regulations authorize its board to establish from time to time by resolution and by rules and regulations lower income limits for initial occupancy; or (ii) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan on or after November 15, 1991, such percentage of the area median gross income as the board may from time to time establish by resolution or by rules and regulations for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the mortgagor and the authority may agree to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above. Income limits are established below in this chapter in addition to the limit set forth in (i) above and in implementation of the provisions of (ii) above.~~

~~In the case of developments for which the authority has agreed to permit the mortgagor to establish and change rents without the prior approval of the authority (as described in, and subject to the provisions of, 13 VAC 10-20-100 and 13 VAC 10-20-130), at least 20% of the units in each such development shall be occupied or held available for occupancy by persons and families whose adjusted family incomes (at the time of their initial occupancy) do not exceed 80% of the area median gross income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose adjusted family incomes (at the time of their initial occupancy) do not exceed (i) in the case of units for which the board has approved the mortgage loan prior to November 15, 1991, 150% of such area median gross income as so determined or (ii) in the case of units for which the board has approved the mortgage loan on or after November 15, 1991, 115% of such area median gross income as so determined (or, upon approval of the executive director for good cause, for all or some of the remaining units, 150% of area median gross income as so determined). The income limits applicable to persons and families at the time of reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy shall be, in the case of units for which the board has approved the mortgage loan prior to November 15, 1991, 150% of such area median gross income as so determined (or, unless otherwise agreed by the mortgagor and the authority, such lesser income limit equal to seven times the annual rent, including utilities except telephone, applicable to such units) or shall be, in the case of units for which the board has approved the mortgage loan on or after November 15, 1991, 115% of such area median gross income as so determined (or 150% of such area median gross income as so determined, if approved by the executive director as an income limit for all or some of such units pursuant to clause (ii) in the preceding sentence).~~

All of the units in each development financed under this chapter shall be occupied or held available for occupancy by persons and families whose adjusted family incomes, as of the date of their initial occupancy of such units, do not exceed 150% of the area median gross income as

determined by the authority; provided, however, that in the case of any development which is subject as of April 30, 1998, to the income limit of seven times the rents, including utilities except telephone, applicable to the units therein (or the lesser of such income limit and any other income limit), all of the units in such development shall be occupied or held available for occupancy by persons and families whose adjusted family incomes, as of the date of their initial occupancy of such units, do not exceed seven times the rents, including utilities except telephone, applicable to the units therein, unless the authority and the mortgagor shall agree to apply the income limit of 150% of the area median gross income as described above. The applicable income limit set forth in the preceding sentence shall also apply to persons and families at the time of reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy. The foregoing income limits shall apply to all developments for which the board approves mortgage loans on or after May 1, 1998, and all developments for which the board has approved mortgage loans prior to May 1, 1998, notwithstanding the inclusion of other income limits in the resolutions authorizing such mortgage loans or in any agreements executed prior to May 1, 1998, by and between the authority and the mortgagors of such developments.

The board may establish, in the resolution authorizing any mortgage loan to finance a development under this chapter, income limits lower than those provided herein or in the authority's rules and regulations for the occupants of the units in such development.

Furthermore, in the case of developments which are subject to federal mortgage insurance or assistance or are financed by notes or bonds exempt from federal income taxation, federal regulations may establish lower income limitations which in effect supersede the authority's income limits as described above.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in a development, the adjusted family incomes of applicants for occupancy of all of the units in the development shall be computed, for the purpose of determining eligibility for occupancy thereof hereunder and under the authority's rules and regulations, in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all developments and the processing thereof under the terms hereof must comply with (i) the Act; (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued by the authority to finance such developments; (iii) in the case of developments subject to federal mortgage insurance or other assistance, all applicable federal laws and regulations relating thereto; and (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds are issued by the authority to finance the developments. Copies of the authority's note and bond resolutions are available upon request.

VA.R. Doc. No. R98-195; Filed February 11, 1998, 10:36 a.m.

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Title of Regulation: **13 VAC 10-130-10 et seq. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons (amending 13 VAC 10-130-30).**

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

Summary:

The proposed amendments change the income limits on units in multi-family developments financed under the authority's rules and regulations to 150% of the area median gross income, except that units in developments which are currently subject to an income limit equal to seven times the applicable rent (including utilities, except telephone) shall remain subject to that income limit.

13 VAC 10-130-30. Income limits and general restrictions.

The amounts payable, if any, by persons occupying M/D developments are deemed not to be rent. As a result, the authority's income limit set forth under its rules and regulations limiting a person's or family's adjusted family income to an amount not greater than seven times the total annual rent is inapplicable. In accordance with the authority's rules and regulations, the income limits for persons occupying such developments shall be as follows: All units of each M/D development, with the sole exception of those units occupied by an employee or agent of the mortgagor, shall be occupied or held available for occupancy by persons who are mentally disabled and who have adjusted family incomes (as defined in the authority's rules and regulations and as determined at the time of their initial occupancy of such units and at the time of reexamination and redetermination of such persons' adjusted family incomes and eligibility subsequent to their initial occupancy of such units) which do not exceed ~~(i) in the case of units in a M/D development for which the board approved the mortgage loan prior to November 15, 1991,~~ 150% of the applicable area median gross income as determined by the authority ~~and (ii) in the case of units in a M/D development for which the board approved the mortgage loan on or after November 15, 1991, 115% of the applicable area median gross income as determined by the authority~~. *The foregoing income limit shall apply to all developments for which the board approves mortgage loans on or after May 1, 1998, and for which the board has approved mortgage loans prior to May 1, 1998, notwithstanding the inclusion of other income limits in the resolutions authorizing such mortgage loans or in any agreements executed prior to May 1, 1998, by and between the authority and the mortgagors of such developments.*

The board may establish, in the resolution authorizing any mortgage loan to finance an M/D development under these rules and regulations, income limits lower than those

provided herein for the occupants of the units in such M/D development.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in an M/D development, the occupancy of the M/D development shall comply with such limitations, and the adjusted family incomes (as defined in the authority's rules and regulations) of applicants for occupancy of all of the units in the M/D development shall be computed, for the purpose of determining eligibility for occupancy thereof under these rules and regulations in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all M/D developments and the processing thereof under the terms hereof must comply with (i) the Act and the authority's rules and regulations, (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued by the authority to finance such M/D developments, and (iii) the requirements set forth in the resolutions pursuant to which the notes or bonds, if any, are issued by the authority to finance the M/D developments. Copies of the authority's applicable note and bond resolutions, if any, are available upon request.

VA.R. Doc. No. R98-196; Filed February 11, 1998, 10:36 a.m.

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Title of Regulation: **13 VAC 10-140-10 et seq. Rules and Regulations for the Acquisition of Multi-Family Housing Developments (amending 13 VAC 10-140-20).**

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

Summary:

The proposed amendments change the income limits on units in multi-family developments acquired under the authority's rules and regulations to 150% of the area median gross income, except that units in developments which are currently subject to an income limit equal to seven times the applicable rent (including utilities, except telephone) shall remain subject to that income limit.

13 VAC 10-140-20. Income limits and general restrictions.

~~In order to be eligible for occupancy of a multi-family dwelling unit, a person or family shall not have an adjusted family income (as defined in the authority's rules and regulations) greater than (i) in the case of a multi-family dwelling unit for which the board has approved the acquisition prior to November 15, 1991, seven times the annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the foregoing shall not be applicable if no amounts are payable by or on behalf of such person or family or if amounts payable by such person or family are deemed by the board not to be rent or (ii) in the case of a multi-family dwelling unit for which the board has approved the acquisition on or after November 15, 1991, such percentage of the area median gross income as the board may from time to time establish in this chapter or by resolution for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the authority may, subsequent to November 15, 1991, determine to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above. The income limits established below in this chapter are in addition to the limit set forth in (i) above and in implementation of the provisions of (ii) above.~~

~~At least 20% of the units in each development shall be occupied or held available for occupancy by persons and families whose annual adjusted family incomes (at the time of their initial occupancy of such units) do not exceed 80% of the area median gross income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose annual adjusted family incomes (at the time of their initial occupancy of such units) do not exceed (i) in the case of units for which the board has approved the acquisition prior to November 15, 1991, 150% of such area median gross income as so determined or (ii) in the case of units for which the authority has approved the acquisition on or after November 15, 1991, 115% of such area median gross income as so determined. The income limits applicable to persons and families at the time of reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy shall be as set forth in (i) and (ii), as applicable, in the preceding sentence (or, in the case of units described in (i) in the preceding sentence, such lesser income limit, if applicable, equal to seven times the annual rent, including utilities except telephone, applicable to such dwelling units).~~

All of the units in each development acquired under this chapter shall be occupied or held available for occupancy by persons and families whose adjusted family incomes, as of the date of their initial occupancy of such units, do not exceed 150% of the area median gross income as determined by the authority; provided, however, that in the case of any development which is subject as of April 30, 1998, to the income limit of seven times the rents, including utilities except telephone, applicable to the units therein (or the lesser of such income limit and any other income limit), all of the units in such development shall be occupied or held available for occupancy by persons and families whose adjusted family incomes, as of the date of their initial occupancy of such units, do not exceed seven times the rents, including utilities except telephone, applicable to the units therein, unless the authority and the owner shall agree to apply the income limit of 150% of the area median gross income as described above or unless the authority is the sole owner of the development and determines to apply such income limit. The applicable income limit set forth in the preceding sentence shall also apply to persons and families at the time of reexamination and redetermination of their

adjusted family incomes and eligibility subsequent to their initial occupancy. The foregoing income limits shall apply to all developments for which the board approves the acquisition thereof on or after May 1, 1998, and all developments for which the board has approved the acquisition thereof prior to May 1, 1998, notwithstanding the inclusion of other income limits in the resolutions authorizing such acquisitions or in any agreements executed prior to May 1, 1998, by and between the authority and the mortgagors of such developments.

The board may establish, in the resolution authorizing the acquisition of any development under this chapter, income limits lower than those provided herein for occupancy of the units in such development.

Furthermore, in the case of developments which are subject to federal mortgage insurance or assistance or are financed by notes or bonds exempt from federal income taxation, federal regulations may establish lower income limitations which in effect supersede the authority's income limits as described above.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in a development, the adjusted family incomes (as defined in the authority's rules and regulations) of applicants for occupancy of all of the units in the development shall be computed, for the purpose of determining eligibility for occupancy thereof under this chapter, in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all developments and the processing thereof under the terms hereof must comply with (i) the Act, (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds, if any, issued by the authority to finance such developments, (iii) in the case of developments subject to federal mortgage insurance or other assistance, all applicable federal laws and regulations relating thereto and (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds are issued by the authority to finance the developments. Copies of the authority's note and bond resolutions are available upon request.

VA.R. Doc. No. R98-197; Filed February 11, 1998, 10:35 a.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

NOTICE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purpose of promulgating certain regulations. However, the commission is required to publish the full text of final regulations.

Title of Regulation: **4 VAC 20-910-10 et seq. Pertaining to Scup (Porgy) (amending 4 VAC 20-910-45).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 30, 1998.

Summary:

This regulation establishes minimum size limits, gear restrictions, and quotas for the harvest of scup (porgy). This amendment reduces overexploitation of the scup resource.

Agency Contact: Copies of the regulation may be obtained from Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23606, telephone (757) 247-2248.

4 VAC 20-910-45. Possession limits and harvest quotas.

A. During the period January 1 through April 30 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than ~~30,000~~ *20,000* pounds of scup; except when it is projected and announced that 85% of the coastwide quota for this period has been landed, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 1,000 pounds of scup.

B. During the period November 1 through December 31 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than ~~12,000~~ *8,000* pounds of scup except when it is announced that the coastwide quota for this period has been reached.

C. During the period May 1 through October 31 of each year, the commercial harvest and landing of scup in Virginia shall be limited to ~~4,158~~ *3,167* pounds.

D. For each of the time periods set forth in this section, the Marine Resources Commission will give timely notice to the industry of calculated poundage possession limits and quotas and any adjustments thereto. It shall be unlawful for any person to possess or to land any scup for commercial purposes after any winter period coastwide quota or summer period Virginia quota has been attained and announced as such.

E. It shall be unlawful for any buyer of seafood to receive any scup after any commercial harvest or landing quota has been attained and announced as such.

VA.R. Doc. No. R98-192; Filed January 29, 1998, 4:15 p.m.

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Title of Regulation: **4 VAC 20-950-10 et seq. Pertaining to Black Sea Bass (adding 4 VAC 20-950-45).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 30, 1998.

Summary:

This regulation establishes minimum size limits, gear restrictions, and quotas for the harvest of black sea bass. This amendment reduces overexploitation of the black sea bass resource.

Agency Contact: Copies of the regulation may be obtained from Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23606, telephone (757) 247-2248.

4 VAC 20-950-45. Possession limits and harvest quotas.

A. During the period January 1 through March 31 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 11,000 pounds of black sea bass, except when it is announced that the coastwide quota for this period has been reached.

B. During the period April 1 through June 30 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 7,000 pounds of black sea bass, except when it is announced that the coastwide quota for this period has been reached.

C. During the period July 1 through September 30 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 3,000 pounds of black sea bass, except when it is announced that the coastwide quota for this period has been reached.

D. During the period October 1 through December 31 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 4,000 pounds of black sea bass, except when it is announced that the coastwide quota for this period has been reached.

E. It shall be unlawful for any person to possess or to land any black sea bass for commercial purposes after the

coastwide quota for the designated period as described in subsections A through D of this section has been attained and announced as such.

F. It shall be unlawful for any buyer of seafood to receive any black sea bass after any commercial harvest quota has been attained and announced as such.

VA.R. Doc. No. R98-191; Filed January 29, 1998, 4:18 p.m.

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Title of Regulation: **4 VAC 20-1000-10 et seq. Pertaining to Dredging in Submerged Aquatic Vegetation.**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 30, 1998.

Summary:

This regulation establishes prohibitions on the use of dredges within areas of the Chincoteague Bay and adjacent waters of the Commonwealth which contain submerged aquatic vegetation.

Agency Contact: Copies of the regulation may be obtained from Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23606, telephone (757) 247-2248.

CHAPTER 1000.
PERTAINING TO DREDGING IN SUBMERGED AQUATIC VEGETATION.

4 VAC 20-1000-10. Purpose.

The purpose of this chapter is to provide for the conservation of submerged aquatic vegetation in Chincoteague Bay and adjacent waters of the Commonwealth.

4 VAC 20-1000-20. Definitions.

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

"Areas of submerged aquatic vegetation" means those areas which contain any of the aquatic plant species listed below:

Zostera marina (eelgrass)
Ruppia maritima (widgeon grass)

4 VAC 20-1000-30. Dredges prohibited.

A. It shall be unlawful for any person to use or have overboard any dredge in any areas of submerged aquatic vegetation or within 218 yards (200 meters) of any areas of submerged aquatic vegetation within those waters of Chincoteague Bay and Assateague Channel and Bay which are bounded on the south by the State Route 175 Chincoteague Causeway and the Assateague Island bridge and on the north by the Virginia-Maryland state line.

4 VAC 20-1000-40. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

VA.R. Doc. No. R98-193; Filed January 29, 1998, 4:13 p.m.

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TITLE 12. HEALTH

STATE BOARD OF HEALTH

Title of Regulation: **12 VAC 5-220-10 et seq. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (amending 12 VAC 5-220-10, 12 VAC 5-220-150, 12 VAC 5-220-180, 12 VAC 5-220-200, 12 VAC 5-220-230, 12 VAC 5-220-280, 12 VAC 5-220-290, 12 VAC 5-220-385 and 12 VAC 5-220-500; adding 12 VAC 5-220-105).**

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Effective Date: April 2, 1998.

Summary:

The amendments conform the Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations with recent amendments to the Code of Virginia, pursuant to the 1996 and 1997 Acts of the General Assembly, enacted to decrease regulatory involvement with projects to improve or increase services through capital expenditures at medical care facilities. An additional amendment to the regulation includes specific regulatory language that eliminates the need for an administrative hearing in many cases where one is not needed.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Paul E. Parker, Director, Center for Quality Health Care Services and Consumer Protection, Department of Health, 3600 West Broad Street, Suite 216, Richmond, VA 23230, telephone (804) 367-2126.

12 VAC 5-220-10. Definitions.

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

"Acquisition" means an expenditure of $600,000 or more that changes the ownership of a medical care facility. It shall

also include the donation or lease of a medical care facility. An acquisition of a medical care facility shall not include a capital expenditure involving the purchase of stock. *See 12 VAC 5-220-120.*

"Amendment" means any modification to an application which is made following the public hearing and prior to the issuance of a certificate and includes those factors that constitute a significant change as defined in this chapter. An amendment shall not include a modification to an application which serves to reduce the scope of a project.

"Applicant" means the owner of an existing medical care facility or the sponsor of a proposed medical care facility project submitting an application for a certificate of public need.

"Application" means a prescribed format for the presentation of data and information deemed necessary by the board to determine a public need for a medical care facility project.

"Application fees" means fees required for a project application and application for a significant change. Fees shall not exceed the lesser of 1.0% of the proposed capital expenditure or cost increase for the project or ~~$10,000~~ *$20,000.*

"Board" means the State Board of Health.

"Capital expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance. Such expenditure shall also include a series of related expenditures during a 12-month period or a financial obligation or a series of related financial obligations made during a 12-month period by or in behalf of a medical care facility. Capital expenditures need not be made by a medical care facility so long as they are made in behalf of a medical care facility by any person. See definition of "person."

"Certificate of public need" means a document which legally authorizes a medical care facility project as defined herein and which is issued by the commissioner to the owner of such project.

"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Commissioner" means the State Health Commissioner who has authority to make a determination respecting the issuance or revocation of a certificate.

"Competing applications" means applications for the same or similar services and facilities which are proposed for the same planning district or medical service area and which are in the same review cycle. See 12 VAC 5-220-220.

"Completion" means conclusion of construction activities necessary for substantial performance of the contract.

"Construction" means the building of a new medical facility or the expansion, remodeling, or alteration of an existing medical care facility.

"Construction, initiation of" means that a project shall be considered under construction for the purpose of certificate extension determinations upon the presentation of evidence by the owner of: (i) a signed construction contract; (ii) the completion of short term financing and a commitment for long term (permanent) financing when applicable; (iii) the completion of predevelopment site work; and (iv) the completion of building foundations.

"Date of issuance" means the date of the commissioner's decision awarding a certificate of public need.

"Department" means the State Department of Health.

"Designated medically underserved areas" means (i) areas designated as medically underserved areas pursuant to § 32.1- 122.5 of the Code of Virginia; (ii) federally designated Medically Underserved Areas (MUA); or (iii) federally designated Health Professional Shortage Areas (HPSA).

"Ex parte" means any meeting which takes place between (i) any person acting in behalf of the applicant or holder of a certificate of public need or any person opposed to the issuance or in favor of the revocation of a certificate of public need and (ii) any person who has authority in the department to make a decision respecting the issuance or revocation of a certificate of public need for which the department has not provided 10 days written notification to opposing parties of the time and place of such meeting. An ex parte contact shall not include a meeting between the persons identified in (i) and staff of the department.

"Gamma knife surgery" means stereotactic radiosurgery, where stereotactic radiosurgery is the noninvasive therapeutic procedure performed by directing radiant energy beams from any source at a treatment target in the head to produce tissue destruction. See definition of "project."

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Informal fact-finding conference" means a conference held pursuant to § 9-6.14:11 of the Code of Virginia.

"Inpatient beds" means accommodations within a medical care facility with continuous support services (such as food, laundry, housekeeping) and staff to provide health or health-related services to patients who generally remain in the medical care facility in excess of 24 hours. Such accommodations are known by varying nomenclatures including but not limited to: nursing beds, intensive care beds, minimal or self care beds, isolation beds, hospice beds, observation beds equipped and staffed for overnight use, and obstetric, medical, surgical, psychiatric, substance abuse, medical rehabilitation and pediatric beds, including pediatric bassinets and incubators. Bassinets and incubators in a

maternity department and beds located in labor or birthing rooms, recovery rooms, emergency rooms, preparation or anesthesia inductor rooms, diagnostic or treatment procedures rooms, or on-call staff rooms are excluded from this definition.

"Medical care facility" means any institution, place, building, or agency, at a single site, whether or not licensed or required to be licensed by the board or the State Mental Health, Mental Retardation and Substance Abuse Services Board, whether operated for profit or nonprofit and whether privately owned or operated or owned or operated by a local governmental unit, (i) by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated mentally or physically sick or injured persons, or for the care of two or more nonrelated persons requiring or receiving medical, surgical, or nursing attention or services as acute, chronic, convalescent, aged, physically disabled, or crippled or (ii) which is the recipient of reimbursements from third party health insurance programs or prepaid medical service plans. For purposes of this chapter, only the following medical care facility classifications shall be subject to review:

1. General hospitals.

2. Sanitariums.

3. Nursing homes.

4. Intermediate care facilities.

5. Extended care facilities.

6. Mental hospitals.

7. Mental retardation facilities.

8. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.

9. Specialized centers or clinics or that portion of a physician's office developed for the provision of out-patient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning, gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, radiation therapy, ~~single photon emission computed tomography (SPECT) scanning~~ *nuclear medicine imaging*, or such other specialty services as may be designated by the board by ~~chapter~~ *regulation*.

10. Rehabilitation hospitals.

11. Any facility licensed as a hospital.

For purposes of this chapter, the following medical care facility classifications shall not be subject to review:

1. Any facility of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

2. Any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Mental Health, Mental Retardation and Substance Abuse Services Comprehensive Plan.

3. Any physician's office, except that portion of the physician's office which is described in subdivision 9 of the definition of "medical care facility."

4. The Woodrow Wilson Rehabilitation Center of the Virginia Department of Rehabilitative Services.

"Medical service area" means the geographic territory from which at least 75% of patients come or are expected to come to existing or proposed medical care facilities, the delineation of which is based on such factors as population characteristics, natural geographic boundaries, and transportation and trade patterns, and all parts of which are reasonably accessible to existing or proposed medical care facilities.

"Modernization" means the alteration, repair, remodeling, replacement or renovation of an existing medical care facility or any part thereto, including that which is incident to the initial and subsequent installation of equipment in a medical care facility. See definition of "construction."

"Operating expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is properly chargeable as an expense of operation and maintenance and is not a capital expenditure.

"Operator" means any person having designated responsibility and legal authority from the owner to administer and manage a medical care facility. See definition of "owner."

"Other plans" means any plan(s) which is formally adopted by an official state agency or regional health planning agency and which provides for the orderly planning and development of medical care facilities and services and which is not otherwise defined in this chapter.

"Owner" means any person who has legal responsibility and authority to construct, renovate or equip or otherwise control a medical care facility as defined herein.

"Person" means an individual, corporation, partnership, association or any other legal entity, whether governmental or private. Such person may also include the following:

1. The applicant for a certificate of public need;

2. The regional health planning agency for the health planning region in which the proposed project is to be located;

3. Any resident of the geographic area served or to be served by the applicant;

4. Any person who regularly uses health care facilities within the geographic area served or to be served by the applicant;

5. Any facility or health maintenance organization (HMO) established under § 38.2-4300 et seq. of the Code of Virginia which is located in the health planning region in which the project is proposed and which provides services similar to the services of the medical care facility project under review;

6. Third party payors who provide health care insurance or prepaid coverage to 5.0% or more patients in the health planning region in which the project is proposed to be located; and

7. Any agency which reviews or establishes rates for health care facilities.

"Physician's office" means a place, owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever, which is designed and equipped solely for the provision of fundamental medical care whether diagnostic, therapeutic, rehabilitative, preventive or palliative to ambulatory patients and which does not participate in cost-based or facility reimbursement from third party health insurance programs or prepaid medical service plans excluding pharmaceuticals and other supplies administered in the office. See definition of "medical care facility."

"Planning district" means a contiguous area within the boundaries established by the Department of [~~Planning and Budget~~ *Housing and Community Development*] as set forth in § [~~15.1-1402~~ *15.2-4202*] of the Code of Virginia.

"Predevelopment site work" means any preliminary activity directed towards preparation of the site prior to the completion of the building foundations. This includes, but is not limited to, soil testing, clearing, grading, extension of utilities and power lines to the site.

"Primary medical care services" means first-contact, whole-person medical and health services delivered by broadly trained, generalist physicians, nurses and other professionals, intended to include, without limitation, obstetrics/gynecology, family practice, internal medicine and pediatrics.

"Progress" means actions which are required in a given period of time to complete a project for which a certificate of public need has been issued. See 12 VAC 5-220-450, Demonstration of Progress.

"Project" means:

1. The establishment of a medical care facility. See definition of "medical care facility."

2. An increase in the total number of beds or operating rooms in an existing or authorized medical care facility.

3. Relocation at the same site of 10 beds or 10% of the beds, whichever is less, from one existing physical facility to another in any two-year period; however, a hospital shall not be required to obtain a certificate for the use of 10% of its beds as nursing home beds as provided in § 32.1-132 of the Code of Virginia.

4. The introduction into any existing medical care facility of any new nursing home service such as intermediate care facility services, extended care facility services or skilled nursing facility services except when such medical care facility is an existing nursing home as defined in § 32.1-123 of the Code of Virginia.

5. The introduction into an existing medical care facility of any new cardiac catheterization, computed tomography (CT), gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), medical rehabilitation, neonatal special care services, obstetrical services, open heart surgery, positron emission tomographic (PET) scanning, organ or tissue transplant service, radiation therapy, ~~single photon emission computed tomography (SPECT)~~ *nuclear medicine imaging,* psychiatric, substance abuse treatment, or such other specialty clinical services as may be designated by the board by regulation, which the facility has never provided or has not provided in the previous 12 months.

6. The conversion of beds in an existing medical care facility to medical rehabilitation beds or psychiatric beds.

7. The addition or replacement by an existing medical care facility of any medical equipment for the provision of cardiac catheterization, computed tomography (CT), gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), open heart surgery, positron emission tomographic (PET) scanning, radiation therapy, ~~single photon emission computed tomography (SPECT),~~ or other specialized service designated by the board by regulation, except for the replacement of any medical equipment identified in this part which the commissioner has determined to be an emergency in accordance with 12 VAC 5-220-150 *or for which it has been determined that a certificate of public need has been previously issued for replacement of the specific equipment according to 12 VAC 5-220-105.*

8. Any capital expenditure of $5 million or more, not defined as reviewable in subdivisions 1 through 7 of this definition, by or in behalf of a medical care facility. However, capital expenditures between $1 million and $5 million shall be registered with the commissioner.

"Public hearing" means a proceeding conducted by a regional health planning agency at which an applicant for a certificate of public need and members of the public may present oral or written testimony in support or opposition to the application which is the subject of the proceeding and for which a verbatim record is made. See subsection A of 12 VAC 5-220-230.

"Regional health plan" means the regional plan adopted by the regional health planning agency board.

"Regional health planning agency" means the regional agency, including the regional health planning board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform health planning activities within a health planning region.

"Schedule for completion" means a timetable which identifies the major activities required to complete a project as identified by the applicant and which is set forth on the certificate of public need. The timetable is used by the commissioner to evaluate the applicant's progress in completing an approved project.

"Significant change" means any alteration, modification or adjustment to a reviewable project for which a certificate of public need has been issued or requested following the public hearing which:

1. Changes the site;

2. Increases the capital expenditure amount authorized by the commissioner on the certificate of public need issued for the project by 10% or more;

3. Changes the service(s) proposed to be offered;

4. Extends the schedule for completion of the project beyond three years (36 months) from the date of certificate issuance or beyond the time period approved by the commissioner at the date of certificate issuance, whichever is greater. See 12 VAC 5-220-440 and 12 VAC 5-220-450.

"Standard review process" means the process utilized in the review of all certificate of public need requests with the exception of:

1. Certain bed relocation, equipment replacement, and new service introduction projects as specified in 12 VAC 5-220-280;

2. Certain projects which involve an increase in the number of beds in which nursing facility or extended care services are provided as specified in 12 VAC 5-220-325.

"State Medical Facilities Plan" means the planning document adopted by the Board of Health which shall include, but not be limited to (i) methodologies for projecting need for medical care facility beds and services; (ii) statistical information on the availability of medical care facilities and services; and (iii) procedures, criteria and standards for review of applications for projects for medical care facilities and services. The most recent applicable State Medical Facilities Plan shall remain in force until any such chapter is amended, modified or repealed by the Board of Health.

"Virginia Health Planning Board" means the statewide health planning body established pursuant to § 32.1-122.02 of the Code of Virginia which serves as the analytical and technical resource to the Secretary of Health and Human Resources in matters requiring health analysis and planning.

12 VAC 5-220-105. Requirements for replacement of existing medical equipment which has been previously authorized as replacement equipment.

At least 30 days before any person contracts to make, or is otherwise legally obligated to make, a capital expenditure for the replacement of medical equipment for the provision of services listed in subdivision 7 of the definition of "project" in 12 VAC 5-220-10, which has been previously authorized for replacement through the issuance of a certificate of public need, the person shall notify the commissioner. The notification shall identify the specific unit of equipment to be replaced and the estimated capital cost of the replacement and shall include documentation that the equipment to be replaced has previously been authorized as replacement equipment through issuance of a certificate of public need.

12 VAC 5-220-150. Requirements for emergency replacement of equipment; notification of decision.

The commissioner shall consider requests for emergency replacement of medical equipment as identified in Part I of this chapter. Such an emergency replacement is not a "project" of a medical care facility requiring a certificate of public need. To request authorization for such replacement, the owner of such equipment shall submit information to the commissioner to demonstrate that (i) the equipment is inoperable as a result of a mechanical failure, Act of God, or other reason which may not be attributed to the owner and the repair of such equipment is not practical or feasible; or (ii) the immediate replacement of the medical equipment is necessary to maintain an essential clinical health service or to assure the safety of patients or staff.

In determining that an application for emergency replacement of medical equipment is not a "project," the commissioner may condition an application on the provision of a level of care at a reduced rate to indigents or acceptance of patients receiving specialized care.

For purposes of this section, "inoperable" means that the equipment cannot be put into use, operation, or practice to perform the diagnostic or therapeutic clinical health service for which it was intended.

Within 15 days of the receipt of such requests the commissioner will notify the owner in the form of a letter of the decision to deny or authorize the emergency replacement of equipment.

12 VAC 5-220-180. Application forms.

A. Letter of intent. An applicant shall file a letter of intent with the commissioner to request appropriate application forms, and submit a copy of that letter to the appropriate regional health planning agency, by the later of (i) 30 days prior to the submission of an application for a project included within a particular batch group or (ii) 10 days after the first letter of intent is filed for a project within a particular batch group for the same or similar services and facilities which are proposed for the same planning district or medical service area. The letter shall identify the owner, the type of project for which an application is requested, and the proposed

scope (size) and location of the proposed project. The department shall transmit application forms to the applicant within seven days of the receipt of the letter of intent. A letter of intent filed with the department shall be considered void one year after the date of receipt of such letter. (See 12 VAC 5-220-310 C.)

B. Application fees. The department shall collect application fees for applications that request a certificate of public need. The fee required for an application ~~is the lesser of 1.0% of the proposed capital expenditure for the project or $10,000.~~ *shall be computed as follows:*

1. For projects with a capital expenditure of $0 up to and including $1,000,000, the application fee is the greater of 1.0% of the total capital expenditure or $1,000;

2. For projects with a capital expenditure of $1,000,001 up to and including $2,000,000, the application fee is $10,000 plus .25% of the capital expenditure above $1,000,000;

3. For projects with a capital expenditure of $2,000,001 up to and including $3,000,000, the application fee is $12,500 plus .25% of the capital expenditure above $2,000,000;

4. For projects with a capital expenditure of $3,000,001 up to and including $4,000,000, the application fee is $15,000 plus .25% of the capital expenditure above $3,000,000 [*;*]

5. For projects with a capital expenditure of $4,000,001 up to and including $5,000,000, the application fee is $17,500 plus .25% of the capital expenditure above $4,000,000; [*and*]

6. For projects with a capital expenditure of $5,000,001 or more, the application fee is $20,000.

No application will be deemed to be complete for review until the required application fee is paid. (See 12 VAC 5-220-310 C.)

C. Filing application forms. Applications must be submitted at least 40 days prior to the first day of a scheduled review cycle to be considered for review in the same cycle. All applications including the required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate regional health planning agency. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency. (See 12 VAC 5-220-200.)

12 VAC 5-220-200. One hundred twenty-day review cycle.

The department shall review the following groups of completed applications in accordance with the following 120-day scheduled review cycles and the following descriptions of projects within each group, except as provided for in 12 VAC 5-220-220.

BATCH GROUP	GENERAL DESCRIPTION	REVIEW CYCLE Begins	Ends
A	General Hospitals/Obstetrical Services/Neonatal Special Care Services	Feb. 10 Aug. 10	Jun. 10 Dec. 8
B	Open Heart Surgery/Cardiac Catherization/Ambulatory Surgery Centers/Operating Room Additions/Transplant Services	Mar. 10 Sep. 10	Jul. 8 Jan. 8
C	Psychiatric Facilities/Substance Abuse Treatment/Mental Retardation Facilities	Apr. 10 Oct. 10	Aug. 8 Feb. 7
D	Diagnostic Imaging Facilities/Services	May 10 Nov. 10	Sep. 7 Mar. 10
E	Medical Rehabilitation Beds/Services	Jun. 10 Dec. 10	Oct. 8 Apr. 9
F	Selected Therapeutic Facilities/Services	Jul. 10 Jan. 10	Nov. 7 May 10
G	Nursing Home Beds at Retirement Communities/Bed Relocations/Miscellaneous Expenditures by Nursing Homes	Jan. 10 Mar. 10 May 10 July 10 Sep. 10 Nov. 10	May 10 July 8 Sep. 7 Nov. 7 Jan. 8 Mar. 10

Batch Group A includes:

1. The establishment of a general hospital.

2. An increase in the total number of general acute care beds in an existing or authorized general hospital.

3. The relocation at the same site of 10 general hospital beds or 10% of the general hospital beds of a medical care facility, whichever is less, from one existing physical facility to any other in any two-year period.

4. The introduction into an existing medical care facility of any new neonatal special care or obstetrical services which the facility has not provided in the previous 12 months.

5. Any capital expenditure of $5 million or more, not defined as a project category included in Batch Groups B through G, by or in behalf of a general hospital.

Batch Group B includes:

1. The establishment of a specialized center, clinic, or portion of a physician's office developed for the provision of outpatient or ambulatory surgery or cardiac catheterization services.

2. An increase in the total number of operating rooms in an existing medical care facility or establishment of operating rooms in a new facility.

3. The introduction into an existing medical care facility of any new cardiac catheterization, open heart surgery, or organ or tissue transplant services which the facility has not provided in the previous 12 months.

4. The addition or replacement by an existing medical care facility of any medical equipment for the provision of cardiac catheterization services *unless a certificate of public need authorizing replacement of equipment was previously issued for the specific unit of equipment to be replaced.*

5. Any capital expenditure of $5 million or more, not defined as a project category in Batch Group A or Batch Groups C through G, by or in behalf of a specialized center, clinic, or portion of a physician's office developed for the provision of outpatient or ambulatory surgery or cardiac catheterization services.

6. Any capital expenditure of $5 million or more, not defined as a project category in Batch Group A or Batch Groups C through G, by or in behalf of a medical care facility, which is primarily related to the provision of surgery, cardiac catheterization, open heart surgery, or organ or tissue transplant services.

Batch Group C includes:

1. The establishment of a mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.

2. A increase in the total number of beds in an existing or authorized mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.

3. An increase in the total number of mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, or mental retardation beds in an existing or authorized medical care facility which is not a dedicated mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.

4. The relocation at the same site of 10 mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, or mental retardation beds or 10% of the mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, or mental retardation beds of a medical care facility, whichever is less, from one existing physical facility to another in any two-year period.

5. The introduction into an existing medical care facility of any new psychiatric or substance abuse treatment service which the facility has not provided in the previous 12 months.

6. Any capital expenditure of $5 million or more, not defined as a project category in Batch Groups A and B or Batch Groups D through G, by or in behalf of a mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.

7. Any capital expenditure of $5 million or more, not defined as a project category in Batch Groups A and B or Batch Groups D through G, by or in behalf of a medical care facility, which is primarily related to the provision of mental health, psychiatric, substance abuse treatment or rehabilitation, or mental retardation services.

Batch Group D includes:

1. The establishment of a specialized center, clinic, or that portion of a physician's office developed for the provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or ~~single photon emission computed tomography (SPECT)~~ *nuclear medicine imaging.*

2. The introduction into an existing medical care facility of any new computed tomography (CT), magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or ~~single photon emission computed tomography (SPECT)~~ *nuclear medicine imaging* services which the facility has not provided in the previous 12 months.

3. The addition or replacement by an existing medical care facility of any equipment for the provision of computed tomography (CT), magnetic resonance imaging (MRI), magnetic source imaging (MSI), *or* positron emission tomographic (PET) scanning~~, or single photon emission computed tomography (SPECT)~~ *unless a certificate of public need authorizing replacement of equipment was previously issued for the specific unit of equipment to be replaced.*

4. Any capital expenditure of $5 million or more, not defined as a project category in Batch Groups A through C or Batch Groups E through G, by or in behalf of a specialized center, clinic, or that portion of a physician's office developed for the provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or ~~single photon emission computed tomography (SPECT)~~ *nuclear medicine imaging.*

5. Any capital expenditure of $5 million or more, not defined as a project category in Batch Groups A through C or Batch Groups E through G, by or in behalf of a medical care facility, which is primarily related to the

provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or ~~single photon emission computed tomography (SPECT)~~ *nuclear medicine imaging.*

Batch Group E includes:

1. The establishment of a medical rehabilitation hospital.

2. An increase in the total number of beds in an existing or authorized medical rehabilitation hospital.

3. An increase in the total number of medical rehabilitation beds in an existing or authorized medical care facility which is not a dedicated medical rehabilitation hospital.

4. The relocation at the same site of 10 medical rehabilitation beds or 10% of the medical rehabilitation beds of a medical care facility, whichever is less, from one existing physical facility to another in any two-year period.

5. The introduction into an existing medical care facility of any new medical rehabilitation service which the facility has not provided in the previous 12 months.

6. Any capital expenditure of $5 million or more, not defined as a project category in Batch Groups A through D or Batch Groups F and G, by or in behalf of a medical rehabilitation hospital.

7. Any capital expenditure of $5 million or more, not defined as a project category in Batch Groups A through D or Batch Groups F and G, by or in behalf of a medical care facility, which is primarily related to the provision of medical rehabilitation services.

Batch Group F includes:

1. The establishment of a specialized center, clinic, or that portion of a physician's office developed for the provision of gamma knife surgery, lithotripsy, or radiation therapy.

2. Introduction into an existing medical care facility of any new gamma knife surgery, lithotripsy, or radiation therapy services which the facility has never provided or has not provided in the previous 12 months.

3. The addition or replacement by an existing medical care facility of any medical equipment for the provision of gamma knife surgery, lithotripsy, or radiation therapy *unless a certificate of public need authorizing replacement of equipment was previously issued for the specific unit of equipment to be replaced.*

4. Any capital expenditure of $5 million or more, not defined as a project in Batch Groups A through E or Batch Group G, by or in behalf of a specialized center, clinic, or that portion of a physician's office developed for the provision of gamma knife surgery, lithotripsy, or radiation therapy.

5. Any capital expenditure of $5 million or more, not defined as a project in Batch Groups A through E or Batch Group G, by or in behalf of a medical care facility, which is primarily related to the provision of gamma knife surgery, lithotripsy, or radiation therapy.

Batch Group G includes:

1. The establishment of a nursing home, intermediate care facility, or extended care facility of a continuing care retirement community by a continuing care provider registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia.

2. The establishment of a nursing home, intermediate care facility, or extended care facility that does not involve an increase in the number of nursing home facility beds in Virginia ~~when the capital expenditure for such establishment is $5 million or more~~.

3. An increase in the total number of beds in an existing or authorized nursing home, intermediate care facility, or extended care facility of a continuing care retirement community by a continuing care provider registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia.

4. An increase in the total number of beds in an existing or authorized nursing home, intermediate care facility, or extended care facility that does not involve an increase in the number of nursing home facility beds in Virginia ~~when the capital expenditure for such an increase is $5 million or more~~.

5. The relocation at the same site of 10 nursing home, intermediate care facility, or extended care facility beds or 10% of the nursing home, intermediate care facility, or extended care facility beds of a medical care facility, whichever is less, from one physical facility to another in any two-year period~~, when the capital expenditure for such relocation is $1 million or more~~.

6. Any capital expenditure of $5 million or more, not defined as a project category in Batch Groups A through F, by or in behalf of a nursing home, intermediate care facility, or extended care facility, which does not increase the total number of beds of the facility.

7. Any capital expenditure of $5 million or more, not defined as a project category in Batch Groups A through F, by or in behalf of a medical care facility, which is primarily related to the provision of nursing home, intermediate care, or extended care services, and does not increase the number of beds of the facility.

12 VAC 5-220-230. Review of complete application.

A. Review cycle. At the close of the work day on the 10th day of the month, the department shall provide written notification to applicants specifying the acceptance date and review schedule of completed applications including a

proposed date for any informal fact-finding conference that may be held. The regional health planning agency shall conduct no more than two meetings, one of which must be a public hearing conducted by the regional health planning agency board or a subcommittee of the board and provide applicants with an opportunity, prior to the vote, to respond to any comments made about the project by the regional health planning agency staff, any information in a staff report, or comments by those voting in completing its review and recommendation by the 60th day of the cycle. By the 70th day of the review cycle, the department shall complete its review and recommendation of an application and transmit the same to the applicant(s) and other appropriate persons. Such notification shall also include the proposed date, time and place of any informal fact-finding conference.

An informal fact-finding conference shall be held when (i) determined necessary by the department or (ii) requested by any person ~~opposed to a project seeking to demonstrate good cause at the conference~~ *showing good cause*. Any person seeking to demonstrate good cause shall file, no later than ~~seven days prior to the conference~~ *10 days after the department has completed its review and recommendation of an application and has transmitted the same to the applicants and to persons who have prior to the issuance of the report requested a copy in writing*, written notification with the commissioner, applicant(s) and other competing applicants, and regional health planning agency stating the grounds for good cause *and providing the factual basis therefor under oath.*

For purposes of this section, "good cause" means that (i) there is significant, relevant information not previously presented at and not available at the time of the public hearing, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing or (iii) there is a substantial material mistake of fact or law in the department staff's report on the application or in the report submitted by the regional health planning agency. See § 9-6.14:11 of the Code of Virginia. *The commissioner shall within five days of receipt review any filing that claims good cause and determine whether the facts presented in writing demonstrate a likelihood that good cause will be shown. If there is such a likelihood, an informal fact-finding conference shall be held on the project and on the issue of whether good cause was shown. If such a likelihood is not demonstrated, the person asserting good cause may seek further to demonstrate good cause at any informal fact-finding conference otherwise scheduled on the project. If no conference has otherwise been scheduled, an informal conference shall be scheduled promptly to ascertain whether facts exist that demonstrate good cause. Within five days of any such conference the commissioner shall issue his final decision on whether good cause has been shown. No informal fact-finding conference shall be required on any project solely upon the request of a person claiming good cause unless the commissioner finds that good cause has been shown. Where good cause is not found by the commissioner to have been shown, the person claiming it may not participate as a party to the case in any administrative proceeding.*

The commissioner shall render a final determination by the 120th day of the review cycle. Unless agreed to by the applicant and, when applicable, the parties to any informal fact-finding conference held, the review schedule shall not be extended.

B. Regional health planning agency required notifications. Upon notification of the acceptance date of a complete application as set forth in subsection A of this section, the regional health planning agency shall provide written notification of its review schedule to the applicant. The regional health planning agency shall notify health care providers and specifically identifiable consumer groups who may be affected by the proposed project directly by mail and shall also give notice of the public hearing in a newspaper of general circulation in such county or city wherein a project is proposed or a contiguous county or city at least nine days prior to such public hearing. Such notification by the regional health planning agency shall include: (i) the date and location of the public hearing which shall be conducted on the application except as otherwise provided in this chapter, in the county or city wherein a project is proposed or a contiguous county or city and (ii) the date, time and place the final recommendation of the regional health planning agency shall be made. The regional health planning agency shall maintain a verbatim record which may be a tape recording of the public hearing. Such public hearing record shall be maintained for at least a one-year time period following the final decision on a certificate of public need application. See definition of "public hearing."

C. Ex parte contact. After commencement of a public hearing and before a final decision is made, there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte."

12 VAC 5-220-280. Applicability.

Projects of medical care facilities that satisfy the criteria set forth below as determined by the State Health Commissioner shall be subject to an expedited review process:

1. Relocation at the same site of 10 beds or 10% of the beds, whichever is less, from one existing physical facility to another when the cost of such relocation is less than ~~$1~~ *$5* million.

2. The replacement at the same site by an existing medical care facility of any medical equipment for the provision of cardiac catheterization, computed tomography (CT), lithotripsy, magnetic resonance imaging (MRI), open heart surgery, positron emission tomographic scanning (PET), *or* radiation therapy~~, or single photon emission computed tomography (SPECT)~~ when the medical care facility meets applicable

standards for replacement of such medical equipment which are set forth in the State Medical Facilities Plan.

~~3. The introduction into a medical care facility of any new single photon emission computed tomography (SPECT) service when the medical care facility currently provides non SPECT nuclear medicine imaging services and meets the applicable standards for establishment of SPECT services which are set forth in the State Medical Facilities Plan.~~

12 VAC 5-220-290. Application forms.

A. Obtaining application forms. Application forms for an expedited review shall be available from the department upon the request of the applicant. The department shall transmit application forms to the applicant within seven days of receipt of such request.

B. Application fees. The department shall collect application fees for applications that request a certificate of public need under the expedited review process. ~~The fee required for an application is the lesser of 1.0% of the proposed capital expenditure for the project or $10,000.~~ No application will be reviewed until the required application fee is paid *as provided in 12 VAC 5-220-180 B.*

C. Filing application forms. All requests for a certificate of public need in accordance with the expedited review process shall be reviewed by the department and the regional health planning agency which shall each forward a recommendation to the commissioner within 40 days from the date the submitted application has been deemed complete. No application for expedited review shall be reviewed until the application form has been received by the department and the appropriate regional health planning agency, has been deemed complete, and the application fee has been paid to the department.

12 VAC 5-220-385. Review of complete application.

A. Review cycle. The department shall provide written notification to applicants specifying the acceptance date and review schedule of completed applications including a proposed date for any informal fact-finding conference that may be held. The regional health planning agency shall conduct no more than two meetings, one of which must be a public hearing conducted by the regional health planning agency board or a subcommittee of the board and provide applicants with an opportunity, prior to the vote, to respond to any comments made about the project by the regional health planning agency staff, any information in a staff report, or comments by those voting in completing its review and recommendation by the 60th day of the cycle. By the 70th day of the review cycle, the department shall complete its review and recommendation of an application and transmit the same to the applicant or applicants and other appropriate persons. Such notification shall also include the proposed date, time and place of any informal fact-finding conference.

An informal fact-finding conference shall be held when (i) determined necessary by the department or (ii) requested by any person ~~opposed to a project seeking to demonstrate good cause at the conference~~ *showing good cause.* Any person seeking to demonstrate good cause shall file, no later than ~~seven days prior to the conference~~ *10 days after the department has completed its review and recommendation of an application and has transmitted the same to the applicants and to persons who have prior to the issuance of the report requested a copy in writing*, written notification with the commissioner, applicant or applicants and other competing applicants, and regional health planning agency stating the grounds for good cause *and providing the factual basis therefor under oath.*

For purposes of this section, "good cause" means that (i) there is significant, relevant information not previously presented at and not available at the time of the public hearing, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing, or (iii) there is a substantial material mistake of fact or law in the department staff's report on the application or in the report submitted by the regional health planning agency. (See § 9-6.14:11 of the Code of Virginia.) *The commissioner shall within five days of receipt review any filing that claims good cause and determine whether the facts presented in writing demonstrate a likelihood that good cause will be shown. If there is such a likelihood, an informal fact-finding conference shall be held on the project and on the issue of whether good cause was shown. If such a likelihood is not demonstrated, the person asserting good cause may seek further to demonstrate good cause at any informal fact-finding conference otherwise scheduled on the project. If no conference has otherwise been scheduled, an informal conference shall be scheduled promptly to ascertain whether facts exist that demonstrate good cause. Within five days of any such conference the commissioner shall issue his final decision on whether good cause has been shown. No informal fact-finding conference shall be required on any project solely upon the request of a person claiming good cause unless the commissioner finds that good cause has been shown. Where good cause is not found by the commissioner to have been shown, the person claiming it may not participate as a party to the case in any administrative proceeding.*

The commissioner shall render a final determination by the 120th day of the review cycle. Unless agreed to by the applicant or applicants and, when applicable, the parties to any informal fact-finding conference held, the review schedule shall not be extended.

B. Regional health planning agency required notifications. Upon notification of the acceptance date of a complete application as set forth in subsection A of this section, the regional health planning agency shall provide written notification of its review schedule to the applicant. The regional health planning agency shall notify health care providers and specifically identifiable consumer groups who may be affected by the proposed project directly by mail and shall also give notice of the public hearing in a newspaper of general circulation in such county or city wherein a project is proposed or a contiguous county or city at least nine days

prior to such public hearing. Such notification by the regional health planning agency shall include: (i) the date and location of the public hearing which shall be conducted on the application except as otherwise provided in this chapter, in the county or city wherein a project is proposed or a contiguous county or city; and (ii) the date, time and place the final recommendation of the regional health planning agency shall be made. The regional health planning agency shall maintain a verbatim record which may be a tape recording of the public hearing. Such public hearing record shall be maintained for at least a one-year time period following the final decision on a certificate of public need application. See definition of "public hearing."

Ex parte contact. After commencement of a public hearing and before a final decision is made, there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte."

12 VAC 5-220-500. Exemption of ~~state home for aged and infirm veterans~~ *Virginia Veterans Care Center.*

Notwithstanding the foregoing and other provisions of Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia, the ~~state home for aged and infirm veterans~~ *Virginia Veterans Care Center* authorized by Chapter 668, 1989 Acts of Assembly, shall be exempt from all certificate of public need review requirements as a medical care facility.

VA.R. Doc. No. R97-763; Filed February 11, 1998, 11:35 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulations: **Medicaid Coverage for Licensed Clinical Social Workers and Licensed Professional Counselors.**
12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services (amending 12 VAC 30-50-140 and 12 VAC 30-50-150).
12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-40 and 12 VAC 30-60-120).
12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-30).

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

Effective Date: April 1, 1998.

Summary:

As mandated by the 1996 General Assembly, in this regulatory action DMAS sets rates for licensed clinical psychologists, licensed clinical social workers and licensed professional counselors based upon reasonable criteria and provides for enrollment and direct reimbursement to all of these professionals.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

12 VAC 30-50-140. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

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

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

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

D. Outpatient psychiatric services.

1. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension (subject to DMAS' approval) of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by DMAS. Psychiatric services are further restricted to no more than three sessions in any given seven-day period. Consistent with § 6403 of the Omnibus Budget Reconciliation Act of 1989, medically necessary psychiatric services shall be covered when prior authorized by DMAS for individuals younger than 21 years of age when the need for such services has been identified in an EPSDT screening.

2. Psychiatric services can be provided by psychiatrists [~~, clinical psychologists licensed by the State Board of Medicine, psychologists clinical licensed by the Board of Psychology,~~ or by] a licensed clinical social worker [*or licensed professional counselor* under the direct supervision of a psychiatrist] ~~, licensed clinical psychologist or a licensed psychologist clinical~~ [~~*or a licensed professional counselor licensed by the appropriate state board*~~] . [*]

3. Psychological and psychiatric services shall be medically prescribed treatment which is directly and specifically related to an active written plan designed and

signature-dated by either a psychiatrist [~~or a clinical psychologist licensed by the Board of Medicine, a psychologist clinical licensed by the Board of Psychology,~~] or [*by* a] licensed clinical social worker [*or licensed professional counselor* under the direct supervision of a] ~~licensed clinical psychologist, a licensed psychologist clinical, or a~~ psychiatrist [~~*or licensed professional counselor licensed by the appropriate state board*~~]. [*]

[* *Licensed clinical social workers and licensed professional counselors may also directly enroll or be supervised by psychologists as provided for in 12 VAC 30-50-150.*]

4. Psychological or psychiatric services shall be considered appropriate when an individual meets the following criteria:

a. Requires treatment in order to sustain behavioral or emotional gains or to restore cognitive functional levels which have been impaired;

b. Exhibits deficits in peer relations, dealing with authority; is hyperactive; has poor impulse control; is clinically depressed or demonstrates other dysfunctional clinical symptoms having an adverse impact on attention and concentration, ability to learn, or ability to participate in employment, educational, or social activities;

c. Is at risk for developing or requires treatment for maladaptive coping strategies; and

d. Presents a reduction in individual adaptive and coping mechanisms or demonstrates extreme increase in personal distress.

5. Psychological or psychiatric services may be provided in an office or a mental health clinic.

E. Any procedure considered experimental is not covered.

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

G. Physician visits to inpatient hospital patients over the age of 21 are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses or treatment plan and is further restricted to medically necessary authorized (for enrolled providers)/approved (for nonenrolled providers) inpatient hospital days as determined by the Program.

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

H. (Reserved).

I. Reimbursement shall not be provided for physician services provided to recipients in the inpatient setting whenever the facility is denied reimbursement.

J. (Reserved.)

K. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Transplant services for kidneys and corneas shall be covered for all eligible persons. Transplant services for liver, heart, and bone marrow and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be limited to children (under 21 years of age). Kidney, liver, heart, and bone marrow transplants and any other medically necessary transplantation procedures that are determined to not be experimental or investigational require preauthorization by DMAS. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. Reimbursement for covered liver, heart, and bone marrow transplant services and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be a fee based upon the greater of a prospectively determined, procedure-specific flat fee determined by the agency or a prospectively determined, procedure-specific percentage of usual and customary charges. The flat fee reimbursement will cover procurement costs; all hospital costs from admission to discharge for the transplant procedure; and total physician costs for all physicians providing services during the transplant hospital stay, including radiologists, pathologists, oncologists, surgeons, etc. The flat fee reimbursement does not include pre- and post-hospitalization for the transplant procedure or pretransplant evaluation. Reimbursement for approved transplant procedures that are performed out of state will be made in the same manner as reimbursement for transplant procedures performed in the Commonwealth. Reimbursement for covered kidney and cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in 12 VAC 30-50-540.

12 VAC 30-50-150. Medical care by other licensed practitioners within the scope of their practice as defined by state law.

A. Podiatrists' services.

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

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

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

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

C. Chiropractors' services are not provided.

D. Other practitioners' services; psychological services, psychotherapy. Limits and requirements for covered services are found under Psychiatric Services (see 12 VAC 30-50-140 D).

[~~a.~~ *1.*] These limitations apply to psychotherapy sessions [*provided, within the scope of their licenses,*] by [*licensed*] clinical psychologists [~~licensed by the State Board of Medicine and psychologists clinical licensed by the Board of Psychology~~ *or licensed clinical social workers/licensed professional counselors who are either independently enrolled or under the direct supervision of a licensed clinical psychologist*]. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

[~~b.~~ 2.] Psychological testing [*is covered when provided, within the scope of their licenses,*] by [*licensed*] clinical psychologists [~~licensed by the State Board of Medicine, psychologists clinical licensed by the Board of Psychology and by a~~ *or*] licensed clinical social ~~worker under the direct supervision of a psychologist or psychiatrist are covered~~ [~~*or a*~~ *workers/*] *licensed professional* [~~*counselor licensed by the appropriate state board*~~ *counselors who are either independently enrolled or under the direct supervision of a licensed clinical psychologist*].

12 VAC 30-60-40. Utilization control: Nursing facilities.

A. Long-term care of residents in nursing facilities will be provided in accordance with federal law using practices and procedures that are based on the resident's medical and social needs and requirements. All nursing facility services, including specialized care, shall be provided in accordance with guidelines found in the Virginia Medicaid Nursing Home Manual.

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

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

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

E. In order for reimbursement to be made to the nursing facility for a recipient's care, the recipient must meet nursing facility criteria as described in 12 VAC 30-60-300 (Nursing Facility Criteria).

In order for reimbursement to be made to the nursing facility for a recipient requiring specialized care, the recipient must meet specialized care criteria as described in 12 VAC 30-60-320 (Adult Specialized Care Criteria) or 12 VAC 30-60-340 (Pediatric/Adolescent Specialized Care Criteria). Reimbursement for specialized care must be preauthorized by the Department of Medical Assistance Services. In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. Further specialized care services requirements are set forth below.

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

F. For nursing facilities, a physician must approve a recommendation that an individual be admitted to a facility. The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.

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

H. Specialized care services.

1. Providers must be nursing facilities certified by the Division of Licensure and Certification, State Department of Health, and must have a current signed participation agreement with the Department of Medical Assistance Services to provide nursing facility care. Providers must agree to provide care to at least four residents who meet the specialized care criteria for children/adolescents or adults.

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

a. Physician visits at least once weekly (after initial physician visit, subsequent visits may alternate between physician and physician assistant or nurse practitioner);

b. Skilled nursing services by a registered nurse available 24 hours a day;

c. Coordinated multidisciplinary team approach to meet the needs of the resident;

d. Infection control;

e. For residents under age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of 90 minutes each day, five days per week;

f. For residents over age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of two hours per day, five days a week;

g. Ancillary services related to a plan of care;

h. Respiratory therapy services by a board-certified therapist (for ventilator patients, these services must be available 24 hours per day);

i. Psychology services by a [~~board-certified~~ *licensed clinical*] psychologist ~~or by~~ , a licensed clinical social worker ~~under the direct supervision of a licensed clinical psychologist or a licensed psychologist clinical~~ [,] *or a licensed professional counselor* related to a plan of care;

j. Necessary durable medical equipment and supplies as required by the plan of care;

k. Nutritional elements as required;

l. A plan to assure that specialized care residents have the same opportunity to participate in integrated nursing facility activities as other residents;

m. Nonemergency transportation;

n. Discharge planning; and

o. Family or caregiver training.

3. Providers must coordinate with appropriate state and local agencies for educational and habilitative needs for Medicaid specialized care recipients who are under the age of 21.

12 VAC 30-60-120. Utilization control: Intensive physical rehabilitative services.

A. A patient qualifies for intensive inpatient rehabilitation or comprehensive outpatient physical rehabilitation as provided in a comprehensive outpatient rehabilitation facility (CORF) if the following criteria are met:

1. Adequate treatment of his medical condition requires an intensive rehabilitation program consisting of an interdisciplinary coordinated team approach to improve his ability to function as independently as possible; and

2. It has been established that the rehabilitation program cannot be safely and adequately carried out in a less intense setting.

B. In addition to the disability requirement, participants shall meet the following criteria:

1. Require at least two of the listed therapies in addition to rehabilitative nursing:

a. Occupational therapy.

b. Physical therapy.

c. Cognitive rehabilitation.

d. Speech/language pathology services.

2. Medical condition stable and compatible with an active rehabilitation program.

3. For continued intensive rehabilitation services, the patient must demonstrate an ability to actively participate in goal-related therapeutic interventions developed by the interdisciplinary team. This is evidenced by regular attendance in planned activities and demonstrated progress toward the established goals.

4. Intensive rehabilitation services are to be considered for termination regardless of the preauthorized length of stay when any of the following conditions are met:

a. No further potential for improvement is demonstrated. The patient has reached his maximum progress and a safe and effective maintenance program has been developed.

b. There is limited motivation on the part of the individual or caregiver.

c. The individual has an unstable condition that affects his ability to participate in a rehabilitative plan.

d. Progress toward an established goal or goals cannot be achieved within a reasonable length of time.

e. The established goal serves no purpose to increase meaningful function or cognitive capabilities.

f. The service can be provided by someone other than a skilled rehabilitation professional.

C. Within 72 hours of a patient's admission to an intensive rehabilitation program, or within 72 hours of notification to the facility of the patient's Medicaid eligibility, the facility shall notify the Department of Medical Assistance Services in writing of the patient's admission. This notification shall include a description of the admitting diagnoses, plan of treatment, expected progress and a physician's certification that the patient meets the admission criteria. The Department of Medical Assistance Services will make a determination as to the appropriateness of the admission for Medicaid payment and notify the facility of its decision. If payment is approved, the department will establish and notify the facility of an approved length of stay. Additional lengths of stay shall be requested in writing and approved by the department. Admissions or lengths of stay not authorized by the Department of Medical Assistance Services will not be approved for payment.

D. Documentation of rehabilitation services shall, at a minimum:

1. Describe the clinical signs and symptoms of the patient necessitating admission to the rehabilitation program;

2. Describe any prior treatment and attempts to rehabilitate the patient;

3. Document an accurate and complete chronological picture of the patient's clinical course and progress in treatment;

4. Document that an interdisciplinary coordinated treatment plan specifically designed for the patient has been developed;

5. Document in detail all treatment rendered to the patient in accordance with the interdisciplinary plan of care with specific attention to frequency, duration, modality, response to treatment, and identify who provided such treatment;

6. Document change in the patient's conditions;

7. Describe responses to and the outcome of treatment; and

8. Describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no reimbursement will be provided. All intensive rehabilitative services shall be provided in accordance with guidelines found in the Virginia Medicaid Rehabilitation Manual.

E. For a patient with a potential for physical rehabilitation for which an outpatient assessment cannot be adequately performed, an intensive evaluation of no more than seven calendar days will be allowed. A comprehensive assessment will be made of the patient's medical condition, functional limitations, prognosis, possible need for corrective surgery, attitude toward rehabilitation, and the existence of any social problems affecting rehabilitation. After these assessments have been made, the physician, in consultation with the rehabilitation team, shall determine and justify the level of care required to achieve the stated goals.

If during a previous hospital stay an individual completed a rehabilitation program for essentially the same condition for which inpatient hospital care is now being considered, reimbursement for the evaluation will not be covered unless there is a justifiable intervening circumstance which necessitates a reevaluation.

Admissions for evaluation or training, or both, for solely vocational or educational purposes or for developmental or behavioral assessments are not covered services.

F. Interdisciplinary team conferences shall be held as needed but at least every two weeks to assess and document the patient's progress or problems impeding progress. The team shall assess the validity of the rehabilitation goals established at the time of the initial evaluation, determine if rehabilitation criteria continue to be met, and revise patient goals as needed. A review by the various team members of each others' notes does not constitute a team conference. Where practical, the patient or family or both shall participate in the team conferences. A summary of the conferences, noting the team members present, shall be recorded in the clinical record and reflect the reassessments of the various contributors.

Rehabilitation care is to be considered for termination, regardless of the approved length of stay, when further progress toward the established rehabilitation goal is unlikely or further rehabilitation can be achieved in a less intensive setting.

Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate and that the patient continues to meet intensive rehabilitation criteria throughout the entire program. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.

G. Properly documented medical reasons for furlough may be included as part of an overall rehabilitation program. Unoccupied beds (or days) resulting from an overnight therapeutic furlough will not be reimbursed by the Department of Medical Assistance Services.

H. Discharge planning shall be an integral part of the overall treatment plan which is developed at the time of admission to the program. The plan shall identify the anticipated improvements in functional abilities and the probable discharge destination. The patient, unless unable to do so, or the responsible party shall participate in the discharge planning. Notations concerning changes in the discharge plan shall be entered into the record at least every two weeks, as a part of the team conference.

I. Rehabilitation services are medically prescribed treatment for improving or restoring functions which have been impaired by illness or injury or, where function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning. The rules pertaining to them are:

1. Rehabilitative nursing requires education, training, or experience that provides special knowledge and clinical skills to diagnose nursing needs and treat individuals who have health problems characterized by alteration in cognitive and functional ability. Rehabilitative nursing are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan approved by a physician after any needed consultation with a registered nurse who is experienced in rehabilitation [~ ;]

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a registered nurse or licensed professional nurse, nursing assistant, or rehabilitation technician under the direct supervision of a registered nurse who is experienced in rehabilitation [~ ;]

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis [~ ; *and*]

d. The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.

2. Physical therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a qualified physical therapist licensed by the Board of Medicine;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

3. Occupational therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Certification Board under the direct supervision of a qualified occupational therapist as defined above;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

4. Speech-language therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech-Language Pathology or, if exempted from licensure by statute, meeting the requirements in 42 CFR 440.1109 (c);

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech-Language Pathology;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

5. Cognitive rehabilitation services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with a clinical psychologist experienced in working with the neurologically impaired and licensed by the Board of Medicine;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be rendered after a neuropsychological evaluation administered by a clinical psychologist or physician experienced in the administration of neuropsychological assessments and licensed by the Board of Medicine and in accordance with a plan of care based on the findings of the neuropsychological evaluation;

c. Cognitive rehabilitation therapy services may be provided by occupational therapists, speech-language pathologists, and psychologists who have experience in working with the neurologically impaired when provided under a plan recommended and coordinated by a physician or clinical psychologist licensed by the Board of Medicine;

d. The cognitive rehabilitation services shall be an integrated part of the interdisciplinary patient care plan and shall relate to information processing deficits which are a consequence of and related to a neurologic event;

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

f. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis.

6. Psychology services are those services furnished a patient which meet all of the following conditions:

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

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified psychologist as required by state law or by a licensed clinical social worker ~~under the direct supervision of a licensed clinical psychologist or a licensed psychologist clinical~~ *or a licensed professional counselor*;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

7. Social work services are those services furnished a patient which meet all of the following conditions:

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

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified social worker as required by state law;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective

maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

8. Recreational therapy are those services furnished a patient which meet all of the following conditions:

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

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services are performed as an integrated part of a comprehensive rehabilitation plan of care by a recreation therapist certified with the National Council for Therapeutic Recreation at the professional level;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

9. Prosthetic/orthotic services.

a. Prosthetic services furnished to a patient include prosthetic devices that replace all or part of an external body member, and services necessary to design the device, including measuring, fitting, and instructing the patient in its use;

b. Orthotic device services furnished to a patient include orthotic devices that support or align extremities to prevent or correct deformities, or to improve functioning, and services necessary to design the device, including measuring, fitting and instructing the patient in its use; and

c. Maxillofacial prosthetic and related dental services are those services that are specifically related to the improvement of oral function not to include routine oral and dental care.

d. The services shall be directly and specifically related to an active written treatment plan approved by a physician after consultation with a prosthetist, orthotist, or a licensed, board eligible prosthodontist, certified in Maxillofacial prosthetics.

e. The services shall be provided with the expectation, based on the assessment made by physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and predictable period of time, or shall be necessary to establish an improved functional state of maintenance.

f. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical and dental practice; this includes the requirement that the amount, frequency, and duration of the services be reasonable.

12 VAC 30-80-30. Fee-for-service providers.

A. Payment for the following services, except for physician services, shall be the lower of the state agency fee schedule (12 VAC 30-80-190 has information about the state agency fee schedule) or actual charge (charge to the general public):

1. Physicians' services (12 VAC 30-80-160 has obstetric/pediatric fees). Payment for physician services shall be the lower of the state agency fee schedule or actual charge (charge to the general public), except that reimbursement rates for designated physician services when performed in hospital outpatient settings shall be 50% of the reimbursement rate established for those services when performed in a physician's office. The following limitations shall apply to emergency physician services.

a. Definitions. The following words and terms, when used in this ~~regulation~~ *subdivision 1*, shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency service and ancillary service charges claimed in association with the emergency department visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"Emergency physician services" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"Recent injury" means an injury which has occurred less than 72 hours prior to the emergency department visit.

b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency departments and reimburse physicians for nonemergency care rendered in emergency departments at a reduced rate.

(1) DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all physician services, including those obstetric and pediatric procedures contained in 12 VAC 30-80-160, rendered in emergency departments which DMAS determines are nonemergency care.

(2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(3) Services determined by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology ~~for (2) above~~ *in subdivision 1 b (2) of this subsection.* Services not meeting certain criteria shall be paid under the methodology ~~of (1) above~~ *in subdivision 1 b (1) of this subsection.* Such criteria shall include, but not be limited to:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(4) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent objectives, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

2. Dentists' services.

3. Mental health services including: *(i)* community mental health services; *(ii)* services of a licensed clinical psychologist; *or (iii)* mental health services provided by a physician.

a. Services provided by licensed clinical psychologists shall be reimbursed at 90% of the reimbursement rate for [~~*psychiatrist*~~ *psychiatrists*].

b. Services provided by [*independently enrolled*] *licensed clinical social workers* [*and licensed professional counselors*] *shall be reimbursed at 75% of the reimbursement rate for licensed clinical psychologists.*

[~~*c. Services provided by licensed professional counselors shall be reimbursed at 70% of the reimbursement rate for licensed clinical psychologists.*~~]

4. Podiatry.

5. Nurse-midwife services.

6. Durable medical equipment.

a. The rate paid for all items of durable medical equipment except nutritional supplements shall be the lower of the state agency fee schedule that existed prior to July 1, 1996, less 4.5%, or the actual charge.

b. The rate paid for nutritional supplements shall be the lower of the state agency fee schedule or the actual charge.

7. Local health services.

8. Laboratory services (other than inpatient hospital).

9. Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling).

10. X-Ray services.

11. Optometry services.

12. Medical supplies and equipment.

13. Home health services. Effective June 30, 1991, cost reimbursement for home health services is eliminated. A rate per visit by discipline shall be established as set forth by 12 VAC 30-80-180.

14. Physical therapy; occupational therapy; and speech, hearing, language disorders services when rendered to noninstitutionalized recipients.

15. Clinic services, as defined under 42 CFR 440.90.

B. Hospice services payments must be no lower than the amounts using the same methodology used under Part A of Title XVIII, and adjusted to disregard offsets attributable to Medicare coinsurance amounts.

VA.R. Doc. No. R97-684; Filed February 11, 1998, 8:58 a.m.

AUCTIONEERS BOARD

Periodic Review of Regulations – Notice of Public Comment

Under the statutory authority of §§ 9-6.14:7.1 and 54.1-602 B 1 of the Code of Virginia, the Department of Professional and Occupational Regulation, Auctioneers Board, is conducting a periodic review of its public participation guidelines and is soliciting general comments on 18 VAC 25-10-10 et seq., Public Participation Guidelines. Comments will be accepted until Monday, May 4, 1998, and may be submitted to Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230.

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Under the statutory authority of § 54.1-602 B 1 of the Code of Virginia, the Department of Professional and Occupational Regulation, Auctioneers Board, is conducting a periodic review of its regulations and is soliciting general comments on 18 VAC 25-21-10 et seq., Rules and Regulations of the Auctioneers Board. Comments will be accepted until Monday, May 4, 1998, and may be submitted to Mark n. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230.

STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 28, 1998

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUC870004

Ex Parte: Investigation of
deregulation of telephone company
billing and collection services

FINAL ORDER

By its Interim Order entered January 28, 1988, the Commission, among other things, ordered that billing and collection services rendered by local exchange carriers ("LECs") remain as a regulated activity, permitted LECs to file individually negotiated billing agreements, and allowed LECs to continue to terminate service to subscribers who fail to pay for long distance services provided by a certificated interexchange carrier ("IXC") and billed by the LEC.

Since then, the Commission has altered the regulatory treatment of the recording, processing, rendering and inquiry functions of billing and collection service for companies operating under alternative regulatory plans approved pursuant to Section 56-235.5 of the Code of Virginia. Also, the Commission has invited and received additional comments pursuant to its Order Inviting Additional Comments of April 15, 1996. In addition, the Telecommunications Act of 1996, 47 U.S.C. § 151 et seq. ("Act"), became law. In view of these developments, the Commission now finds it necessary to modify and make final its Interim Order of January 28, 1988.

The Act contains requirements for incumbent LECs to provide access to unbundled network elements, which includes "information sufficient for billing and collection," to requesting telecommunications carriers. 47 U.S.C. § 251(c)(3) and § 151(29). Therefore, the Commission finds it is no longer necessary to apply tariff regulation to the recording, processing, rendering and inquiry functions that are involved in billing and collection services of applicable incumbent LECs. Ordering clauses A.(1) and A.(2) of the Interim Order need not remain in force.

By order of July 23, 1997 in Case No. PUC970113, the Commission initiated an investigation of the termination of local service for failure to pay long distance services, which was ordering clause A.(3) of the Interim Order. Comments have been received and that matter is under consideration by the Commission. This clause will remain in effect unless and until changed by subsequent order in Case No. PUC970113.

The other ordering clauses of the Interim Order require only updating and clarification of the language.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) The recording, processing, rendering and inquiry functions of billing and collection service are no longer subject to tariff regulation.

(2) LECs may continue to terminate service to subscribers who fail to pay for long distance services provided by a certificated IXC and billed by the LEC, but may not do so while the customer has a bona fide dispute with the IXC for whom the LEC is billing.

(3) LECs shall not discriminate in the quality of like services offered to certificated IXCs, but may offer different pricing and packaging of the services.

(4) LECs may not deny billing and collection service to any requesting, certificated IXC unless authorized by the Commission.

(5) LECs may collect deposits for certificated IXCs only upon criteria established by those IXCs.

(6) There being nothing further to come before the Commission, this matter is dismissed and the record developed herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each local exchange company subject to the jurisdiction of the Commission as set out in Appendix A attached hereto; each interexchange carrier certificated in Virginia as set out in Appendix B attached hereto; to the Office of Attorney General, Division of Consumer Counsel,

900 East Main Street, Richmond, Virginia 23219; to Andrew D. Lipman, Esquire, and Jean L. Kiddo, Esquire, Swidler & Berlin, 3000 K Street, N.W., Washington, D.C. 20007-5116; Operator Service Providers, Mr. Paul Gamberg, 6611 Valjean Avenue #201, Van Nuys, California 91406; the Commission's Office of General Counsel and the Commission's Divisions of Communications, Public Utility Accounting, and Economics and Finance.

VA.R. Doc. No. C98-844; Filed February 4, 1998, 1:45 p.m.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Notice of Application to Obtain Funding through the Edward Byrne Memorial Formula Grant Fund

The Department of Criminal Justice Services will submit, on or before March 6, 1998, an application to the Bureau of Justice Assistance, U.S. Department of Justice, to obtain FY 1998 funding available through the Edward Byrne Memorial Formula Grant Program. The application requests a total of $12,037,000 in federal funds. The Department and the Criminal Justice Services Board anticipate using these funds beginning on July 1, 1998, to support local and state agency community-oriented justice projects, as well as 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.

Notice of Acceptance of Applications for Grant Funds for Pre-release and Post-incarceration Services (PAPIS)

The Department of Criminal Justice Services is accepting applications for grant funds for pre-release and post-incarceration services for adult offenders. These services provide training and counseling which prepare adult offenders for reintegration into society after release from state prisons or local jails. The deadline for application is 5 p.m., Friday, April 3, 1998. Program guides and applications may be obtained by contacting Carol-Lee Raimo, Program Analyst, Department of Criminal Justice Services, telephone (804) 786-9652, FAX (804) 786-9656 or e-mail craimo.dcjs@state.va.us. Any public or private nonprofit transition services provider is invited to make application.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Notice of Public Comment on Regulations

The Department of Mental Health, Mental Retardation and Substance Abuse Services invites comment from the public on 12 VAC 35-11-10 et seq., Public Participation Guidelines, as part of a review of its regulations being conducted under Executive Order 15 (94). The department welcomes written comment on this regulation with regard to any matters governed by the Executive Order, including whether the regulation (i) is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) is mandated or authorized by law; (iii) offers the least burdensome alternative and most reasonable solution; (iv) is clearly written and easily understandable; and (v) has a favorable or unfavorable impact upon the family.

Written or faxed comments may be submitted through 5 p.m. Tuesday, March 31, 1998. In corresponding with the department, please identify the regulation by citing the VAC number that precedes the regulation name, along with the full title that follows. Copies of the regulation may be obtained from the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Contact: Marion Greenfield, Office of Planning and Regulations, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-6341 or FAX (804) 371-0092.

VIRGINIA CODE COMMISSION

Notice to Subscribers

Beginning with Volume 14, Issue 1 of the Virginia Register (14:1 VA.R. September 29, 1997), the format of the Register changed slightly. Regulations and other information previously published in the State Corporation Commission, Marine Resources Commission, State Lottery Department, and Tax Bulletin sections have been merged into the Proposed Regulations, Final Regulations, Emergency Regulations, or General Notices sections as appropriate. In addition, regulations appear in order by Virginia Administrative Code (VAC) title order to correspond with the VAC.

Notice to State Agencies

Mailing Address: 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 may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Internet: Forms and other *Virginia Register* resources may be printed or downloaded from the *Virginia Register* web page: http://legis.state.va.us/codecomm/regindex.htm

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
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ERRATA

AIR POLLUTION CONTROL BOARD

Title of Regulation: 9 VAC 5-190-10 et seq. Variance for Merck Stonewall Plant.

Publication: 14:2 VA.R 321-326 October 13, 1997.

Corrections to Final Regulation:

Page 324, column 2, 9 VAC 5-190-80 A, line 2, change "below" to "in subsections B through D of this subsection"

Page 325, column 1, 9 VAC 5-190-80 B 1, line 4, after "quality" delete comma and after "determination" insert comma

Page 325, column 1, 9 VAC 5-190-80 B 2, line 3, after "application" insert comma; after "determination" insert comma

Page 325, column 2, 9 VAC 5-190-80 D 1 g, line 5, change "subsection A" to "subsection B"

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-31-10 et seq. Virginia Pollutant Discharge Elimination System Permit Regulation.

Publication: 14:9 VA.R. 1335-1348 January 19, 1998.

Corrections to Final Regulation:

Page 1339, 9 VAC 25-31-800 F 6, line 6, change "paragraph 1 b" to "paragraph 2" and on line 8, change "paragraph (2)" to "paragraph 3"

Page 1344, column 1, 9 VAC 25-31-840 K 2, line 1, change "H' of this section" to "1 of this subsection"

* * *

Title of Regulation: 9 VAC 25-196-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Cooling Water Discharges.

Publication: 14:9 VA.R. 1373-1387 January 19, 1998.

Corrections to Final Regulation:

Page 1374, column 1, 9 VAC 25-196-50 A 2, line 1, change "put and take" to "stockable"; line 9, change "9 VAC 25-260-320" to "9 VAC 25-260-110 C"

Page 1375, column 2, 9 VAC 25-196-70, first paragraph of permit, line 6, after "except" insert "Class V stockable trout waters, Class VI natural trout waters, and"; line 11, change "9 VAC 25-260-320" to "9 VAC 25-260-110 C"

Page 1376, 9 VAC 25-196-70 A, footnote 2, line 1, change "9 VAC 25-260-10" to "9 VAC 25-260-5"

* * *

Title of Regulation: 9 VAC 25-260-5 et seq. Water Quality Standards.

Publication: 14:4 VA.R 571-673 November 10, 1997.

Corrections to Final Regulation:

Page 572, column 2, 9 VAC 25-260-20, catchline, change "standard" to "criteria"

Page 573, column 2, 9 VAC 25-260-20 B 7, line 3, change "standard" to "criteria"

Page 577, column 1, 9 VAC 25-260-110 A, line 9, after "9 VAC 25-260-390" insert "et seq."

Page 587, column 1, 9 VAC 25-260-140 B, third line from the end of the subsection, change "Ka-pH" to "pKa-pH"

Page 596, column 1, 9 VAC 25-260-350 A 14, line 2, strike "lower"

Page 599, column 1, 9 VAC 25-260-370 B, line 5, change "vii" to "viii"

Page 603, column 2, 9 VAC 25-260-390, at end of section insert "* See 9 VAC 25-260-360 B"

Page 604, column 1, 9 VAC 25-260-400 1a, line 4, change "39°16'19"" to 39°06'19""

Page 608, column 2, 9 VAC 25-260-400 3c, strike "PWS"

Page 641, column 2, 9 VAC 25-260-450 5a, unstrike "PWS"

Page 663, column 2, 9 VAC 25-260-540 1k, strike "IV PWS Walker Creek and its tributaries from the Wythe Bland Water and Sewer Authority's raw water intake (for Bland) to a point five miles upstream."; insert "(Deleted)"

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) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TDD☎, or visit the General Assembly web site's Legislative Information System (http://leg1.state.va.us/lis.htm) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

VIRGINIA AGRICULTURAL COUNCIL

March 23, 1998 - 9 a.m. – Open Meeting
March 24, 1998 - 8:30 a.m. – Open Meeting
Days Inn, 1901 Emmet Street, Charlottesville, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting to hear and act upon agricultural project proposals for financial assistance through the Virginia Agricultural Council. The council will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs special accommodations in order to participate at the meeting should contact Thomas R. Yates at least five days before the meeting so that suitable arrangements can be made.

Contact: Thomas R. Yates, Assistant Secretary, Virginia Agricultural Council, Washington Bldg., 1100 Bank St., Room 903, Richmond, VA 23219, telephone (804) 786-6060 or toll-free 1-800-828-1120/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia State Apple Board

March 3, 1998 - 10 a.m. – Open Meeting
Department of Forestry, 900 Natural Resources Drive, Training Room, Charlottesville, Virginia. ♿

A meeting to review past minutes, review tax collections and budget, and discuss marketing plans for the 1998-99 season. Potential changes to the Code of Virginia will also be reviewed. 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 Nancy L. Israel at least five days before the meeting date so that suitable arrangements can be made.

Contact: Nancy L. Israel, Program Director, Virginia State Apple Board, Washington Bldg., 1100 Bank St., Suite 1008, Richmond, VA 23219, telephone (804) 371-6104 or FAX (804) 371-7786.

Virginia Cotton Board

March 3, 1998 - 9 a.m. – Open Meeting
Tidewater Agricultural Research and Extension Center, 6321 Holland Road, Suffolk, Virginia. ♿

The first working meeting of the board to discuss the status and volume of the 1997 cotton crop and to discuss and approve contractual arrangements with national and regional organizations and hearing project proposal grant requests by Virginia Tech and Virginia State cotton production researchers. Financial reports will also be heard and approved. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact D. Stanley Duffer at least five days before the meeting date so that suitable arrangements can be made.

Contact: D. Stanley Duffer, Program Director, Virginia Cotton Board, P.O. Box 129, Halifax, VA 24558, telephone (804) 572-4568 or FAX (804) 572-8234.

Virginia Irish Potato Board

† April 23, 1998 - 8 p.m. – Open Meeting
Eastern Shore Agricultural Research and Extension Center, Research Drive, Painter, Virginia. ♿

A meeting to discuss programs (promotion, research and education), the annual budget, and other business that may come before the board. 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 J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, Virginia Irish Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867 or FAX (757) 787-1041.

Virginia Peanut Board

March 9, 1998 - 11 a.m. – Open Meeting
Tidewater Agricultural Research and Extension Center, 6231 Holland Road, Suffolk, Virginia.

A meeting to review peanut research projects for possible funding in 1998. 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 Russell C. Schools at least five days before the meeting date so that suitable arrangements can be made.

Contact: Russell C. Schools, Program Director, Virginia Peanut Board, P.O. Box 356, Capron, VA 23829, telephone (804) 658-4573.

Virginia Sweet Potato Board

March 4, 1998 - 7:30 p.m. – Open Meeting
Eastern Shore Agricultural Research and Extension Center, Research Drive, Painter, Virginia.

A meeting to discuss programs regarding promotion, research and education; the annual budget; and other business that may come before the board. 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 J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, Virginia Sweet Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867 or FAX (757) 787-1041.

Virginia Soybean Board

March 4, 1998 - 8 a.m. – Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

A meeting to discuss checkoff revenues and the financial status resulting from sales of the 1997 soybean crop and to hear FY 1997-98 project reports and FY 1998-99 project proposals and make funding decisions. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Phil Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Virginia Soybean Board, 1100 Bank St., Suite 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

ALCOHOLIC BEVERAGE CONTROL BOARD

March 9, 1998 - 9:30 a.m. – Open Meeting
March 23, 1998 - 9:30 a.m. – Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia.

A meeting to receive and discuss reports and activities of staff members. Other matters have not 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) 213-4409 or FAX (804) 213-4442.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† March 13, 1998 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting of the committee of the board to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department 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 ☎

March 20, 1998 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting of the full board to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department 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 ☎

Interior Design Section

March 5, 1998 - 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 department 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 ☎

VIRGINIA BOARD FOR ASBESTOS AND LEAD

March 19, 1998 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5 West, Richmond, Virginia.♿

A meeting to conduct routine business. 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 board fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TDD ☎, or e-mail asbestos@dpor.state.va.us.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND THEIR FAMILIES

State Management Team

March 5, 1998 - 9 a.m. – Open Meeting
St. Joseph's Villa, 8000 Brook Road, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to discuss recommendations for policy and procedure to the State Executive Council on the Comprehensive Services Act.

Contact: Elizabeth Hutton, Secretary, Department of Health, P. O. Box 2448, Richmond, VA 23218, telephone (804) 371-4099.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† March 13, 1998 - 11 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia.♿

A meeting to discuss qualifications of hearing aid dealers for licensure.

Contact: Senita Booker, Senior Program Support Technician, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9523 or (804) 662-7197/TDD ☎

March 19, 1998 - 1 p.m. – Open Meeting
The Doubletree Hotel, 2350 Seminole Trail, Charlottesville, Virginia.♿

A presentation at the Speech and Hearing Association of Virginia conference to discuss general issues of the board.

Contact: Senita Booker, Senior Program Support Technician, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9523 or (804) 662-7197/TDD ☎

CHILD DAY-CARE COUNCIL

† March 12, 1998 - 9:30 a.m. – Open Meeting
Theater Row Building, 730 East Broad Street, Lower Level, Conference 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 will be received at noon. Please call ahead of time for possible change in meeting time.

Contact: Rhonda Harrell, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1775 or FAX (804) 692-2370.

STATE BOARD FOR COMMUNITY COLLEGES

† March 18, 1998 - Time to be announced – Open Meeting
† March 19, 1998 - 8:30 a.m. – Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A regular meeting. Call the board for time and specific locations.

Contact: Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, or (804) 371-8504/TDD ☎

COMPENSATION BOARD

† March 26, 1998 - 11 a.m. – Open Meeting
† April 23, 1998 - 11 a.m. – Open Meeting
Ninth Street Office Building, 202 North Ninth Street, 10th Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

† May 28, 1998 - 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 710, Richmond, VA 23218-0710, telephone (804) 786-0786, FAX (804) 371-0235, or (804) 786-0786/TDD ☎

BOARD FOR CONTRACTORS

† March 4, 1998 - 1 p.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to develop and implement a manual for board and staff usage which contains board interpretations and policies of statutes and regulations pertinent to the board. The department fully complies with the Americans with Disabilities Act. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Geralde W. Morgan.

Contact: Geralde W. Morgan, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785 or (804) 367-9753/TDD ☎

Recovery Fund Committee

† March 11, 1998 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to consider claims filed under the Virginia Contractor Transaction Recovery Fund Act. This meeting will be open to the public; however, a portion of the board's business may be conducted in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Pratt Stelly so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Pratt P. Stelly, Assistant Director, Enforcement Division, Post-Adjudication, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2683 or (804) 367-9753/TDD ☎

BOARD OF CORRECTIONS

† March 18, 1998 - 10 a.m. – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss matters which may be presented to the board.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

Administration Committee

† March 18, 1998 - 8:30 a.m. – Open Meeting
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia.

A meeting to discuss administrative matters which may be presented to the full board.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

Correctional Services Committee

† March 17, 1998 - 9 a.m. – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss correctional services matters which may be presented to the full board.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

Liaison Committee

† March 19, 1998 - 9:30 a.m. – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss criminal justice matters.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

BOARD FOR COSMETOLOGY

March 2, 1998 - 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 Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least 10 days in advance.

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 ☎

CRIMINAL JUSTICE SERVICES BOARD

† March 24, 1998 - 11 a.m. – Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

A general business meeting to discuss a bylaw amendment and consider community oriented justice continuation grants.

Contact: George B. Gotschalk, Jr., Regulatory Review Coordinator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001 or FAX (804) 692-0948.

Committee on Training

† March 24, 1998 - 9 a.m. – Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

A meeting to discuss issues related to training of criminal justice officers in Virginia.

Contact: George B. Gotschalk, Jr., Regulatory Review Coordinator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001 or FAX (804) 692-0948.

BOARD OF DENTISTRY

March 20, 1998 - 9 a.m. – Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

April 3, 1998 – 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 Dentistry intends to amend regulations entitled: **18 VAC 60-20-10 et seq. Regulations Governing the Practice of Dentistry and Dental Hygiene.** A new regulation is proposed to replace the emergency regulation which establishes an inactive license for dentists and dental hygienists who are retired or out-of-state and who do not wish to or need to comply with continuing education requirements.

Statutory Authority: §§ 54.1-2400 and 54.1-2709 of the Code of Virginia.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-9943.

Special Conference Committee

† March 13, 1998 - 8:30 a.m. – Open Meeting
† March 20, 1998 - 8:30 a.m. – Open Meeting
† March 27, 1998 - 8:30 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 hear disciplinary cases. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

† March 3, 1998 - 11 a.m. – Open Meeting
Department of Economic Development, Riverfront Plaza, 901 East Byrd Street, West Tower, 19th Floor, Board Room, Richmond, Virginia.

A meeting of the Board of Directors to discuss matters related to the Virginia Economic Development Partnership.

Contact: Kimberly M. Ellett, Administrative Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218-0798, telephone (804) 371-8108, FAX (804) 371-8112 or (804) 371-0327/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

† April 2, 1998 - 5:30 p.m. – Open Meeting
† May 7, 1998 - 5:30 p.m. – Open Meeting
6610 Public Safety Way, Chesterfield, Virginia.

A regular meeting.

Contact: Lynda G. Furr, Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

March 4, 1998 - 3 p.m. – Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

Selby Jacobs, coordinator of the Disaster Recovery Task Force, will give a presentation on the Disaster Recovery Task Force. Election of officers will also take place.

Contact: L. A. Miller, Fire Chief, Winchester Fire and Rescue Dept., 126 N. Cameron St., Winchester, VA 22601, telephone (540) 662-2298 or (540) 665-5645 ☎

DEPARTMENT OF ENVIRONMENTAL QUALITY

† March 24, 1998 - 2 p.m. – Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Conference Room, Glen Allen, Virginia.♿

A meeting to continue the public participation process related to the proposed repeal of existing water quality management plans and the proposed framework regulation under which the updated plans will be developed. This will be the third advisory committee meeting.

Contact: Erlinda L. Patron, Environmental Engineer Consultant, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4047 or FAX (804) 698-4136.

Ad Hoc Advisory Group

March 11, 1998 - 10 a.m. – Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Training Room, Glen Allen, Virginia.♿

The first meeting of the group to assist the Department of Environmental Quality in developing a technical assistance guide for local governments on the process for siting solid waste management facilities. In developing this guide, the Department of Environmental Quality will solicit the input of private operators and local government officials.

Contact: Ulysses B. Brown, Jr., Environmental Program Manager, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4198 or FAX (804) 698-4327.

Virginia Ground Water Protection Steering Committee

March 17, 1998 - 9 a.m. – Open Meeting
Department of Environmental Quality, 629 East Main Street, First Floor, Training Room, Richmond, Virginia.♿

A regularly scheduled meeting. Anyone interested in ground water protection issues is encouraged to attend. To obtain a meeting agenda contact Mary Ann Massie at (804) 698-4042.

Contact: Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4042 or FAX (804) 698-4032.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

March 11, 1998 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia.♿

A general board meeting. Public comment will be received during the first 15 minutes of the meeting.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907, FAX (804) 662-9523 or (804) 662-7197/TDD ☎

Special Conference Committee

March 3, 1998 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia.♿

A meeting to conduct informal conference hearings. No public comment will be received.

Contact: Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907, FAX (804) 662-9523 or (804) 662-7197/TDD ☎

DEPARTMENT OF GAME AND INLAND FISHERIES

† March 3, 1998 - 7 p.m. – Open Meeting
Signal Knob Middle School, 687 Sandy Hook Road, Strasburg, Virginia.♿ (Interpreter for the deaf provided upon request)

† March 12, 1998 - 7 p.m. – Open Meeting
Peter Muhlenberg School, 1251 Susan Avenue, Woodstock, Virginia.♿ (Interpreter for the deaf provided upon request)

The department's Wildlife Division is holding public education seminars to provide information on the possible implementation of quality deer management on private lands in Shenandoah County in 1999. A quality deer management project, if implemented in Shenandoah County, would entail the amendment of regulations as part of the agency's regular biennial review of wildlife regulations in the spring of 1999. All interested citizens are invited to attend the public seminars. For more information call the Department of

Game and Inland Fisheries' Wildlife Division, Verona/Staunton Regional Office, at (540) 248-9360.

Contact: David Koeka, Biologist, Department of Game and Inland Fisheries, Wildlife Division, P.O. Box 996, Verona, VA, telephone (540) 248-9360.

STATE HAZARDOUS MATERIALS TRAINING ADVISORY COMMITTEE

† March 10, 1998 - 10 a.m. – Open Meeting
Department of Emergency Services, 10501 Trade Court, 1st Floor, Training Rooms B-C, Richmond, Virginia.

A meeting to discuss curriculum course development and to review existing hazardous materials courses. Individuals with a disability, as defined in the Americans with Disabilities Act, desiring to attend should contact the Department of Emergency Services at (804) 674-2489 10 days prior to the meeting so appropriate accommodations can be provided.

Contact: George B. Gotschalk, Jr., Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6001.

DEPARTMENT OF HEALTH

Commissioner's Waterworks Advisory Committee

† March 19, 1998 - 10 a.m. – Open Meeting
Lake Gaston Pump Station, 210 Beddingfield Way, Gasburg, Virginia.

A general business meeting. The committee meets the third Thursday of odd months at various locations around the state. Meeting locations and dates will be announced.

Contact: Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-1087 or FAX (804) 786-5567.

DEPARTMENT OF HEALTH PROFESSIONS

Intervention Program Committee

March 20, 1998 - 9 a.m. – Open Meeting
† April 10, 1998 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting with the committee's contractor and representatives to review procedures and reports for the Health Practitioner's Intervention Program. The committee will meet in open session to discuss educational efforts, contracts for entry in the program, and the process for stayed disciplinary action. The committee may meet in executive sessions for the purpose of consideration of specific requests from applicants or participants in the program.

Contact: John W. Hasty, Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9424, FAX (804) 662-9114 or (804) 662-7197/TDD ☎

BOARD FOR HEARING AID SPECIALISTS

March 13, 1998 - 8:30 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5 West, Richmond, Virginia.

A routine business meeting. 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 department 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: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475 or (804) 367-9753/TDD ☎, e-mail hearingaidspec@dpor.state.va.us

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† March 13, 1998 - 8:30 a.m. – Open Meeting
Virginia Commonwealth University, Student Commons, Richmond, Virginia.

The Resources Committee will meet at 8:30 a.m.; the Planning Committee will meet at 9:30 a.m.; and the Outreach Committee will meet at 11:30 a.m. The full council will hold its regular meeting at 1 p.m.

Contact: Pamela H. Landrum, Administrative Staff Assistant, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602 or FAX (804) 225-2604.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

March 3, 1998 - 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.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

March 20, 1998 – 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 Housing and Community Development intends to amend regulations entitled: **13 VAC 5-61-10 et seq. Virginia Uniform Statewide Building Code/1996.** The purpose of the proposed action is to establish standards for automatic sprinkler (fire) systems in certain dormitories at colleges and universities.

Statutory Authority: §§ 36-98 and 36-99.3 of the Code of Virginia.

Public comments may be submitted until March 20, 1998.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170 or FAX (804) 371-7092.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

State Building Code Technical Review Board

† March 20, 1998 - 10 a.m. – Open Meeting
The Jackson Center, 501 North 2nd Street, 1st Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The board hears administrative appeals concerning building and fire codes and other regulations of the department. The board also issues interpretations and formalizes recommendations to the Board of Housing and Community Development concerning future changes to the regulations.

Contact: Vernon W. Hodge, Building Code Supervisor, State Building Code Office, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD ☎

VIRGINIA INTERAGENCY COORDINATING COUNCIL

† March 10, 1998 - 9:30 a.m. – Open Meeting
Dorey Recreation Center, 7200 Dorey Park Drive, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The council meets quarterly to advise and assist the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency for Part H (of IDEA), early intervention for infants and toddlers with disabilities and their families. Discussion will focus on issues related to Virginia's implementation of the Part H program.

Contact: Nicole Rada, Part H Office Services Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, Early Intervention, 10th Floor, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3710 or FAX (804) 371-7959.

COMMISSION ON LOCAL GOVERNMENT

† March 24, 1998 - 9:30 a.m. – Open Meeting
City Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

A regular meeting to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, Eighth Street Office Bldg., 805 E. Broad St., Room 702, Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

MARINE RESOURCES COMMISSION

March 24, 1998 - 9 a.m. – Open Meeting
Marine Resources Commission, 2600 Washington Avenue, Newport News, Virginia. (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9 a.m., including permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard include: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: LaVerne Lewis, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (757) 247-2261, toll-free 1-800-541-4646 or (757) 247-2292/TDD☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

March 20, 1998 - 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 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services.** The purpose of the proposed action is to provide reimbursement for high dose chemotherapy and bone marrow/stem cell transplants for individuals over the age of 21 who have been diagnosed with lymphoma or breast cancer. This package will also clarify the reimbursement policy for transplants.

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

Public comments may be submitted until March 20, 1998, to Anita Cordill, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

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March 20, 1998 - 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 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services.** This action proposes to expand the array of services which can be provided by school-employed medical personnel and reimbursed by Medicaid.

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

Public comments may be submitted until March 20, 1998, to Jeff Nelson, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

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March 20, 1998 - 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 30-90-10 et seq. Methods and Standards for Establishing Payment Rates for Long-Term Care.** These regulations propose to provide additional reimbursement to certain nursing facilities which provide special services to individuals who have traumatic brain injuries.

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

Public comments may be submitted until March 20, 1998, to Regina Anderson-Cloud, LTC Policy, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

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March 20, 1998 - 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 30-120-10 et seq. Waivered Services.** The proposed regulation specifies the requirements and standards for the provision of consumer-directed personal attendant services. The consumer-directed PAS program will provide home and community-based care personal attendant services to consumers who meet Medicaid eligibility and financial requirements. The service will allow qualifying consumers to remain in their homes, directing their own care, rather than receiving services under the home health agency model or being institutionalized. This proposal is mandated by Chapter 924, 1997 Appropriation Act. Public hearings have already been held on these regulations.

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

Public comments may be submitted until March 20, 1998, to Karen Lawson, LTC Policy, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

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† May 1, 1998 - 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 30-20-10 et seq. Administration of**

Medical Assistance, and 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality of Care. These regulations amend the specialized care program to update the definitions of provider and recipient criteria, as required by legislation.

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

Public comments may be submitted until May 1, 1998, to Regina Anderson-Cloud, LTC Policy, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

Pharmacy Liaison Committee

April 6, 1998 - 1 p.m. – Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia.

A meeting to conduct routine business.

Contact: David Shepherd, R.Ph., Supervisor, Pharmacy Unit, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2773.

BOARD OF MEDICINE

March 6, 1998 - 9 a.m. – Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

April 3, 1998 – 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 Medicine intends to amend regulations entitled: **18 VAC 85-20-10 et seq. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, and Physician Acupuncture.** The purpose of the proposed action is to amend the regulations pursuant to Executive Order 15 (94), which called for clarification, simplification, and where possible, a reduction in the regulatory burden. Amendments will lower certain application fees, eliminate the confusion in terminology for licensure by endorsement or by examination, and repeal unnecessary regulations.

Statutory Authority: §§ 54.1-2400 and Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943.

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† March 6, 1998 - 10 a.m. – Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Pursuant to § 54.1-2912.1 of the Code of Virginia the Board of Medicine shall prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Credentials Committee

† April 4, 1998 - 8 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee will meet in open and closed session to (i) conduct general business, (ii) interview and review medical credentials of applicants applying for licensure in Virginia, and (iii) act on other issues that come before the committee. The committee will receive public comments of those persons appearing on behalf of candiates.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

EMG Task Force Subcommittee

† March 27, 1998 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 3, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss the qualifications for performing EMGs on patients. The chairman will entertain public comments on agenda items for 15 minutes following adoption of the agenda.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Executive Committee

† April 3, 1998 - 8 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 2 and 3, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee will meet in open and closed session to (i) review disciplinary files requiring administrative action, (ii) adopt amendments for approval of promulgation of regulations as presented, (iii) interview applicants, and (iv) act on other issues that come before the board. The chairman will entertain public comments on agenda items for 15 minutes following adoption of the agenda.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Licensure Work Group

† March 18, 1998 - 10 a.m. – Open Meeting
Bon Secours-Stuart Circle Hospital, 413 Stuart Circle, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review definitions included in the current regulations and discuss needed changes to those definitions.

Contact: Greg Stolcis, Regional Field Supervisor, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23236, telephone (804) 225-3410, FAX (804) 786-4146 or (804) 371-8977/TDD ☎

VIRGINIA MILITARY INSTITUTE

Board of Visitors

March 20, 1998 - 10 a.m. – Open Meeting
March 21, 1998 - 10 a.m. – Open Meeting
The Omni Hotel, 100 South 12th Street, Richmond, Virginia.

A special meeting to discuss and plan the fund raising campaign.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206 or (540) 464-7660/TDD ☎

DEPARTMENT OF MINES, MINERALS AND ENERGY

March 6, 1998 - 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 Mines, Minerals and Energy intends to amend regulations entitled: **4 VAC 25-40-10 et seq. Safety and Health Regulations for Mineral Mining.** The purpose of the proposed action is to amend the safety and health regulation for the protection of persons in and around mineral mines. The amendments implement requirements of the Mine Safety Act and incorporate recommendations from the Executive Order 15 (94) review and from the work committee which reviewed the proposed regulation.

Statutory Authority: §§ 45.1-161.3, 45.1-161.294 and 45.1-161.305 of the Code of Virginia.

Contact: Conrad Spangler, Division Director, Department of Mines, Minerals and Energy, Division of Mineral Mining, Fontaine Research Park, 900 Natural Resources Dr., P.O. Box 3727, Charlottesville, VA 22903, telephone (804) 961-5000, FAX (804) 979-8544 or toll-free 1-800-828-1120 (VA Relay Center).

MOTOR VEHICLE DEALER BOARD

† March 17, 1998 - 9:30 a.m. – Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general 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. A tentative agenda will be provided upon request by contacting the board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment. Committees of the board will meet as follows:

Advertising Committee - March 16, 1998 - 3 p.m
Dealer Practices Committee - March 16, 1998 - 1:30 p.m.
Finance Committee - March 17, 1998 - 8:45 a.m.
Franchise Review and Advisory Committee - March 17, 1998 - 9 a.m.
Licensing Committee - March 16, 1998 - 10:30 a.m.
Transaction Recovery Fund Committee - March 16, 1998 - 9 a.m.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

DEPARTMENT OF MOTOR VEHICLES

Medical Advisory Board

† April 8, 1998 - 1 p.m. – Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia.

A regular business meeting.

Contact: Phyllis A. Dardenne, Program Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-2581.

BOARD OF NURSING

Education Advisory Committee

† March 3, 1998 - 10 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee will discuss educational issues of mutual interest. 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 ☎

Special Conference Committee

† March 4, 1998 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee will conduct informal conferences with licensees or certificate holders or both. 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 ☎

BOARDS OF NURSING AND MEDICINE

† March 11, 1998 - 10 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 of the joint boards to conduct formal hearings with licensees. 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 ☎

VIRGINIA OUTDOORS FOUNDATION

Open Space Preservation Trust Fund Advisory Board - Region 1

† March 3, 1998 - 10 a.m. – Open Meeting
Augusta County Government Center, Route 11, Verona, Virginia.

A meeting to review applications received for funding under the Open Space Lands Preservation Trust Fund and make recommendations of funding. Public comment will be received at the conclusion of regular business.

Contact: Sherry Buttrick, Virginia Outdoors Foundation, 1010 Harris St., Suite 4, Charlottesville, VA 22903, telephone (804) 293-3423.

POLYGRAPH EXAMINERS ADVISORY BOARD

March 10, 1998 - 10 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)

A meeting to discuss regulatory review and other matters requiring board action. The polygraph examiners licensing examination will be administered to eligible polygraph examiner interns. 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 for appropriate accommodation. The department fully complies with the Americans with Disabilities Act. Contact the board for confirmation of meeting date and time.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD☎

BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE TREATMENT PROFESSIONALS

† March 2, 1998 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 4, Richmond, Virginia.

An informal administrative hearing will be held pursuant to § 9-6.14:12 of the Code of Virginia. No public comment will be received.

Contact: Evelyn Brown, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967 or FAX (804) 662-9943.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

March 9, 1998 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Debra S. Vought, Agency Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519 or (804) 367-9753/TDD ☎

BOARD OF PSYCHOLOGY

Discipline Committee

March 6, 1998 - 12:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

Informal hearing regarding allegations of practitioner misconduct. No public comment will be received.

Contact: LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

Examination Committee

March 6, 1998 - 10:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

A meeting to review examinations administered on April 8, 1998. Public comment will be received at the beginning of the meeting.

Contact: LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

VIRGINIA PUBLIC SCHOOL AUTHORITY

† **March 9, 1998 - Noon** – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia.

A meeting to approve issuance of school financing bonds (1997 resolution), Series 1998A.

Contact: Richard A. Davis, Debt Manager, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-4928 or e-mail richard.davis@trs.state.va.us.

REAL ESTATE APPRAISER BOARD

April 7, 1998 - 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 board at least 10 days 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) 367-0500, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

March 3, 1998 - 10 a.m. – Open Meeting
Central Virginia Waste Management Authority, 2104 West Laburnum Avenue, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting to discuss legislation from the 1997 and 1998 sessions of the General Assembly which impact the council. The council was established by the General Assembly in 1993 to develop strategies to enhance the markets for recyclables. Meetings are dependent on a quorum of 10. Subcommittee meetings may be held prior to or after the general council meeting. Call Paddy Katzen for details or e-mail pmkatzen@deq.state.va.us.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4488.

BOARD OF REHABILITATIVE SERVICES

March 12, 1998 - 10 a.m. – Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly business meeting of the board.

Contact: John R. Vaughn, Commissioner, Department 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 ☎

DEPARTMENT OF REHABILITATIVE SERVICES

State Rehabilitation Advisory Council And Statewide Independent Living Council

March 16, 1998 - 4 p.m. – Public Hearing
Department of Rehabilitative Services, Central Office, 8004 Franklin Farms Drive, Lee Building, Richmond, Virginia. (Interpreter for the deaf provided upon request)

March 19, 1998 - 7 p.m. – Public Hearing
Woodrow Wilson Rehabilitation Center, Watson Recreation Building, Dining Hall, Fishersville, Virginia. (Interpreter for the deaf provided upon request)

March 23, 1998 - 4:30 p.m. – Public Hearing
Devonshire Center, 2831 Graham Road, Falls Church, Virginia. (Interpreter for the deaf provided upon request)

March 30, 1998 - 4 p.m. – Public Hearing
Hampton Roads Planning District Commission, 723 Woodlake Drive, Regional Building, Chesapeake, Virginia. (Interpreter for the deaf provided upon request)

April 1, 1998 - 4 p.m. – Public Hearing
Virginia Highlands Community College, Exit 14 off I-81 (use parking lot # 4), Room 220, Abingdon, Virginia. (Interpreter for the deaf provided upon request)

April 2, 1998 - 4 p.m. – Public Hearing
Blue Ridge Independent Living Center, 1502-D Williamson Road, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A public hearing to provide the public with an opportunity to comment on vocational rehabilitation, supported employment, and independent living services. Public comments shall be considered in the Department of Rehabilitative Services' policy formation and in the development of the FY 1999 State Plan for Vocational Rehabilitation and Employment and the FY 1999-2002 State Plan for Independent Living. Special accommodations may be requested through Gloria O'Neal. If members of the public are unable to attend the public hearing, comments may be received by (i) notifying Gloria O'Neal by March 1, 1998, that you wish to be contacted by telephone during the public hearing to provide a comment or (ii) submitting a comment to Gloria O'Neal by April 1, 1998.

Contact: Gloria O'Neal, Program Support Technician, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23288-0300, telephone (804) 662-7611, FAX (804) 662-7696, toll-free 1-800-552-5109, ext. 7611, or 1-800-464-9950, ext. 7611/TDD/☎, or e-mail onealgb@drsmail.state.va.us.

VIRGINIA RESOURCES AUTHORITY

March 10, 1998 - 9:30 a.m. – Open Meeting
The Mutual Building, 909 East Main Street, Suite 700, Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month, to review the authority's operations for the prior month, and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Executive Director, Virginia Resources Authority, P.O. Box 1300, Richmond, VA 23218, telephone (804) 644-3100 or FAX (804) 644-3109.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

March 4, 1998 - 10 a.m. – Open Meeting
Hanover County School Administration Building, 200 Berkley Street, Board Room, Ashland, Virginia.

A meeting to hear appeals of health department denials of septic tank permits.

Contact: Gary L. Hagy, Acting Secretary, Sewage Handling and Disposal Appeal Review Board, Department of Health, P.O. Box 2448, Room 115, Richmond, VA 23218, telephone (804) 225-4022 or FAX (804) 225-4003.

SMALL BUSINESS ENVIRONMENTAL COMPLIANCE ADVISORY BOARD

† March 9, 1998 - 9 a.m. – Open Meeting
Department of Environmental Quality, 629 East Main Street, Training Room, Richmond, Virginia.

A regular meeting.

Contact: Richard Rasmussen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4394.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

† March 19, 1998 - 9 a.m. – Open Meeting
Colonial Farm Credit, 6526 Mechanicsville Turnpike, Conference Room, Mechanicsville, Virginia.

A regular bimonthly business meeting.

Contact: Linda J. Cox, Administrative Staff Assistant, Virginia Soil and Water Conservation Board, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2123, FAX (804) 786-6141, or (804) 786-2121/TDD ☎

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

† March 20, 1998 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A regularly scheduled meeting of the board to address policy and procedural issues and other business matters which may require board action. The meeting is open to the public; however, a portion of the meeting may be discussed in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department in advance so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Geralde W. Morgan, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785 or (804) 367-9753/TDD ☎

COMMONWEALTH TRANSPORTATION BOARD

† March 18, 1998 - 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: Shirley J. Ybarra, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675.

† March 19, 1998 - 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 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: Shirley J. Ybarra, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675.

DEPARTMENT OF TRANSPORTATION

† March 30, 1998 - 9:30 a.m. – Public Hearing
Virginia Intermont College, 1013 Moore Street, Harrison-Jones Memorial Hall, Bristol, Virginia. (Interpreter for the deaf provided upon request)

A preallocation hearing to receive comments on highway allocations for the upcoming year and on updating the six-year improvement program for the interstate, primary, and urban systems, as well as mass transit for the **Bristol** district.

Contact: James W. Atwell, Assistant Commissioner - Finance, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-5128, FAX (804) 371-8719 or toll-free 1-800-444-7832.

† March 31, 1998 - 9 a.m. – Public Hearing
Salem Civic Center, 1001 Roanoke Boulevard, Salem, Virginia. (Interpreter for the deaf provided upon request)

A preallocation hearing to receive comments on highway allocations for the upcoming year and on updating the six-year improvement program for the interstate, primary, and urban systems, as well as mass transit for the **Salem** district.

Contact: James W. Atwell, Assistant Commissioner - Finance, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-5128, FAX (804) 371-8719 or toll-free 1-800-444-7832.

† April 1, 1998 - 9 a.m. – Public Hearing
Lynchburg District Office, 4219 Campbell Avenue, Lynchburg, Virginia. (Interpreter for the deaf provided upon request)

A preallocation hearing to receive comments on highway allocations for the upcoming year and on updating the six-year improvement program for the interstate, primary, and urban systems, as well as mass transit for the **Lynchburg** district.

Contact: James W. Atwell, Assistant Commissioner - Finance, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-5128, FAX (804) 371-8719 or toll-free 1-800-444-7832.

† April 2, 1998 - 9 a.m. – Public Hearing
Culpeper District Office, 1601 Orange Road, Culpeper, Virginia. (Interpreter for the deaf provided upon request)

A preallocation hearing to receive comments on highway allocations for the upcoming year and on updating the six-year improvement program for the interstate, primary, and urban systems, as well as mass transit for the **Culpeper** district.

Contact: James W. Atwell, Assistant Commissioner - Finance, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-5128, FAX (804) 371-8719 or toll-free 1-800-444-7832.

† **April 3, 1998 - 9 a.m.** – Public Hearing
Augusta County Government Center, Route 11, Verona, Virginia. (Interpreter for the deaf provided upon request)

A preallocation hearing to receive comments on highway allocations for the upcoming year and on updating the six-year improvement program for the interstate, primary, and urban systems, as well as mass transit for the **Staunton** district.

Contact: James W. Atwell, Assistant Commissioner - Finance, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-5128, FAX (804) 371-8719 or toll-free 1-800-444-7832.

† **April 6, 1998 - 10 a.m.** – Public Hearing
Fairfax City Hall, 10455 Armstrong Street, Fairfax, Virginia. (Interpreter for the deaf provided upon request)

A preallocation hearing to receive comments on highway allocations for the upcoming year and on updating the six-year improvement program for the interstate, primary, and urban systems, as well as mass transit for the **Northern Virginia** district.

Contact: James W. Atwell, Assistant Commissioner - Finance, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-5128, FAX (804) 371-8719 or toll-free 1-800-444-7832.

† **April 7, 1998 - 10 a.m.** – Public Hearing
Suffolk District Auditorium, 1700 North Main Street, Route 460, Suffolk, Virginia. (Interpreter for the deaf rovided upon request)

A preallocation hearing to receive comments on highway allocations for the upcoming year and on updating the six-year improvement program for the interstate, primary, and urban systems, as well as mass transit for the **Suffolk** district.

Contact: James W. Atwell, Assistant Commissioner - Finance, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-5128, FAX (804) 371-8719 or toll-free 1-800-444-7832.

† **April 8, 1998 - 9:30 a.m.** – Public Hearing
John Tyler Community College, 13011 Jefferson Davis Highway, Nicholas Student Center, Room N-102, Chester, Virginia. (Interpreter for the deaf provided upon request)

A preallocation hearing to receive comments on highway allocations for the upcoming year and on updating the six-year improvement program for the interstate, primary, and urban systems, as well as mass transit for the **Richmond** district.

Contact: James W. Atwell, Assistant Commissioner - Finance, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-5128, FAX (804) 371-8719 or toll-free 1-800-444-7832.

† **April 9, 1998 - 10 a.m.** – Public Hearing
George D. English Building, off Route 3 on Route 622, Montross, Virginia. (Interpreter for the deaf provided upon request)

A preallocation hearing to receive comments on highway allocations for the upcoming year and on updating the six-year improvement program for the interstate, primary, and urban systems, as well as mass transit for the **Fredericksburg** district.

Contact: James W. Atwell, Assistant Commissioner - Finance, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-5128, FAX (804) 371-8719 or toll-free 1-800-444-7832.

TREASURY BOARD

March 18, 1998 - 9 a.m. – Open Meeting
April 15, 1998 - 9 a.m. – Open Meeting
May 20, 1998 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia.

A regular business meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD FOR THE VISUALLY HANDICAPPED

April 18, 1998 - 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 board is responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

Contact: Katherine C. Proffitt, Executive Secretary Senior, 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 ☎

DEPARTMENT FOR THE VISUALLY HANDICAPPED

† **March 30, 1998 - 6 p.m.** – Open Meeting
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

† **April 1, 1998 - 9:30 a.m.** – Open Meeting
Ghent Methodist Church, 531 Raleigh Avenue, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

† **April 6, 1998 - 1 p.m.** – Open Meeting
Department for the Visually Handicapped, 111 Commonwealth Avenue, Bristol, Virginia. (Interpreter for the deaf provided upon request)

† **April 8, 1998 - 7:30 p.m.** – Open Meeting
Summers Restaurant, 1520 North Courthouse Road, Arlington, Virginia. (Interpreter for the deaf provided upon request)

† **April 14, 1998 - 3 p.m.** – Open Meeting
Winchester Medical Center, 1800 Amherst Street, Conference Room 3, Winchester, Virginia. (Interpreter for the deaf provided upon request)

† **April 15, 1998 - 5:30 p.m.** – Open Meeting
Lions Sight Foundation, 501 Elm Avenue, S.W., Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A meeting to invite comments from the public regarding vocational rehabilitation services for persons with visual disabilities. All comments will be considered in developing the state plan for this program.

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 ☎

Vocational Rehabilitation Advisory Council

March 7, 1998 - 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 the 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) 371-3111, toll-free 1-800-622-2155, or (804) 371-3140/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

† **April 2, 1998 - 10:30 a.m.** – Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A meeting to review the public hearing record and product data for products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

March 5, 1998 - 10 a.m. – Public Hearing
Department of Environmental Quality, 629 East Main Street, First Floor, Training Room, Richmond, Virginia.

April 15, 1998 – 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 Virginia Waste Management Board intends to amend regulations entitled: **9 VAC 20-60-10 et seq. Hazardous Waste Management Regulations.** The purpose of amendment 14 is to incorporate the changes made by the United States Environmental Protection Agency from July 1, 1991, through September 19, 1994, plus the Universal Waste Rule of May 11, 1995. The changes reflect EPA changes in the management of used oil, land disposal restrictions, corrective action management units, and other technical corrections for recordkeeping, exporting of hazardous waste, boilers and industrial furnaces, revised treatment standards for hazardous wastes, and universal treatment standards. New, simplified rules for universal waste handlers are included. The corrections include other changes designed to correct inconsistencies between the Virginia regulation and that of EPA. The requirement for annual reports is reduced to a biennial report requirement to be consistent with EPA.

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

Public comments may be submitted until 5 p.m. on April 15, 1998.

Contact: Robert Wickline, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TDD ☎

STATE WATER CONTROL BOARD

March 25, 1998 - 7 p.m. – Public Hearing
Northampton County Circuit Court Room, 16404 Courthouse Road, Eastville, Virginia.

March 26, 1998 - 3 p.m. – Public Hearing
James City County Board of Supervisors Room, 101 C Mounts Bay Road, Building C, Williamsburg, Virginia.

April 17, 1998 – 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 Water Control Board intends to amend regulations entitled: **9 VAC 25-610-10 et seq. Ground Water Withdrawal Regulation.** The proposed amendments (i) establish ground water withdrawal requirements for agricultural ground water users; (ii) incorporate 1994 legislative amendments, and (iii) require the Department of Environmental Quality to perform technical evaluations of proposed withdrawals.

Statutory Authority: § 62.1-256 of the Code of Virginia.

Contact: Terry D. Wagner, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4043 or FAX (804) 698-4032.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† April 9, 1998 - 8:30 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.

A meeting to discuss regulatory review, disciplinary cases and other matters requiring board action. All meetings are subject to cancellation. Time of meeting is subject to change. Call the board office at least 24 hours in advance. 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 department in advance so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Nancy T. Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

LEGISLATIVE

Notice to Subscribers

Legislative meetings held during the Session of the General Assembly are exempted from publication in *The Virginia Register of Regulations*. You may call Legislative Information for information on standing committee meetings. The number is (804) 698-1500.

CHRONOLOGICAL LIST

OPEN MEETINGS

March 2
Cosmetology, Board for
† Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, Board of Licensed

March 3
Agriculture and Consumer Services, Department of
- Virginia State Apple Board
- Virginia Cotton Board

† Economic Development Partnership, Virginia
- Board of Directors

Funeral Directors and Embalmers, Board of
† Game and Inland Fisheries, Department of
Hopewell Industrial Safety Council
† Nursing, Board of
- Education Advisory Committee

† Outdoors Foundation, Virginia
- Open Space Preservation Trust Fund Advisory Board
- Region 1

Recycling Markets Development Council, Virginia

March 4
Agriculture and Consumer Services, Department of
- Virginia Soybean Board
- Virginia Sweet Potato Board

† Contractors, Board for
Emergency Planning Committee, Local - Winchester
† Nursing, Board of
- Special Conference Committee

Sewage Handling and Disposal Appeals Review Board

March 5
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Interior Design Section

At-Risk Youth and Their Families, Comprehensive Services for
- State Management Team

March 6
Psychology, Board of
- Discipline Committee
- Examination Committee

March 7
Visually Handicapped, Department for the
- Vocational Rehabilitation Advisory Council

March 9
Agriculture and Consumer Services, Department of
- Virginia Peanut Board

Alcoholic Beverage Control Board
Professional and Occupational Regulation, Board for
† Small Business Environmental Compliance Advisory Board

March 10
† Hazardous Materials Training Advisory Committee
† Interagency Coordinating Council, Virginia
Polygraph Examiners Advisory Board
Resources Authority, Virginia

March 11
† Contractors, Board for
- Recovery Fund Committee
Environmental Quality, Department of
- Ad Hoc Advisory Group
Funeral Directors and Embalmers, Board of
† Nursing and Medicine, Boards of

March 12
† Child Day-Care Council
† Game and Inland Fisheries, Department of
Rehabilitative Services, Board of

March 13
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Audiology and Speech-Language Pathology, Board of
† Dentistry, Board of
- Special Conference Committee
Hearing Aid Specialists, Board for
† Higher Education, State Council of

March 16
† Motor Vehicles Dealer Board
- Advertising Committee
- Dealer Practices Committee
- Licensing Committee
- Transaction Recovery Fund Committee

March 17
† Corrections, Board of
- Correctional Services Committee
Environmental Quality, Department of
- Virginia Ground Water Protection Steering Committee
† Motor Vehicle Dealer Board
- Finance Committee
- Franchise Review and Advisory Committee

March 18
† Community Colleges, State Board for
† Corrections, Board of
- Administration Committee
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- Licensure Work Group
† Transportation Board, Commonwealth
Treasury Board

March 19
Asbestos and Lead, Virginia Board for
Audiology and Speech-Language Pathology, Board of
† Community Colleges, State Board for
† Corrections, Board of
- Liaison Committee
† Health, Department of
- Commissioner's Waterworks Advisory Committee
† Soil and Water Conservation Board, Virginia
† Transportation Board, Commonwealth

March 20
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Dentistry, Board of
- Special Conference Committee
Health Professions, Department of
- Intervention Program Committee
† Housing and Community Development, Department of
- State Building Code Technical Review Board
Military Institute, Virginia
- Board of Visitors
† Soil Scientists, Board for Professional

March 21
Military Institute, Virginia
- Board of Visitors

March 23
Agricultural Council, Virginia
Alcoholic Beverage Control Board

March 24
Agricultural Council, Virginia
† Criminal Justice Services Board
- Committee on Training
† Environmental Quality, Department of
† Local Government, Commission on
Marine Resources Commission

March 26
† Compensation Board

March 27
† Dentistry, Board of
- Special Conference Committee
† Medicine, Board of
- EMG Task Force Subcommittee

March 30
† Visually Handicapped, Department for the

April 1
† Visually Handicapped, Department for the

April 2
† Emergency Planning Committee, Local - Chesterfield County
† Voluntary Formulary Board, Virginia

April 3
† Medicine, Board of
- Executive Committee

April 4
† Medicine, Board of
- Credentials Committee

April 6
Medical Assistance Services, Department of
- Pharmacy Liaison Committee

† Visually Handicapped, Department for the

April 7
Real Estate Appraiser Board

April 8
† Motor Vehicles, Department of
- Medical Advisory Board
† Visually Handicapped, Department for the

April 9
† Waterworks and Wastewater Works Operators, Board for

April 10
† Health Professions, Department of
- Intervention Program Committee

April 14
† Visually Handicapped, Department for the

April 15
Treasury Board
† Visually Handicapped, Department for the

April 18
Visually Handicapped, Board for the

April 23
† Agriculture and Consumer Services, Department of
- Virginia Irish Potato Board
† Compensation Board

May 7
† Emergency Planning Committee, Local - Chesterfield County

May 20
Treasury Board

May 28
† Compensation Board

PUBLIC HEARINGS

March 5
Waste Management Board, Virginia

March 6
† Medicine, Board of

March 16
Rehabilitative Services, Department of, State Rehabilitation Advisory Council and Statewide Independent Living Council

March 19
Rehabilitative Services, Department of, State Rehabilitation Advisory Council and Statewide Independent Living Council

March 20
Dentistry, Board of

March 25
Water Control Board, State

March 26
Water Control Board, State

March 30
Rehabilitative Services, Department of, State Rehabilitation Advisory Council and Statewide Independent Living Council
† Transportation, Department of

March 31
† Transportation, Department of

April 1
Rehabilitative Services, Department of, State Rehabilitation Advisory Council and Statewide Independent Living Council
† Transportation, Department of

April 2
Rehabilitative Services, Department of, State Rehabilitation Advisory Council and Statewide Independent Living Council
† Transportation, Department of

April 3
† Transportation, Department of

April 6
† Transportation, Department of

April 7
† Transportation, Department of

April 8
† Transportation, Department of

April 9
† Transportation, Department of