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# THE VIRGINIA REGISTER INFORMATION PAGE

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**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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# PUBLICATION SCHEDULE AND DEADLINES

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

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## November 1999 through September 2000

<u>Volume:Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
16:5	November 3, 1999	November 22, 1999
16:6	November 16, 1999 ( <b>Tuesday</b> )	December 6, 1999
16:7	December 1, 1999	December 20, 1999
<b>INDEX 1 - Volume 16</b>		<b>January 2000</b>
16:8	December 14, 1999 ( <b>Tuesday</b> )	January 3, 2000
16:9	December 28, 1999 ( <b>Tuesday</b> )	January 17, 2000
16:10	January 12, 2000	January 31, 2000
16:11	January 26, 2000	February 14, 2000
16:12	February 9, 2000	February 28, 2000
16:13	February 23, 2000	March 13, 2000
16:14	March 8, 2000	March 27, 2000
<b>INDEX 2 - Volume 16</b>		<b>April 2000</b>
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16:16	April 5, 2000	April 24, 2000
16:17	April 19, 2000	May 8, 2000
16:18	May 3, 2000	May 22, 2000
16:19	May 17, 2000	June 5, 2000
16:20	May 31, 2000	June 19, 2000
<b>INDEX 3 - Volume 16</b>		<b>July 2000</b>
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16:24	July 26, 2000	August 14, 2000
16:25	August 9, 2000	August 28, 2000
16:26	August 23, 2000	September 11, 2000
<b>FINAL INDEX - Volume 16</b>		<b>October 2000</b>

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The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Fall 1999 VAC Supplement includes final regulations published through *Virginia Register* Volume 15, Issue 23, dated August 2, 1999). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 2. Agriculture</b>			
2 VAC 15-20-70	Amended	15:26 VA.R. 3436	Pending
2 VAC 15-20-80	Amended	15:26 VA.R. 3445	8/17/99
2 VAC 15-20-80	Repealed	15:26 VA.R. 3438	Pending
2 VAC 15-20-81	Added	15:26 VA.R. 3442	Pending
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 20-333-10 through 4 VAC 20-333-40	Added	15:24 VA.R. 3035-3037	7/6/99
4 VAC 20-595-10 emer	Added	15:25 VA.R. 3366	8/15/99-8/31/99
4 VAC 20-595-20 emer	Added	15:25 VA.R. 3366	8/15/99-8/31/99
4 VAC 20-720-20	Amended	16:3 VA.R. 292	10/1/99
4 VAC 20-720-35	Added	16:3 VA.R. 292	10/1/99
4 VAC 20-720-40	Amended	16:3 VA.R. 292	10/1/99
4 VAC 20-720-50	Amended	16:3 VA.R. 293	10/1/99
4 VAC 20-720-60	Amended	16:3 VA.R. 293	10/1/99
4 VAC 20-720-70	Amended	16:3 VA.R. 294	10/1/99
4 VAC 20-720-80	Amended	16:3 VA.R. 294	10/1/99
4 VAC 20-720-105	Repealed	16:3 VA.R. 294	10/1/99
<b>Title 7. Economic Development</b>			
7 VAC 10-20-10	Amended	15:25 VA.R. 3348	9/29/99
7 VAC 10-20-30	Amended	15:25 VA.R. 3350	9/29/99
7 VAC 10-20-50	Amended	15:25 VA.R. 3350	9/29/99
<b>Title 9. Environment</b>			
9 VAC 25-151 (Forms)	Amended	15:24 VA.R. 3251	--
<b>Title 11. Gaming</b>			
11 VAC 10-130-10	Amended	15:26 VA.R. 3449	8/25/99
11 VAC 10-130-20	Amended	15:26 VA.R. 3449	8/25/99
11 VAC 10-130-40	Amended	15:26 VA.R. 3451	8/25/99
11 VAC 10-130-51	Amended	15:26 VA.R. 3451	8/25/99
11 VAC 10-130-60	Amended	15:26 VA.R. 3452	8/25/99
11 VAC 10-130-76	Amended	15:26 VA.R. 3452	8/25/99
11 VAC 10-130-77	Amended	15:26 VA.R. 3452	8/25/99
<b>Title 12. Health</b>			
12 VAC 5-610-10*	Repealed	15:24 VA.R. 3188	*
12 VAC 5-610-20*	Amended	15:24 VA.R. 3188	*
12 VAC 5-610-30*	Amended	15:24 VA.R. 3188	*
12 VAC 5-610-40*	Amended	15:24 VA.R. 3188	*
12 VAC 5-610-50*	Amended	15:24 VA.R. 3188	*
12 VAC 5-610-70*	Amended	15:24 VA.R. 3189	*
12 VAC 5-610-75*	Added	15:24 VA.R. 3190	*
12 VAC 5-610-80*	Amended	15:24 VA.R. 3190	*
12 VAC 5-610-90*	Repealed	15:24 VA.R. 3190	*
12 VAC 5-610-100*	Amended	15:24 VA.R. 3190	*

\* The regulatory process was suspended on this section in 16:2 VA.R. 202, and the final effective date is pending until further action by the board.

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-610-110*	Repealed	15:24 VA.R. 3190	*
12 VAC 5-610-120*	Amended	15:24 VA.R. 3190	*
12 VAC 5-610-130*	Amended	15:24 VA.R. 3192	*
12 VAC 5-610-140*	Repealed	15:24 VA.R. 3192	*
12 VAC 5-610-150*	Repealed	15:24 VA.R. 3192	*
12 VAC 5-610-170*	Amended	15:24 VA.R. 3192	*
12 VAC 5-610-180*	Repealed	15:24 VA.R. 3193	*
12 VAC 5-610-190*	Amended	15:24 VA.R. 3193	*
12 VAC 5-610-200*	Amended	15:24 VA.R. 3194	*
12 VAC 5-610-230*	Amended	15:24 VA.R. 3195	*
12 VAC 5-610-250*	Amended	15:24 VA.R. 3195	*
12 VAC 5-610-255*	Added	15:24 VA.R. 3198	*
12 VAC 5-610-260*	Amended	15:24 VA.R. 3198	*
12 VAC 5-610-270*	Amended	15:24 VA.R. 3198	*
12 VAC 5-610-280*	Amended	15:24 VA.R. 3198	*
12 VAC 5-610-290*	Amended	15:24 VA.R. 3199	*
12 VAC 5-610-300*	Amended	15:24 VA.R. 3199	*
12 VAC 5-610-330*	Amended	15:24 VA.R. 3199	*
12 VAC 5-610-340*	Amended	15:24 VA.R. 3199	*
12 VAC 5-610-360*	Amended	15:24 VA.R. 3200	*
12 VAC 5-610-370*	Repealed	15:24 VA.R. 3200	*
12 VAC 5-610-380*	Amended	15:24 VA.R. 3201	*
12 VAC 5-610-430*	Amended	15:24 VA.R. 3202	*
12 VAC 5-610-440*	Amended	15:24 VA.R. 3202	*
12 VAC 5-610-441 through 12 VAC 5-610-449*	Added	15:24 VA.R. 3202-3210	*
12 VAC 5-610-449.1*	Added	15:24 VA.R. 3211	*
12 VAC 5-610-450*	Amended	15:24 VA.R. 3212	*
12 VAC 5-610-470*	Amended	15:24 VA.R. 3212	*
12 VAC 5-610-480*	Amended	15:24 VA.R. 3214	*
12 VAC 5-610-490*	Amended	15:24 VA.R. 3214	*
12 VAC 5-610-500*	Amended	15:24 VA.R. 3215	*
12 VAC 5-610-510 through 12 VAC 5-610-550*	Repealed	15:24 VA.R. 3215-3216	*
12 VAC 5-610-560*	Amended	15:24 VA.R. 3216	*
12 VAC 5-610-570*	Repealed	15:24 VA.R. 3216	*
12 VAC 5-610-580*	Amended	15:24 VA.R. 3217	*
12 VAC 5-610-591 through 12 VAC 5-610-594*	Added	15:24 VA.R. 3217-3218	*
12 VAC 5-610-596 through 12 VAC 5-610-599*	Added	15:24 VA.R. 3218-3222	*
12 VAC 5-610-599.1 through 12 VAC 5-610-599.4*	Added	15:24 VA.R. 3222-3223	*
12 VAC 5-610-620*	Amended	15:24 VA.R. 3223	*
12 VAC 5-610-650*	Amended	15:24 VA.R. 3223	*
12 VAC 5-610-670*	Amended	15:24 VA.R. 3223	*
12 VAC 5-610-690*	Amended	15:24 VA.R. 3223	*
12 VAC 5-610-700*	Amended	15:24 VA.R. 3224	*
12 VAC 5-610-800*	Amended	15:24 VA.R. 3226	*
12 VAC 5-610-810*	Amended	15:24 VA.R. 3226	*
12 VAC 5-610-815*	Added	15:24 VA.R. 3226	*
12 VAC 5-610-817*	Added	15:24 VA.R. 3227	*
12 VAC 5-610-820*	Amended	15:24 VA.R. 3227	*
12 VAC 5-610-830*	Repealed	15:24 VA.R. 3227	*
12 VAC 5-610-840*	Repealed	15:24 VA.R. 3227	*
12 VAC 5-610-880*	Amended	15:24 VA.R. 3227	*
12 VAC 5-610-890*	Amended	15:24 VA.R. 3229	*
12 VAC 5-610-930*	Amended	15:24 VA.R. 3229	*

\* The regulatory process was suspended on this section in 16:2 VA.R. 202, and the final effective date is pending until further action by the board.



# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-610-940*	Amended	15:24 VA.R. 3232	*
12 VAC 5-610-950*	Amended	15:24 VA.R. 3233	*
12 VAC 5-610-960*	Amended	15:24 VA.R. 3235	*
12 VAC 5-610-965*	Added	15:24 VA.R. 3236	*
12 VAC 5-610-980*	Amended	15:24 VA.R. 3237	*
12 VAC 5-610-1080*	Amended	15:24 VA.R. 3238	*
12 VAC 5-610-1140*	Amended	15:24 VA.R. 3240	*
12 VAC 5-610-1150*	Repealed	15:24 VA.R. 3240	*
12 VAC 30-10-441	Added	15:26 VA.R. 3454	10/13/99
12 VAC 30-10-490	Amended	15:26 VA.R. 3454	10/13/99
12 VAC 30-10-680	Amended	15:26 VA.R. 3454	10/13/99
12 VAC 30-50-100	Amended	15:24 VA.R. 3243	9/15/99
12 VAC 30-50-105	Amended	15:24 VA.R. 3245	9/15/99
12 VAC 30-50-140	Amended	15:24 VA.R. 3247	9/15/99
12 VAC 30-50-160	Amended	16:2 VA.R. 202	11/10/99
12 VAC 30-50-210	Amended	16:2 VA.R. 205	11/10/99
12 VAC 30-50-220	Amended	15:25 VA.R. 3362	10/1/99
12 VAC 30-80-30	Amended	16:2 VA.R. 207	11/10/99
12 VAC 30-80-40	Amended	16:2 VA.R. 208	11/10/99
12 VAC 30-140-10 through 12 VAC 30-140-570	Added	15:26 VA.R. 3456-3465	10/13/99
12 VAC 30-140-370	Amended	16:4 VA.R. 404	12/8/99
12 VAC 30-140-380	Amended	16:4 VA.R. 404	12/8/99
<b>Title 13. Housing</b>			
13 VAC 5-175-10 through 13 VAC 5-175-40	Added	16:4 VA.R. 405-406	10/20/99
<b>Title 14. Insurance</b>			
14 VAC 5-395-20	Amended	16:4 VA.R. 407	10/20/99
14 VAC 5-395-25	Added	16:4 VA.R. 407	10/20/99
14 VAC 5-395-60	Amended	16:4 VA.R. 407	10/20/99
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 5-20-10 emer	Amended	16:3 VA.R. 319	10/4/99-10/3/00
18 VAC 5-20-11 emer	Added	16:3 VA.R. 321	10/4/99-10/3/00
18 VAC 5-20-20 emer	Amended	16:3 VA.R. 322	10/4/99-10/3/00
18 VAC 5-20-30 emer	Repealed	16:3 VA.R. 324	10/4/99-10/3/00
18 VAC 5-20-40 emer	Repealed	16:3 VA.R. 324	10/4/99-10/3/00
18 VAC 5-20-41 emer	Added	16:3 VA.R. 324	10/4/99-10/3/00
18 VAC 5-20-50 emer	Repealed	16:3 VA.R. 325	10/4/99-10/3/00
18 VAC 5-20-60 emer	Repealed	16:3 VA.R. 325	10/4/99-10/3/00
18 VAC 5-20-70 emer	Repealed	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-80 emer	Repealed	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-81 emer	Added	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-90 emer	Repealed	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-91 emer	Added	16:3 VA.R. 327	10/4/99-10/3/00
18 VAC 5-20-100 emer	Amended	16:3 VA.R. 328	10/4/99-10/3/00
18 VAC 5-20-110 emer	Amended	16:3 VA.R. 329	10/4/99-10/3/00
18 VAC 5-20-111 emer	Added	16:3 VA.R. 330	10/4/99-10/3/00
18 VAC 5-20-112 emer	Added	16:3 VA.R. 330	10/4/99-10/3/00
18 VAC 5-20-120 through 18 VAC 5-20-440 emer	Repealed	16:3 VA.R. 330-333	10/4/99-10/3/00
18 VAC 5-20-441 emer	Added	16:3 VA.R. 333	10/4/99-10/3/00
18 VAC 5-20-442 emer	Added	16:3 VA.R. 334	10/4/99-10/3/00
18 VAC 5-20-443 emer	Added	16:3 VA.R. 334	10/4/99-10/3/00
18 VAC 5-20-444 emer	Added	16:3 VA.R. 336	10/4/99-10/3/00
18 VAC 5-20-445 emer	Added	16:3 VA.R. 336	10/4/99-10/3/00
18 VAC 5-20-450 emer	Repealed	16:3 VA.R. 336	10/4/99-10/3/00

\* The regulatory process was suspended on this section in 16:2 VA.R. 202, and the final effective date is pending until further action by the board.

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 5-20-451 emer	Added	16:3 VA.R. 336	10/4/99-10/3/00
18 VAC 5-20-460 through 500 emer	Repealed	16:3 VA.R. 337-339	10/4/99-10/3/00
18 VAC 10-20-10	Amended	16:3 VA.R. 298	12/1/99
18 VAC 10-20-20	Amended	16:3 VA.R. 299	12/1/99
18 VAC 10-20-35	Added	16:3 VA.R. 299	12/1/99
18 VAC 10-20-90	Amended	15:24 VA.R. 3248	10/1/99
18 VAC 10-20-110	Amended	16:3 VA.R. 299	12/1/99
18 VAC 10-20-120	Amended	16:3 VA.R. 300	12/1/99
18 VAC 10-20-140	Amended	16:3 VA.R. 300	12/1/99
18 VAC 10-20-150	Amended	16:3 VA.R. 301	12/1/99
18 VAC 10-20-160	Amended	16:3 VA.R. 303	12/1/99
18 VAC 10-20-170	Amended	15:24 VA.R. 3248	10/1/99
18 VAC 10-20-170	Amended	16:3 VA.R. 303	12/1/99
18 VAC 10-20-190	Amended	16:3 VA.R. 303	12/1/99
18 VAC 10-20-200	Amended	16:3 VA.R. 304	12/1/99
18 VAC 10-20-210	Amended	16:3 VA.R. 304	12/1/99
18 VAC 10-20-215	Added	16:3 VA.R. 305	12/1/99
18 VAC 10-20-230	Amended	16:3 VA.R. 305	12/1/99
18 VAC 10-20-250	Amended	16:3 VA.R. 305	12/1/99
18 VAC 10-20-260	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-270	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-280	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-280	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-300	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-310	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-320	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-330	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-350	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-360	Amended	16:3 VA.R. 308	12/1/99
18 VAC 10-20-400	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-440	Amended	16:3 VA.R. 308	12/1/99
18 VAC 10-20-450	Amended	16:3 VA.R. 308	12/1/99
18 VAC 10-20-470	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-490	Amended	16:3 VA.R. 309	12/1/99
18 VAC 10-20-500	Repealed	16:3 VA.R. 309	12/1/99
18 VAC 10-20-520	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-530	Amended	16:3 VA.R. 309	12/1/99
18 VAC 10-20-560	Amended	16:3 VA.R. 310	12/1/99
18 VAC 10-20-570	Amended	16:3 VA.R. 310	12/1/99
18 VAC 10-20-580	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-590	Amended	16:3 VA.R. 310	12/1/99
18 VAC 10-20-630	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-640	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-680	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-730	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-740	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-760	Amended	16:3 VA.R. 312	12/1/99
18 VAC 10-20-780	Amended	16:3 VA.R. 313	12/1/99
18 VAC 10-20-790	Amended	16:3 VA.R. 313	12/1/99
18 VAC 10-20-795	Added	16:3 VA.R. 314	12/1/99
18 VAC 25-21-70	Amended	15:26 VA.R. 3468	11/1/99
18 VAC 55-22-310	Amended	15:26 VA.R. 3476	11/1/99
18 VAC 85-20-22	Amended	16:4 VA.R. 407	12/8/99
18 VAC 85-20-230	Amended	16:4 VA.R. 408	12/8/99
18 VAC 85-20-235	Added	16:4 VA.R. 408	12/8/99
18 VAC 85-20-236	Added	16:4 VA.R. 408	12/8/99

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-20-240	Amended	16:4 VA.R. 409	12/8/99
18 VAC 85-101-10	Amended	16:4 VA.R. 410	12/8/99
18 VAC 85-101-40	Amended	16:4 VA.R. 410	12/8/99
18 VAC 85-101-50	Amended	16:4 VA.R. 410	12/8/99
18 VAC 85-101-60	Amended	16:4 VA.R. 411	12/8/99
18 VAC 85-101-70	Amended	16:4 VA.R. 411	12/8/99
18 VAC 85-101-130	Amended	16:4 VA.R. 411	12/8/99
18 VAC 85-101-160	Amended	16:4 VA.R. 412	12/8/99
18 VAC 90-20-300	Amended	16:3 VA.R. 315	11/24/99
18 VAC 90-20-420	Added	16:3 VA.R. 315	11/24/99
18 VAC 90-20-430	Added	16:3 VA.R. 315	11/24/99
18 VAC 90-20-440	Added	16:3 VA.R. 316	11/24/99
18 VAC 90-20-450	Added	16:3 VA.R. 316	11/24/99
18 VAC 90-20-460	Added	16:3 VA.R. 317	11/24/99
18 VAC 100-20-10	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-40	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-50	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-60	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-70	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 110-20-10	Amended	15:26 VA.R. 3482	10/13/99
18 VAC 110-20-135	Added	15:26 VA.R. 3484	10/13/99
18 VAC 110-20-140	Amended	15:26 VA.R. 3484	10/13/99
18 VAC 110-20-690	Added	15:26 VA.R. 3485	10/13/99
18 VAC 110-20-700	Added	15:26 VA.R. 3485	10/13/99
18 VAC 110-20-710	Added	15:26 VA.R. 3485	10/13/99
18 VAC 110-20-720	Added	15:26 VA.R. 3486	10/13/99
18 VAC 120-30-100	Amended	15:26 VA.R. 3487	11/1/99
18 VAC 125-20-10	Amended	16:2 VA.R. 210	11/10/99
18 VAC 125-20-30	Amended	16:2 VA.R. 210	11/10/99
18 VAC 125-20-40	Amended	16:2 VA.R. 210	11/10/99
18 VAC 125-20-41	Added	16:2 VA.R. 211	11/10/99
18 VAC 125-20-42	Added	16:2 VA.R. 211	11/10/99
18 VAC 125-20-50	Repealed	16:2 VA.R. 212	11/10/99
18 VAC 125-20-51	Repealed	16:2 VA.R. 212	11/10/99
18 VAC 125-20-52	Repealed	16:2 VA.R. 212	11/10/99
18 VAC 125-20-53	Repealed	16:2 VA.R. 213	11/10/99
18 VAC 125-20-54	Added	16:2 VA.R. 214	11/10/99
18 VAC 125-20-55	Added	16:2 VA.R. 214	11/10/99
18 VAC 125-20-56	Added	16:2 VA.R. 215	11/10/99
18 VAC 125-20-60	Repealed	16:2 VA.R. 216	11/10/99
18 VAC 125-20-65	Added	16:2 VA.R. 216	11/10/99
18 VAC 125-20-70	Repealed	16:2 VA.R. 216	11/10/99
18 VAC 125-20-80	Amended	16:2 VA.R. 217	11/10/99
18 VAC 125-20-90	Repealed	16:2 VA.R. 217	11/10/99
18 VAC 125-20-100	Repealed	16:2 VA.R. 217	11/10/99
18 VAC 125-20-120	Amended	16:2 VA.R. 218	11/10/99
18 VAC 125-20-130	Amended	16:2 VA.R. 218	11/10/99
18 VAC 125-20-140	Repealed	16:2 VA.R. 218	11/10/99
18 VAC 125-20-150	Amended	16:2 VA.R. 218	11/10/99
18 VAC 125-20-150	Erratum	16:4 VA.R. 444	--
18 VAC 125-20-160	Amended	16:2 VA.R. 219	11/10/99
18 VAC 125-20-170	Amended	16:2 VA.R. 219	11/10/99
18 VAC 160-20-40	Amended	15:24 VA.R. 3490	11/1/99
<b>Title 19. Public Safety</b>			
19 VAC 30-70 Appendix A	Amended	15:25 VA.R. 3364	7/29/99
19 VAC 30-165-10 emer	Added	16:3 VA.R. 339	9/24/99-9/23/00

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## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
19 VAC 30-165-20 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-30 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-40 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-50 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-60 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
<b>Title 22. Social Services</b>			
22 VAC 40-50-10 et seq.	Repealed	15:24 VA.R. 3250	9/15/99
22 VAC 40-710-10 et seq.	Repealed	16:4 VA.R. 412	12/8/99
22 VAC 40-880-350	Amended	16:4 VA.R. 413	12/8/99
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 30-130-10	Amended	16:2 VA.R. 229	9/13/99

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# NOTICES OF INTENDED REGULATORY ACTION

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## Symbol Key

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

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## 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 High Quality Care; and 12 VAC 30-70-10-et seq. Methods and Standards for Establishing Payment Rates--Inpatient Hospital Care.** The purpose of the proposed action is to clarify and expand upon limits to be placed upon coverage of inpatient hospital services by providers who are located outside the borders of the Commonwealth in order to promote the use of Virginia's inpatient hospitals. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until December 22, 1999, to Jim Cohen, Provider Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

VA.R. Doc. No. R00-40; Filed November 2, 1999, 10:16 a.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 Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-90-10 et seq. Methods and Standards for Establishing Payment Rates-Long Term Care: Nursing Home Payment System.** The purpose of the proposed action is to propose a fully prospective rate methodology for nursing facility services that use Resource Utilization Groups (RUGs) to adjust payment for resident service intensity. In addition, a new capital payment methodology will be proposed that eliminates the pass-through of depreciation and interest and substitutes a rental payment that is largely independent of provider financing decisions. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until November 24, 1999, to N. Stanley Fields, Director of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

VA.R. Doc. No. R00-20; Filed October 6, 1999, 9:39 a.m.

### STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES 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 Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider promulgating regulations entitled: **12 VAC 35-115-10 et seq. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.** The purpose of the proposed action is to promulgate regulations that will protect the legal and human rights of all individuals who receive services in programs and facilities operated, funded, or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on December 22, 1999, to Rita Hines, Acting Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218.

**Contact:** Charline Davidson, Planning and Regulations Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Planning and Regulations, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-7357, FAX (804) 371-0092 or (804) 371-8977/TTY ☎

VA.R. Doc. No. R00-39; Filed November 2, 1999, 9:36 a.m.

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# Notices of Intended Regulatory Action

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## TITLE 13. HOUSING

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

#### 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 Housing and Community Development intends to consider promulgating regulations entitled: **13 VAC 5-100-10 et seq. Virginia Energy Assistance Program Weatherization Component.** The purpose of the proposed action is to promulgate permanent regulations to implement House Bill 1103 (1998), by clarifying the types of energy improvements which can be completed and establishing eligibility requirements that are more consistent with the U.S. Department of Energy Low-Income Weatherization Assistance Program. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 36-139 of the Code of Virginia.

Public comments may be submitted until December 10, 1999.

**Contact:** George W. Rickman, Jr., Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7180 or FAX (804) 371-7092.

VA.R. Doc. No. R00-35; Filed October 27, 1999, 4:31 p.m.

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF ACCOUNTANCY

#### 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 Accountancy intends to consider repealing regulations entitled: **18 VAC 5-20-10 et seq. Board for Accountancy Regulations.** The purpose of the proposed action is to repeal the Virginia Board for Accountancy Regulations which became effective April 1, 1997. These regulations will be replaced by new regulations (18 VAC 5-21-10 et seq.). The agency does not intend to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 54.1-201 and 54.1-2002 of the Code of Virginia.

Public comments may be submitted until November 29, 1999.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2475, or (804) 367-9753/TTY ☎

VA.R. Doc. No. R00-21; Filed October 6, 1999, 11:58 a.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 Accountancy intends to consider promulgating regulations entitled: **18 VAC 5-21-10 et seq. Board of Accountancy Regulations.** The purpose of the proposed action is to promulgate permanent regulations to implement Senate Bill 926 (1999), which increased the requirements for an individual to become a Certified Public Accountant, and to replace the emergency Board of Accountancy Regulations which became effective October 4, 1999. The agency intends to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 54.1-201 and 54.1-2002 of the Code of Virginia.

Public comments may be submitted until November 29, 1999.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2475, or (804) 367-9753/TTY ☎

VA.R. Doc. No. R00-22; Filed October 6, 1999, 11:59 a.m.

## BOARD OF NURSING

#### † 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 Nursing intends to consider amending regulations entitled: **18 VAC 90-30-10 et seq. Regulations Governing the Licensure of Nurse Practitioners.** The purpose of the proposed action is to amend regulations to increase fees pursuant to a statutory mandate in § 54.1-113 of the Code of Virginia for the board to levy fees sufficient to meet expenditures. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until December 22, 1999.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

VA.R. Doc. No. R00-45; Filed November 3, 1999, 11:48 a.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 Nursing intends to consider amending regulations entitled: **18 VAC 90-40-10 et seq. Regulations for Prescriptive Authority for Nurse Practitioners.** The purpose of the proposed action is to amend regulations to increase fees pursuant to a statutory mandate in § 54.1-113 of the Code of Virginia for the board to levy fees sufficient to meet expenditures. The agency intends to hold a public hearing on the proposed regulation after publication.

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# Notices of Intended Regulatory Action

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

Public comments may be submitted until December 22, 1999.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

VA.R. Doc. No. R00-43; Filed November 3, 1999, 11:48 a.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 Nursing intends to consider amending regulations entitled: **18 VAC 90-50-10 et seq. Regulations Governing the Certification of Massage Therapists.** The purpose of the proposed action is to amend regulations to increase fees pursuant to a statutory mandate in § 54.1-113 of the Code of Virginia for the board to levy fees sufficient to meet expenditures. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until December 22, 1999.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

VA.R. Doc. No. R00-44; Filed November 3, 1999, 11:50a.m.

## BOARD FOR OPTICIANS

### 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 for Opticians intends to consider amending regulations entitled: **18 VAC 100-20-10 et seq. Board for Opticians Regulations.** The purpose of the proposed action is to amend existing regulations governing the licensure of opticians to (i) establish a definition section; (ii) clarify entry requirements for licensure; (iii) specify examination procedures and examination content for licensure and contact lens examinations; (iv) modify the procedures and provisions regarding renewal, reinstatement, and the standards of practice and conduct; and (v) review several provisions of the regulations and simplify them thereby ensuring that the board is meeting its statutory mandate to ensure minimal competence of all licensees without burdensome requirements. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-201 and 54.1-1700 et seq. of the Code of Virginia.

Public comments may be submitted until December 9, 1999.

**Contact:** Nancy T. Feldman, Assistant Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-2474, (804) 367-9753/TTY ☎, or e-mail opticians@dpor.state.va.us.

VA.R. Doc. No. R00-30; Filed October 15, 1999, 3:01 p.m.

## BOARD OF SOCIAL WORK

### 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 Social Work intends to consider amending regulations entitled: **18 VAC 140-20-10 et seq. Regulations Governing the Practice of Social Work.** The purpose of the proposed action is to establish continuing education requirements in compliance with statutory mandate, establish an inactive licensure regulation for licensees who are not practicing in Virginia, and amend the language in the dual relationship prohibition in the standards of practice to achieve better consistency in the language among the behavioral sciences boards. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-2400 and Chapter 37 (§ 54.1-3700 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until December 8, 1999.

**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. R00-31; Filed October 19, 1999, 2:58 p.m.

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## TITLE 19. PUBLIC SAFETY

### DEPARTMENT OF STATE POLICE

#### 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 State Police intends to consider amending regulations entitled: **19 VAC 30-40-10 et seq. Standards and Specifications for the Stickers or Decals Used by Cities, Counties and Towns in Lieu of License Plates.** The purpose of the proposed action is to amend the regulation to conform to legislative changes to § 46.2-1052 of the Code of Virginia. The agency does not intend to hold a public hearing on the proposed action after publication.

Statutory Authority: § 46.2-1052 of the Code of Virginia.

Public comments may be submitted until December 1, 1999.

**Contact:** Captain W. Steven Flaherty, Safety Officer, Department of State Police, Safety Division, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 378-3472 or FAX (804) 378-3487.

VA.R. Doc. No. R00-10; Filed September 20, 1999, 11:26 a.m.

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# Notices of Intended Regulatory Action

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## 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 State Police intends to consider promulgating regulations entitled: **19 VAC 30-65-10 et seq. Regulations Relating to Safety Inspector Certification.** The purpose of the proposed regulation is to ensure that the safety equipment on motor vehicles is not defective, thus reducing motor vehicle crashes caused by defective equipment. The regulation will describe the process and testing procedures that a mechanic must complete before being certified as a safety inspector. The agency does not intend to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 46.2-1163 and 46.2-1166 of the Code of Virginia.

Public comments may be submitted until December 1, 1999.

**Contact:** Captain W. Steven Flaherty, Safety Officer, Department of State Police, Safety Division, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 378-3472 or FAX (804) 378-3487.

VA.R. Doc. No. R00-9; Filed September 20, 1999, 11:26 a.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 Department of State Police intends to consider promulgating regulations entitled: **19 VAC 30-66-10 et seq. Regulations Relating to Official Inspection Station Appointment.** The purpose of the proposed action is to establish the standards that garages must meet before being appointed as official inspection stations. The agency does not intend to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 46.2-1163 and 46.2-1166 of the Code of Virginia.

Public comments may be submitted until December 1, 1999.

**Contact:** Captain W. Steven Flaherty, Safety Officer, Department of State Police, Safety Division, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 378-3472 or FAX (804) 378-3487.

VA.R. Doc. No. R00-11; Filed September 20, 1999, 11:26 a.m.





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# PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS

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## PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

This section gives 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 8. EDUCATION

### STATE BOARD OF EDUCATION

**November 30, 1999 - 7 p.m.** -- Public Hearing  
Performing Arts Center, Charlottesville High School, 1400  
Melbourne Road, Charlottesville, Virginia.

**November 30, 1999 - 7 p.m.** -- Public Hearing  
O. Trent Bonner Middle School, 300 Apollo Avenue, Danville,  
Virginia.

**November 30, 1999 - 7 p.m.** -- Public Hearing  
Marion Senior High School, 848 Stage Street, Marion,  
Virginia.

**November 30, 1999 - 7 p.m.** -- Public Hearing  
Gar-Field High School, 14000 Smoketown Road, Dale City,  
Virginia.

**November 30, 1999 - 7 p.m.** -- Public Hearing  
Jamestown High School, 3751 John Tyler Highway,  
Williamsburg, Virginia.

**January 21, 2000** - Public comments may be submitted until  
this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **8 VAC 20-131-10 et seq. Regulations Establishing Standards for Accrediting Public Schools in Virginia.** The regulations have been revised primarily to (i) identify and target for early intervention and intensive assistance those schools that need the most help and attention and (ii) define consequences and rewards for schools that achieve, or fail to achieve, the standards.

Statutory Authority: §§ 22.1-19 and 22.1-253.13:13 of the Code of Virginia.

**Contact:** Charles W. Finley, Director of Accreditation, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 786-9421, FAX (804) 786-9763 or toll-free 1-800-292-3820.



## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

**January 4, 2000 - 9 a.m.** -- Public Hearing  
Main Street Centre, 600 East Main Street, Lower Level  
Conference Room, Richmond, Virginia.

**January 24, 2000** - 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 Air Pollution Control Board intends to amend regulations entitled: **Regulations for the Control and Abatement of Air Pollution (Rev. S97): 9 VAC 5-20-10 et seq. General Provisions and 9 VAC 5-40-10 et seq. Existing Stationary Sources.** The proposed regulation applies to hospital/medical/infectious waste incinerators (HMIWIs), and includes emission limits for particulate matter, carbon monoxide, dioxins/furans, hydrogen chloride, sulfur dioxide, nitrogen oxides, lead, cadmium, and mercury. Special HMIWI operator training and qualification requirements are included in order to assure proper facility operation and compliance with the emissions limitations; sources are also required to prepare overall waste management plans. Compliance, emissions testing, and monitoring requirements are delineated, as well as recordkeeping and reporting of such test results. Finally, specific compliance schedules are provided.

**Request for Comments:** The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

**Localities Affected:** There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

**Location of Proposal:** The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents

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# Public Comment Periods - Proposed Regulations

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may be examined by the public at the Department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the Department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
806 Westwood Office Park  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., January 24, 2000, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst, Office of Air Regulatory Development, 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/TTY ☎



## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF MEDICINE

**December 3, 1999 - 8 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**January 21, 2000** - 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;**

**18 VAC 85-31-10 et seq. Regulations Governing the Practice of Physical Therapy;**

**18 VAC 85-40-10 et seq. Regulations Governing the Practice of Respiratory Care Practitioners;**

**18 VAC 85-50-10 et seq. Regulations Governing the Practice of Physician Assistants;**

**18 VAC 85-80-10 et seq. Regulations Governing the Licensure of Occupational Therapists;**

**18 VAC 85-101-10 et seq. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited; and**

**18 VAC 85-110-10 et seq. Regulations Governing the Practice of Licensed Acupuncturists.**

The proposed amendments revise the schedule of fees paid by physicians and other medical professionals to the Board of Medicine. These fee changes bring the board into compliance with the board's interpretation of § 54.1-113 of the Code of Virginia, which requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10% difference between revenues and expenditures.

Statutory Authority: §§ 54.1-113 and 54.1-2400 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.

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# Public Comment Periods - Proposed Regulations

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## BOARD OF NURSING

**November 30, 1999 - 2 p.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia.

**January 21, 2000** - 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 Nursing intends to amend regulations entitled: **18 VAC 90-20-10 et seq. Regulations Governing the Practice of Nursing.** The proposed amendments increase application, renewal and other fees charged to applicants and regulated entities in order to cover the expenditures for the regulatory and disciplinary functions of the board.

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

**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 or FAX (804) 662-9943.

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

**January 6, 2000 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 3, Richmond, Virginia.

**January 21, 2000** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals intends to amend regulations entitled:

**18 VAC 115-20-10 et seq. Regulations Governing the Practice of Professional Counseling;**

**18 VAC 115-30-10 et seq. Regulations Governing the Certification of Substance Abuse Counselors;**

**18 VAC 115-40-10 et seq. Regulations Governing the Certification of Rehabilitation Providers; and**

**18 VAC 115-50-10 et seq. Regulations Governing the Practice of Marriage and Family Therapists.**

The proposed amendments increase certain fees pursuant to the board's statutory mandate to levy fees as necessary to cover expenses of the board. Fees sufficient to fund the operations of the board are essential for activities such as licensing, investigation of complaints, and adjudication of disciplinary cases.

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

**Contact:** Janet Delorme, Deputy Executive Director, Board of Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9975 or (804) 662-9943.

## BOARD OF PSYCHOLOGY

**January 11, 2000 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 1, Richmond, Virginia.

**January 21, 2000** - 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 Psychology intends to amend regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to increase fees for practitioners regulated by the board in order to comply with statutory requirements for revenues to be sufficient to cover the expenditures of the board.

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

**Contact:** Janet Delorme, Deputy Executive Director, Board of Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9975 or (804) 662-9943.



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# PROPOSED REGULATIONS

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For information concerning Proposed Regulations, see Information Page.

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## Symbol Key

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

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## TITLE 8. EDUCATION

### STATE BOARD OF EDUCATION

Title of Regulation: **8 VAC 20-131-10 et seq. Regulations Establishing Standards for Accrediting Public Schools in Virginia (amending 8 VAC 20-131-10 through 8 VAC 20-131-150, 8 VAC 20-131-170, 8 VAC 20-131-180, 8 VAC 20-131-210, 8 VAC 20-131-220, 8 VAC 20-131-240, 8 VAC 20-131-260, 8 VAC 20-131-270, 8 VAC 20-131-280, 8 VAC 20-131-290, 8 VAC 20-131-300, 8 VAC 20-131-310, 8 VAC 20-131-320, and 8 VAC 20-131-340; adding 8 VAC 20-131-325; repealing 8 VAC 20-131-250).**

Statutory Authority: §§ 2.1-19 and 22.1-253.13:3 of the Code of Virginia.

Public Hearing Dates:

November 30, 1999, 7 p.m. - Charlottesville.  
November 30, 1999, 7 p.m. - Danville.  
November 30, 1999, 7 p.m. - Marion.  
November 30, 1999, 7 p.m. - Prince William.  
November 30, 1999, 7 p.m. - Williamsburg.

Public comments may be submitted until January 21, 2000.

(See Calendar of Events section for additional information)

Basis: Section 22.1-19 of the Code of Virginia requires that the Board of Education "provide for the accreditation of public elementary, middle, and high schools in accordance with standards prescribed by it." Further, the Standards of Quality for Public Schools in Virginia (SOQ), in § 22.1-253.13:3 F of the Code of Virginia, requires that local school boards "maintain schools which meet the standards of accreditation prescribed by the Board of Education."

Purpose: The purpose of these regulations is to define the requirements for accrediting public schools in Virginia. The proposed revisions have been drafted to respond to public comment regarding the perceived punitive nature of the current standards and the lack of incentives for schools to work to achieve the requirements of the standards. In addition, they are necessary for the public's welfare because they provide more definitive requirements for schools to reach the status of "Fully Accredited" and clearly outline the requirements for schools that do not reach that status.

Substance: These regulations form the basis for the day-to-day operation of the educational program in each public school in Virginia. The regulations contain provisions to govern philosophy, goals and objectives; academic achievement; school accountability; building and student safety and instructional support services; school leadership; involving and reporting to parents; and procedures for accreditation. The regulations have been revised to: (i) identify and target for early intervention and intensive

assistance those schools that need the most help and attention, so that remedial action will be undertaken immediately; (ii) define consequences and rewards for schools that achieve, or fail to achieve, the standards, in a constructive way that recognizes schools that have made major strides, yet have not met the standards, and which recognizes and rewards schools that have exceeded the standards; (iii) encourage Virginia students and schools to reach even higher than the current standards; and (iv) create a recognition and awards program that promotes innovation, creativity, and mentoring among Virginia educators.

Issues: The regulations continue to require that the accreditation status of schools be determined primarily on the basis of student academic performance. Student performance will be measured using the statewide Standards of Learning (SOL) assessment program. Local school boards, principals and superintendents will certify compliance with instructional program, building and student safety, and instructional support services requirements for pre-accreditation eligibility. The advantages to the public in the revision of the standards are that the consequences and rewards to schools are more clearly delineated. There are no identified disadvantages to the public with these revisions.

Impact: The primary objectives of the Board of Education in revising the standards were to reaffirm the board's commitment to the standards adopted in 1997 and to define a system of consequences and rewards for schools. No provisions have been included that would increase or decrease Standards of Quality (SOQ) funding to localities. The 1999 General Assembly provided a significant increase in funding to support schools and school personnel to meet the demands of the Standards of Learning (SOL) assessment program. Student achievement on SOL tests will continue to be used as the primary basis of evaluating schools, and there is no additional cost to administer the requirements of the section relating to building and student safety and instructional support services. Funding for the staffing levels is provided through state basic aid to support the requirements of the Standards of Quality.

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 25 (98). 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. This regulation, first adopted in September 1997, contains provisions to govern philosophy, goals and objectives; academic achievement; requirements for graduation; school accountability; school leadership, staffing and support services; facilities and student safety; school communication; and procedures for accreditation. The Department of Education (department) is proposing to make several changes to the regulation. The proposed changes include the establishment of a series of intermediate benchmarks for Standards of Learning (SOL) exam pass rates; an expansion in the number of categories and gradations of accreditation; the waiving of some regulatory requirements for the schools with the highest SOL pass rates; the inclusion of language describing the course of action when schools do not meet the required pass rates; and the creation of several new seals and awards for students, teachers, principals, schools, and school divisions.

Estimated economic impact.

Categories and Consequences. In the proposed regulation the number of accreditation ratings for schools would be increased from the current four (Fully Accredited, Provisionally Accredited, Accredited with Warning, Accreditation Denied). Fully Accredited would be separated into three subcategories, Fully Accredited, Fully Accredited with Honors (80% of students pass in all areas), and Fully Accredited with High Honors (90% of students pass in all areas). Schools are rated as Fully Accredited if 70% or more eligible students pass the SOL tests in each of the four core areas, except for third grade science and history where the pass rate is 50%. A school that receives a rating of Fully Accredited with Honors or Fully Accredited with High Honors would be able to apply to receive a waiver from several sections of this regulation.

The economic impact of the waiver of regulatory provisions for high-performing schools will depend on the effect that the regulatory provisions have on educational performance. There are three potential types of influence that the regulatory provisions may have. If compliance with the requirements in these sections are necessary only for schools to improve achievement up to a minimum standard level, but not necessary for schools that are already performing at or above that level, then this new waiver could produce net benefits. These high-performing schools could potentially use their new flexibility to produce learning environments that cultivate even better results. In this case there would be a clear economic improvement.

If on the other hand, these waived requirements are considered the best way to run schools in general, then allowing the high-performing schools to ignore them should not be expected to produce improved results. Student performance could suffer and the students and society are worse off with a reduction of skills and future work productivity.

Finally, if the high-performing schools have a better way to run their schools, then it is worth considering whether gains could be made by allowing poorer performing schools to waive the same regulation requirements and run their schools in a similar manner. In this case the skills and work

productivity of the students at the poorer performing schools could be improved with the adoption of the superior methodology. Presumably on average, schools in socioeconomically disadvantaged areas will find it more difficult to achieve the highest levels of performance than schools in more prosperous areas for a given quality of instruction. Thus, schools with a high proportion of socioeconomically disadvantaged students would be less likely to achieve a rating of Fully Accredited with Honors or Fully Accredited with High Honors. These schools would be less likely to have the opportunity to waive the regulatory requirements and use the superior instructional methodology to improve student performance.

Whether the introduction of the waiver of certain regulatory requirements for the high-performing schools produces a net economic benefit depends upon whether or not the schools will use their additional flexibility in such a manner that will improve student performance.

For the 2000-2003 Phase, the current regulation includes a Provisionally Accredited rating, but does not specify annual benchmark pass rates for schools to achieve this rating. The proposed regulation specifies the benchmark pass rates needed to achieve the Provisionally Accredited rating, and adds a Provisionally Accredited/Needs Improvement rating for schools that fail to meet all the benchmarks, but do not miss benchmarks by 20 percentage points or more in any category. Other than title, schools rated as Provisionally Accredited/Needs Improvement would not be treated any differently in the regulation than those rated Provisionally Accredited. Since both designations, Provisionally Accredited and Provisionally Accredited/Needs Improvement, indicate that improvement is needed for Full Accreditation to be achieved, the addition of the latter designation would not likely affect the behavior of the school administration and staff. The administration and staff can see with or without the latter designation how much improvement is needed for Full Accreditation.

Schools that miss benchmarks by 20 percentage points or more would be called Accredited with Warning (in the specific academic area(s) missed by 20% or more). The current regulation specifies that schools rated as Accredited with Warning "must undertake improvement planning targeted to increasing student achievement as measured by the SOL tests." The proposed regulation specifies that any school that is rated Accredited with Warning in Mathematics or English is "expected to adopt an instructional method that has a proven track record of success at raising student achievement in those areas as appropriate." New language is also added that specifies that the board will publish a list of recommended instructional methods and that the superintendent and principal shall certify that such a method has been implemented. Also, the proposed regulation requires that the department develop a process and monitoring plan designed to assist schools designated as Accredited with Warning. Assuming that the board and department are able to provide information (the list of recommended instructional methods) and assistance that help the school improve student achievement beyond what its administrators and staff would have been able to do on their own, then the new requirements for the board and department

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## Proposed Regulations

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may produce some economic benefit. Since much information is already available to the schools through trade publications, the Internet, etc., it is not certain that the board and department will be able to produce more or better information than that which is already available to the schools. Thus, we cannot determine how much benefit there would be and whether it exceeds the costs of providing the information and assistance by the board and department plus the costs to the schools of altering their instructional methodology.

In both the current and proposed regulations, a school that has never met the requirements for full accreditation will be rated Accreditation Denied starting in the 2006-2007 academic year. The proposed regulation expands Accreditation Denied to three subcategories: Accreditation Denied/Improving School Near Accreditation, Accreditation Denied/Reconstituted School, and Accreditation Denied/Failed to Reconstitute. The subcategories would exist only through the 2008-2009 academic year. As the title of the Accreditation Denied/Improving School Near Accreditation rating implies, the school would have to be quite close to the full accreditation standards and would need to demonstrate continued improvement. There would be no adverse consequences for this category. A school that has not previously met the requirements for full accreditation by the end of the 2005-2006 academic year can apply for the designation of Accreditation Denied/Reconstituted School. A school goes under reconstitution by submitting to an audit. A state audit team evaluates all aspects of the school, including instructional methods, the principal and teaching staff, and administrative operations. Upon completion of the audit the team makes recommendations for improvement.

There is uncertainty about what economic impact, if any, will result due to this change. We have no evidence on whether these audits can be expected to improve student achievement. Assuming that the school would be able to produce improved student achievement by following the recommendations of the audit team and does choose to follow the recommendations, then there would be some economic benefit. But again, we cannot determine how much benefit there would be and whether it exceeds the costs involved. A school that chooses not to apply for reconstitution would be designated Accreditation Denied/Failed to Reconstitute. Other than the uncomplimentary title, the school would face no other consequences.

Under the proposed regulation, for both schools rated as Accredited with Warning and those applying for the Accreditation Denied/Reconstituted School rating, the department would be actively involved in helping set up a learning environment in the schools that would potentially improve student performance. The department has not provided evidence to indicate how much, if at all, their involvement would improve student performance. Also, the time and effort involved do produce costs. The department anticipates hiring eight new staff members and an unspecified number of independent contractors, while the schools will face some additional administrative costs (paperwork, reporting of progress). While on average students who perform better and learn more in school should have a potentially improved economic future, we cannot accurately estimate the response that schools will make to these

regulatory provisions or the effectiveness of the department's involvement. Thus, we cannot say whether the benefits outweigh the costs.

Seals and Awards. The proposed changes to this regulation include the addition of several seals and awards conveying titles, but no specific monetary rewards. There are currently two seals for academic excellence. One is for the top students receiving a standard diploma and the other is for the top students receiving an advanced diploma. The proposed regulatory changes add a second seal category to both the standard and advanced diploma categories. Perhaps some students near the margin of receiving one of the seals may work somewhat harder in their senior year to ensure that they receive the grades necessary for the seal in question. For the most part though, the addition of these two seals will not likely have a large impact. The top students are probably already acutely aware that their grades will have an effect upon their acceptance to the college of their choice.

The proposed regulation also adds a fifth diploma seal; the Board of Education's Vocational Seal of Excellence would be awarded to the top vocational students. The introduction of this seal may have more impact than the other two new seals. Firms that are aware of the Vocational Seal of Excellence would be more likely to hire a high school graduate with that seal on their diploma over a graduate without it. Such firms may find the time and effort costs of obtaining and carefully scrutinizing the high school transcript of each job applicant too high to do consistently, but may find the claim of a Vocational Seal of Excellence by an applicant to be useful information that can be checked for only those that claim it. This may give vocational students a new incentive to work hard in their high school vocational classes. Thus, the introduction of this seal may have some influence in improving the skills of the Virginia workforce. There is no empirical evidence available at this time that would allow us to estimate the magnitude of this impact.

The proposed regulation adds two new designations for teachers, Master Teacher of Distinction and Master Creative Educator. The requirements for the Master Teacher of Distinction designation include the mentoring of at least two other teachers. The recognition associated with this title may encourage some additional mentoring between teachers. Since there are no pecuniary rewards or other incentives beyond the recognition, the occurrence of mentoring will not likely increase by a large amount; those most inclined to act as mentors are likely doing it already without the promise of a title. Also, we do not have evidence on the impact of mentoring on teaching quality. Assuming that the mentors on balance have beneficial information to share, the introduction of this designation may produce some small benefit as mentoring may increase by a small degree. The time spent by mentors on mentoring does not come without a cost, though. That time may come from the mentor's own class preparation time which could reduce the quality of her teaching, or it could come from her leisure time which does have a positive value. The language describing the requirements for the Master Creative Educator designation is not specific beyond the presence of creativity. The introduction of this designation is unlikely to have much impact since its requirements are vague, and thus, the

provision may be expected to have little impact on teacher behavior.

The department also proposes to add awards for schools and school divisions. A school with a rating of Fully Accredited, Fully Accredited with Honors, or Fully Accredited with High Honors may be recognized as a Superior School of Merit by providing assistance to schools rated as Provisionally Accredited, Provisionally Accredited/Needs Improvement or Accredited with Warning. The amount and nature of the assistance is not detailed within the proposed regulation. Beyond the recognition of the title, no other incentive is mentioned. The proposed regulation also includes the introduction of the Superior School Division of Merit designation. In order for a school division to earn this recognition, it must have at least 50% of its schools recognized as Superior Schools of Merit, or have at least 25% of its schools recognized as Superior Schools of Merit and provide technical assistance to schools outside the division that are rated below fully accredited. Again, beyond the recognition of the title, no other incentive is mentioned. The introduction of these two new designations will not likely have a large impact upon the behavior of school administrators and staff. Without incentives beyond the designation, such as personal compensation or additional funding for their school or division, the administrators and staff will likely continue to be most concerned with improving the quality of education within their own jurisdictions.

Businesses and entities affected. The 1,158 public elementary schools, 289 public high schools, 281 public middle schools, public combined schools, 42 public alternative schools, and 41 public special education schools are all affected by the proposed changes in this regulation. The students and staff at Virginia public schools are, of course, affected as well.

Localities particularly affected. All localities in the Commonwealth are affected by this regulation.

Projected impact on employment. The department will hire an undetermined number of independent contractors to conduct academic reviews and improvement audits. Also, the department will hire six additional central office professional staff members and two central office administrative staff members. The funding for these positions comes from existing agency funds appropriated by the General Assembly. By using the funds for these positions, there is, of course, a cost involved in that the funds cannot be used for other potentially beneficial uses.

Effects on the use and value of private property. Other than an increase in the value of the practices of the independent contractors hired to perform reviews and audits, the proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency (Board of Education) disagrees with many of the points presented in the Economic Impact Analysis. The proposed revisions to the standards are intended to respond to public comment that there is a lack of specificity in the current regulations addressing the consequences for schools that do not meet

the requirements to be rated "Fully Accredited" and rewards for schools that do. It is believed that providing this specificity will give the citizens of Virginia the information needed to judge the quality of the education provided in the public schools in the state and provide others from outside Virginia the confidence that the board is working to significantly improve the quality of the education provided in the public schools of Virginia. This will improve the economic impact that a public school education in Virginia will have on future generations of the state's citizens and the state's workforce.

#### Summary:

*The proposed amendments (i) identify and target for early intervention and intensive assistance those schools that need the most help and attention, so that remedial action will be undertaken immediately; (ii) define consequences and rewards for schools that achieve, or fail to achieve, the standards, in a constructive way that recognizes schools that have made major strides, yet have not met the standards, and which recognizes and rewards schools that have exceeded the standards; (iii) encourage Virginia students and public schools to reach even higher than the current minimum standards; and (iv) create a recognition and awards program that promotes innovation, creativity and mentoring among Virginia educators. These amendments do not lower a single standard or extend the timetable for reaching the standards.*

*Most of the standards adopted by the board in 1997 have been retained although many sections were rewritten or resequenced for clarity to define the board's continued desire to adopt standards that will improve school performance, provide measurable objectives for student performance, assist low-performing schools, and reward high-performing schools.*

#### **8 VAC 20-131-10. Purpose.**

*The foremost purpose of public education in Virginia is to provide children with a quality education to provide them with opportunities to meet their fullest potential in life. The standards for the accreditation of public schools in Virginia are designed to ensure that an effective educational program is established and maintained in Virginia's public schools. The mission of the public education system, ~~first and foremost,~~ is to educate students in the essential academic knowledge and skills in order that they may be equipped for citizenship, work, and a private life that is informed and free. The accreditation standards are designed to:*

1. Provide an essential foundation of educational programs of high quality in all schools for all students.
2. Encourage continuous appraisal and improvement of the school program for the purpose of raising student achievement.
3. Foster public confidence.
4. Assure recognition of Virginia's public schools by other institutions of learning.
5. Establish a means of determining the effectiveness of schools.

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Section 22.1-253.13:3 B of the Code of Virginia requires that the Virginia Board of Education (*hereinafter "board"*) promulgate regulations establishing standards for accreditation.

The statutory authority for these regulations is delineated in § 22.1-19 of the Code of Virginia that includes the requirement that the board of Education shall provide for the accreditation of public elementary and secondary schools in accordance with regulations prescribed by it.

## **8 VAC 20-131-20. Philosophy, goals, and objectives.**

A. Each school shall have current philosophy, goals, and objectives that shall serve as the basis for all policies and practices and shall be developed using the following criteria:

1. The philosophy, goals, and objectives shall be developed with the advice of professional and lay people who represent the various populations served by the school and in consideration of the needs of the community and shall serve as a basis for the creation and review of the biennial school plan.

2. The school's philosophy, goals and objectives shall be consistent with the Standards of Quality.

3. The goals and objectives shall (i) be written in plain language so as to be understandable to noneducators, including parents; (ii) to the extent possible, be stated in measurable terms; and (iii) consist primarily of measurable objectives to raise student and school achievement in the core *academic areas of the Standards of Learning disciplines (SOL)*, to improve student and staff attendance, to reduce student drop-out rates, and to increase the quality of instruction through professional staff development and licensure.

4. The school staff and community representatives shall review ~~biennially~~ *annually* the extent to which the school has met its prior goals and objectives, analyze the school's student performance data including data by grade level or academic department as necessary, and report these outcomes to the ~~school division superintendent and the community and the division superintendent.~~ A report delivered in writing or given orally in accordance with local school board policy during a regularly scheduled parent-teacher meeting at the school may be used to satisfy the reporting requirement of this section. This report shall be in addition to the school report card required by 8 VAC 20-131-270 B.

B. Copies of the school's philosophy, goals and objectives shall be available upon request.

## **8 VAC 20-131-30. Student achievement expectations.**

A. Each student should learn the relevant grade level/course subject matter before promotion to the next grade. ~~For grades in which the SOL tests are given, achievement of a passing score on the SOL tests shall be considered in promotion/retention policies adopted by the local school board.~~ Achievement expectations and participation in SOL testing of students with disabilities will be guided by provisions of their Individualized Education Plan (IEP) or 504 Plan. ~~Participation of students identified as~~

~~limited English proficient shall be determined by a committee convened to make such determinations. Limited English proficient students may be exempted from the SOL tests for one grade level only in grades 3, 5, and 8. In order to be granted verified credit, all students must meet the clock-hour and testing requirements set forth in this chapter. The division superintendent shall certify to the Department of Education that the division's promotion/retention policy does not exclude students from membership in a grade or participation in a course in which SOL tests are to be administered.~~

B. ~~Each student at grades 3, 5, and 8 shall take and be expected to achieve a passing score on the SOL tests for the student's respective grade. In kindergarten through eighth grade, where SOL tests are administered, each student shall be expected to achieve a passing score on these tests. Schools shall use the SOL test results in kindergarten through eighth grade as part of a multiple set of multiple criteria for determining advancing or retaining the promotion or retention of students in grades 3, 5, and 8. No promotion/retention policy shall be written in a manner as to systematically exclude students from membership in a grade or participation in a course in which SOL tests are to be administered.~~

C. Each student in middle and secondary schools shall take all applicable end-of-course SOL tests following course instruction. Students who achieve a passing score on an end-of-course SOL test ~~shall~~ may be awarded a verified unit of credit in that course *in accordance with the provisions of 8 VAC 20-131-110 B*. Students may earn verified units of credits in any courses for which end-of-course SOL tests are available. Middle and secondary schools may consider the student's end-of-course SOL test score in determining the student's final course grade. *The board may approve other alternative means of assessment to verify student achievement in accordance with guidelines adopted for verified units of credit described in 8 VAC 20-131-110 B.*

D. ~~Students with disabilities for whom participation in the SOL testing program is deemed inappropriate according to their IEP or 504 plan and who cannot participate in the SOL tests shall be expected to demonstrate proficiency on an alternative assessment prescribed by the board in accordance with federal laws and regulations beginning with school year 2000-2001. Participation in SOL testing by students with disabilities will be prescribed by provisions of their Individualized Education Program (IEP) or 504 Plan.~~

*Beginning with the school year 2000-01, students with disabilities for whom participation in an alternate assessment is prescribed in their IEP or 504 Plan shall demonstrate proficiency on that assessment.*

E. *Participation in SOL testing by students identified as limited English proficient (LEP) shall be guided by a school-based committee convened to make such determinations. In kindergarten through eighth grade, limited English proficient students may be granted a one-time exemption from SOL testing in each of the four core areas.*



**8 VAC 20-131-40. Literacy Passport Test.**

The SOL assessments shall constitute the primary evaluation of student academic achievement for the purpose of this chapter. Students shall also pass the literacy tests prescribed by the Board of Education in reading, writing, and mathematics in order to be promoted to the ninth grade except for students with disabilities who are progressing according to the objectives of their Individualized Education Plan (IEP) or 504 plan. Students transferring to a Virginia public school prior to the ninth grade shall also be required to pass the literacy tests in order to be promoted to the ninth grade. Students who are not promoted shall be enrolled in alternative programs leading to one or more of the following:

1. Passing the literacy tests;

Students who were in the eighth grade or above in the 1998-99 school year shall also be required to pass the Literacy Passport Tests in order to receive a Standard or Advanced Studies Diploma from a Virginia public school.

In order to receive a graded status, such students must pass the Literacy Passport Tests, except for students with disabilities who progress according to the goals of their Individualized Education Program (IEP) or 504 Plan.

Students who are not eligible for graded status shall be enrolled in appropriate programs leading to passing of the Literacy Passport Tests and one or more of the following:

2. 1. High school graduation diploma;
3. 2. General Educational Development (GED) Certificate;
4. 3. Certificate of Program Completion; and
5. 4. Job entry skills.

**8 VAC 20-131-50. Requirements for graduation.**

A. To receive a high school diploma, a student shall pass all components of the Literacy Passport Test as required by the Standards of Quality and prescribed by the Board of Education and meet the minimum requirements for one of the two diplomas outlined in subsection B or C of this section for grades 9 through 12. These *The following requirements* shall be the only requirements for a diploma, ~~except that unless a local school board may prescribe~~ *has prescribed* additional requirements for a diploma if such requirements *which* have been approved by the board of Education. All additional requirements prescribed by local school boards and in effect as of June 30, 1997, are approved to continue through June 30, ~~1999~~ 2000, without further action by the board.

B. Requirements for a standard diploma.

1. Beginning with the ninth grade class of 1998-99 (~~graduating class of 2001-02~~), students shall earn the standard ~~credits~~ *units of credit* outlined in subdivision 2 of this subsection. Beginning with the ninth grade class of 2000-01 (~~graduating class of 2003-04~~), students shall earn standard units of credit described in subdivision 2 of this subsection and, of the ~~standard total~~ units of credit earned, students shall earn the following number of verified units of credit (see 8 VAC 20-131-110):

- a. English--two;
- ~~mathematics~~ *b. Math--one;*
- c. Science--one;
- d. History/social science--one; and
- e. One additional verified unit of credit of the student's own choosing.

2. Credits required for graduation *with a standard diploma.*

Discipline Area	Units of Credit	No. of Credits Required to be Verified
English	4	2
Mathematics <sup>1</sup>	3	1
Laboratory Science <sup>2</sup>	3	1
History and Social Sciences <sup>3</sup>	3	1
Health and Physical Education	2	
Fine Arts or Practical Arts	1	
Electives	6	
Student Selected Test		1
Total	22	6

<sup>1</sup> Courses completed to satisfy this requirement shall be at or above the level of Algebra and shall include at least two course selections from among: Algebra I, Geometry, Algebra II, or other mathematics courses above the level of Algebra and Geometry. The board of Education may approve additional courses to satisfy this requirement.

<sup>2</sup> Courses completed to satisfy this requirement shall include course selections from at least two different science disciplines: Earth Sciences, Biology, Chemistry, or Physics. The board of Education may approve additional courses to satisfy this requirement.

<sup>3</sup> Courses completed to satisfy this requirement shall include U.S. and Virginia History, U.S. and Virginia Government, and one world history/geography course. Courses which satisfy the world history/geography course are: (i) World History, (ii) World Geography, (iii) World History and Geography to 1000 A.D., (iv) World History and Geography 1000 A.D. to the Present, or (v) a semester course of World History to 1000 A.D. and a semester course of World Geography. The board of Education may approve additional courses to satisfy this requirement.

Students completing the requirements for the standard diploma may be eligible to receive a ~~Board of Education seal or other~~ *an* honor deemed appropriate by the local school board as described in subsection ~~E~~ *F* of this section.

C. Requirements for an advanced studies diploma.

1. Beginning with the ninth grade class of 1998-99 (~~graduating class of 2001-02~~), students shall earn the standard ~~credits~~ *units of credit* outlined in subdivision 2 of this subsection. Beginning with the ninth grade class of 2000-01 (~~graduating class of 2003-04~~), students shall earn the standard ~~credits~~ *units of credit* outlined in subdivision 2 of this subsection and, of the total credits earned, students shall earn the following number of verified units of credits (see 8 VAC 20-131-110):

- a. English--two;
- ~~mathematics~~ *b. Math--two;*
- c. Science--two;

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- d. History/social science--two,; and
- e. One additional verified unit of credit of the student's own choosing.

2. Credits required for graduation *with an advanced studies diploma.*

Discipline Area	Units of Credit	No. of Credits Required to be Verified
English	4	2
Mathematics <sup>1</sup>	4	2
Laboratory Science <sup>2</sup>	4	2
History and Social Sciences <sup>3</sup>	4	2
Foreign Language <sup>4</sup>	3	
Health and Physical Education	2	
Fine Arts or Practical Arts	1	
Electives	2	
Student Selected Test		1
<b>Total</b>	<b>24</b>	<b>9</b>

<sup>1</sup> Courses completed to satisfy this requirement shall be at or above the level of Algebra and shall include at least three different course selections from among: Algebra I, Geometry, Algebra II, or other mathematics courses above the level of Algebra II. The board of Education may approve additional courses to satisfy this requirement.

<sup>2</sup> Courses completed to satisfy this requirement shall include course selections from at least three different science disciplines from among: Earth Sciences, Biology, Chemistry, or Physics. The board of Education may approve additional courses to satisfy this requirement.

<sup>3</sup> Courses completed to satisfy this requirement shall include U.S. and Virginia History, U.S. and Virginia Government, and two world history/geography courses. Acceptable courses to satisfy the world history/geography requirements include: (i) World History and World Geography; (ii) World History and Geography to 1000 A.D., and World History and Geography from 1000 A.D. to the Present; or (iii) a semester course of World Geography, a semester course of World History to 1000 A.D., and a year-long course of World History 1000 A.D. to the Present. The board of Education may approve additional courses to satisfy this requirement.

<sup>4</sup> Three years of one language or two years of two languages.

Students completing the requirements for the advanced studies diploma may be eligible to receive ~~a Governor's seal or other~~ an honor deemed appropriate by the local school board as described in subsection ~~E~~ F of this section.

D. When students below the ninth grade successfully complete courses offered for credit in grades 9 through 12, credit shall be counted toward meeting the standard units required for graduation provided the courses meet SOL content requirements or are equivalent in content and academic rigor as those courses offered at the secondary level, ~~or verified units provided students achieve a passing score on end-of-course SOL tests.~~ To earn a verified unit of credit for these courses, students must meet the requirements of 8 VAC 20-131-110 B.

E. At a student's request, the local school board shall communicate or otherwise make known to institutions of higher education, potential employers, or other applicable third parties, in a manner that the local school board deems appropriate, that a student has attained the state's academic expectations by earning a Virginia diploma and the value of

*such a diploma is not affected in any way by the accreditation status of the student's school.*

~~E- F. Awards for exemplary student performance. 4- Students who complete the requirements for a standard diploma with an average grade of "B" or better in the required courses will receive a Board of Education seal on the diploma. Students who demonstrate academic excellence and/or outstanding achievements may be eligible for one of the following awards:~~

1. The Governor's Seal of Advanced Academic Excellence will be awarded to students who complete the requirements for an Advanced Studies Diploma and earn a "Pass/Advanced" rating on the SOL tests used for verified units of credit to fulfill the diploma requirement. Students electing to substitute an alternative means of earning verified units of credit as prescribed by 8 VAC 20-131-110 B must meet requirements of guidelines adopted by the board.

2. ~~Students who complete the requirements for an advanced studies diploma with an average grade of "B" or better and successfully complete at least one advanced placement course (AP) or one college-level course for credit will receive a Governor's seal on the diploma.~~ The Board of Education's Seal of Academic Excellence will be awarded to students who complete the requirements for an Advanced Studies diploma with an "A" average in the courses required for the diploma and have successfully completed at least one Advanced Placement (AP) course, International Baccalaureate (IB) course, one college-level course, or one alternative means of earning verified units of credit in accordance with the provisions of 8 VAC 20-131-110 B. Students electing to substitute an alternative means to meet this requirement must meet provisions specified in guidelines adopted by the board for earning verified units of credit described in 8 VAC 20-131-110 B to qualify for this honor.

3. The Superintendent's Seal of Academic Achievement will be awarded to students who complete the requirements for an Advanced Studies Diploma with a "B" average in the courses required for the diploma and have completed one college-level course or earned at least one verified unit of credit through an alternative means in accordance with the provisions of 8 VAC 20-131-110 B.

4. The Commonwealth Seal of Academic Achievement will be awarded to students who complete the requirements for a standard diploma with an "A" average in the courses required for the diploma.

5. The Board of Education's Vocational Seal of Excellence will be awarded to students who complete a prescribed sequence of courses in a vocational area of concentration or specialization that they choose and either: (i) maintain an "A" average in those courses; or (ii) pass an examination in a vocational area that confers either a certificate from a recognized trade or professional association or acquire a professional license in that vocational area from the Commonwealth of Virginia.

~~3.~~ 6. Students may receive other seals or awards for exceptional academic, vocational, citizenship, or other exemplary performance in accordance with criteria defined by the local school board.

~~F.~~ G. Students completing graduation requirements in a summer school accredited under this chapter shall be eligible for a diploma. The last school attended by the student during the regular session shall award the diploma unless otherwise agreed upon by the principals of the two schools.

~~G.~~ H. Students who complete a prescribed course of study as defined by the local school board but who do not qualify for diplomas shall be awarded a Certificate of Program Completion by the local school board.

~~H.~~ I. Students who complete honors, advanced, advanced placement, or college-level courses or courses required for an International Baccalaureate Diploma or other alternative means to earn verified units of credit shall be deemed to have completed the requirements for graduation under these standards provided they have earned the standard units of credit and passed the end-of-course tests required to earn verified credits units of credit in accordance with the requirements of 8 VAC 20-131-50 A and B as required of students earning either a standard or an advanced studies diploma or, in the case of a completed International Baccalaureate Diploma program, the number of verified credits required for an advanced studies diploma.

*J. Students considering using an alternative means of earning verified units of credit as allowed by 8 VAC 20-131-110 B shall be counseled annually regarding the opportunities for doing so and the consequences of failing to fulfill the obligations to complete the requirements for verified units of credit.*

## **8 VAC 20-131-60. Transfer of credits.**

A. A secondary school shall accept credits received from other accredited secondary schools, including ~~summer schools, special sessions,~~ schools accredited through the Virginia Council for Private Education, ~~and educational programs operated by the state (VCPE).~~ Credit also shall be accepted for courses satisfactorily completed in accredited colleges and universities when prior written approval of the principal has been granted. *The board will review on an annual basis the accrediting procedures of the VCPE and direct any changes and modifications of such procedures in relation to the authority granted under these provisions.*

*Students transferring into a Virginia public school shall be required to meet the requirements prescribed in 8 VAC 20-131-50 to receive a Standard or Advanced Studies Diploma except as modified by subsection E of this section. To receive a Special Diploma or Certificate of Program Completion, a student must meet the requirements prescribed by the Standards of Quality.*

*B. Standard or verified units of credit earned by a student in a Virginia public school shall be transferable without limitation regardless of the accreditation status of the Virginia public school in which the credits were earned.*

~~B.~~ C. Records of transferred students shall be sent directly to the school receiving the student upon request of the receiving school in accordance with the provisions of the 8 VAC 20-150-10 et seq., Management of the Student's Scholastic Records in Virginia.

~~C.~~ The transcript of a student who graduates or transfers from a Virginia secondary school shall show the minimum units of credit earned and required for graduation with a standard or advanced studies diploma.

~~D.~~ Students transferring into a Virginia school division shall be required to earn a minimum of 22 standard credits (6 of which must be verified credits) for graduation. Each student's prior record shall be evaluated to determine the number of credits previously earned and the number of additional credits required for graduation. Specified courses normally taken at lower grade levels shall not be required provided the student has completed the courses required at those grade levels by the school division or state from which the student transferred. Students transferring from states not giving credit for health and physical education shall not be required to repeat these courses. Students transferring after the beginning of their senior or twelfth grade year shall be given every opportunity to earn a standard or advanced studies diploma. If it is not possible for the student to meet the requirements for a diploma, arrangements should be made for the student's previous school to award the diploma. If this arrangement cannot be made, a waiver of the verified credit requirements may be available to the student. The Department of Education may grant such waivers upon request by the local school board. *The academic record of a student transferring into Virginia public schools from other than a Virginia public school, shall be evaluated to determine the number of standard units of credit that have been earned, including credit from schools outside the United States, and the number of verified units of credit needed to graduate in accordance with subsection E of this section. Virginia public schools shall accept standard and verified units of credit from other Virginia public schools and state-operated programs. Credit also shall be accepted for courses satisfactorily completed in accredited colleges and universities when prior written approval of the principal has been granted or the student has been given credit by the previous school attended.*

*Students transferring above the tenth grade from schools or other education programs that do not require or give credit for health and physical education shall not be required to take these courses to meet graduation requirements.*

*E. Students transferring into a Virginia public school from other than a Virginia public school after the tenth grade shall be encouraged to earn as many credits as possible toward graduation that are prescribed in 8 VAC 20-131-50. However, no transfer student shall earn fewer than the following number of verified units nor shall such students be required to take SOL tests for verified units of credit in courses previously completed at another school or program of study unless necessary to meet the requirements listed in subdivisions 1 and 2 of this subsection:*

- 1. For a Standard Diploma:*

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a. Students transferring in at the ninth grade or at the beginning of the tenth grade shall earn credit as prescribed in 8 VAC 20-131-50;

b. Students transferring in during the tenth grade or at the beginning of the eleventh grade shall earn a minimum of four verified units of credit: one each in English, mathematics, history, and science; and

c. Students transferring in during the eleventh grade or at the beginning of the twelfth grade shall earn a minimum of two verified units of credit: one in English, and one of the student's choosing.

## 2. For an Advanced Studies Diploma:

a. Students transferring in at the ninth grade or at the beginning of the tenth grade shall earn credit as prescribed in 8 VAC 20-131-50;

b. Students transferring in during the tenth grade or at the beginning of the eleventh grade shall earn a minimum of six verified units of credit: two in English, and one each in mathematics, history, and science and one of the student's choosing; and

c. Students transferring in during the eleventh grade or at the beginning of the twelfth grade shall earn a minimum of four verified units of credit: one in English and three of the student's choosing.

F. Students transferring into a Virginia secondary school after the first semester of their eleventh grade year, must meet the requirements of subdivision 1 c or 2 c of this subsection. Students transferring after 20 instructional hours per course of their senior or twelfth grade year shall be given every opportunity to earn a Standard or Advanced Studies Diploma. If it is not possible for the student to meet the requirements for a diploma, arrangements should be made for the student's previous school to award the diploma. If these arrangements cannot be made, a waiver of the verified unit of credit requirements may be available to the student. The Department of Education may grant such waivers upon request by the local school board in accordance with guidelines prescribed by the board.

G. The transcript of a student who graduates or transfers from a Virginia secondary school shall conform to the requirements of 8 VAC 20-160-10 et seq., Regulations Governing Secondary School Transcripts.

The accreditation status of a high school shall not be included on the student transcript provided to colleges, universities, or employers. The board expressly states that any student who has met the graduation requirements established in 8 VAC 20-131-50 and has received a Virginia diploma holds a diploma that should be recognized as equal to any other Virginia diploma, regardless of the accreditation status of the student's high school. It is the express policy of the board that no student shall be affected by the accreditation status of the student's school. The board shall take appropriate action, from time to time, to ensure that no student is affected by the accreditation status of the student's school.

## 8 VAC 20-131-70. Program of instruction and learning objectives.

A. Each school shall provide a program of instruction that promotes individual student academic achievement in the essential academic disciplines and shall provide additional instructional opportunities that meet the abilities, interests, and educational needs of students. Each school shall establish learning objectives to be achieved by students at successive grade levels that meet or exceed the knowledge and skills contained in the Standards of Learning for English, mathematics, science, and history/social science adopted by the board of Education in June 1995 and shall continually assess the progress of each student in relation to the objectives.

B. Instruction shall be designed to accommodate all students, including those with disabilities, those identified as gifted/talented and those who have limited English proficiency. Each school shall provide students identified as gifted/talented with instructional programs taught by teachers with special training or experience in working with gifted/talented students. Students with disabilities shall have the opportunity to receive a full continuum of education services, in accordance with 8 VAC 20-180-10 et seq., Regulations Governing Special Education Programs for Children with Disabilities in Virginia, the "Special Education Program Standards," and other pertinent federal and state regulations.

## 8 VAC 20-131-80. Instructional program in elementary schools.

A. Each elementary school shall provide each student a program of instruction which corresponds to the Standards of Learning for English, mathematics, science, and history/social science. In addition, each school shall provide instruction in art, music, and physical education and health.

B. In grades K through 3, reading, writing, spelling, and mathematics shall be the core focus of the instructional program. Schools shall maintain, in a manner prescribed by the board, an early skills and knowledge achievement record in reading and math for each student in grades K through 3 to monitor student progress and to promote successful achievement in on the third grade SOL tests. This record shall be included with the student's records if the student transfers to a new school.

C. To provide students with sufficient opportunity to learn, a minimum of 75% of the annual instructional time of 990 hours shall be given to instruction in the disciplines of English, mathematics, science, and history/social science. Students who are not successfully progressing in early reading proficiency or who are unable to read the materials necessary for instruction with comprehension shall receive additional instructional time in reading.

## 8 VAC 20-131-90. Instructional program in middle schools.

A. Each middle level school shall provide each student a program of instruction which corresponds to the Standards of Learning for English, mathematics, science, and history/social science. In addition, each school shall provide instruction in

art, music, foreign language, physical education and health, and career and vocational exploration.

B. The middle school shall provide a minimum of eight offerings courses to students in eighth grade: ~~four required courses~~ (English, mathematics, science, and history/social science) ~~and shall be required~~. Four elective courses { shall be available: level one in of a foreign language, one in health and physical education, one in fine arts, and one in career and vocational exploration}.

C. Level one of a foreign language shall be available to all eighth grade students. ~~In any high school credit-bearing course taken in middle school, parents may request that grades be omitted from the student's transcript and the student not earn high school credit for the course. Notice of this provision must be provided to parents with a deadline and format for making such a request.~~ Nothing in this chapter shall be construed to prevent a middle school from offering any appropriate other credit-bearing course courses for graduation.

D. To provide students a sufficient opportunity to learn, each student shall be provided 140 clock hours per year of instruction in each of the four disciplines of English, math, science, and history/social science. Sixth grade students may receive an alternative schedule of instruction provided each student receives at least 560 total clock hours of instruction in the four academic disciplines.

**8 VAC 20-131-100. Instructional program in secondary schools.**

A. Each secondary school shall provide each student a program of instruction in the academic areas of English, mathematics, science, and history/social science that enables each student to meet the graduation requirements described in 8 VAC 20-131-50 and shall offer opportunities for students to pursue a program of studies in ~~several academic academics, fine arts, and vocational areas including:~~

1. Vocational education choices that prepare the student as a vocational program completer in one of three or more occupational areas and that prepare the student for technical or preprofessional postsecondary programs;
2. Course work and experiences that prepare the student for college-level studies including access to at least two advanced placement courses or two college-level courses for credit; ~~and~~
3. Preparation for ~~scholastic aptitude~~ college admissions tests; ~~and~~
4. Opportunities to study and explore the fine arts.

B. Minimum course offerings for each secondary school, ~~grades 9 through 12,~~ shall provide ~~that opportunities for~~ students ~~can~~ to meet the graduation requirements stated in ~~this chapter~~ 8 VAC 20-131-50 and must include:

Academic Subjects		23
English	(4)	
Mathematics	(4)	
Science (Laboratory)	(4)	
History and Social Sciences	(4)	

Foreign Language	(3)	
Electives	(4)	
Vocational Education		11
Fine Arts		2
Health and Physical Education		2
Total Units		38

C. Classroom driver education may count for 36 class periods of health education. Students shall not be removed from classes other than health and physical education for the in-car phase of driver education.

**8 VAC 20-131-110. Standard and verified units of credit.**

A. The standard unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction and *successful completion of the requirements of the course*. When credit is awarded in less than whole units, the increment awarded must be no greater than the fractional part of the 140 hours of instruction provided. If a school division elects to award credit ~~in a noncore academic course~~ on a basis other than the standard unit of credit *defined in this subsection*, the ~~locality~~ local school division shall develop a written policy approved by the superintendent and school board which ensures:

1. That the content of the course for which credit is awarded is comparable to 140 clock hours of instruction; and
2. That upon completion, the student will have met the aims and objectives of the course.

B. A verified unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction, *successful completion of the requirements of the course*, and the achievement by the student of a passing score on the end-of-course ~~Standards of Learning~~ SOL test for that course *or alternative test as described in this subsection*.

*In addition to the SOL tests, the board may approve alternative tests for which the student may earn a verified unit of credit. An alternative test must, at a minimum, meet the following criteria:*

1. *The test must be standardized and graded independently of the school or school division in which the test is given;*
2. *The test must be criterion-referenced and knowledge-based;*
3. *The test must be administered on a multistate or international basis; and*
4. *The test must be given in a course that incorporates the SOL.*

*The board will set the passing score that must be achieved to earn a verified unit of credit on the alternative test.*

C. A school employing a scheduling configuration of less than 140 clock hours per course in the 1996-97 school year may retain that scheduling configuration provided such school is rated *Fully Accredited with High Honors, Fully Accredited with Honors, or "Fully Accredited."* Schools rated *"Accredited with Warning"* (in specific area) may be required to address

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their scheduling configuration in their ~~corrective action~~ *School Improvement Plan* required by 8 VAC 20-131-310 D.

## 8 VAC 20-131-120. Summer school.

A. The *courses offered and the quality of instruction in the summer school program shall be equal in quality to the program comparable to that offered during the regular school term. At the middle and secondary school levels, credit for courses taken for credit toward graduation other than a repeat course shall be awarded in accordance with the requirements of 8 VAC 20-131-110. Students must also meet the requirements for SOL testing if appropriate.*

B. ~~At the middle and secondary school levels, credit for repeated work repeat courses~~ ordinarily will be granted on the same basis as that for new ~~work~~ *courses; however, with prior approval of the principal, certain students may be allowed to enroll in two repeat subjects courses to be completed in not less than 75 70 clock hours of instruction per unit of credit. Students must also meet the requirements for SOL testing if appropriate.*

C. Summer school instruction *at any level, which is provided as part of a state-funded remedial program, shall be designed to improve specific identified student deficiencies. Such programs shall be conducted in accordance with regulations adopted by the board.*

## 8 VAC 20-131-130. Elective courses.

Locally developed elective courses offered for credit toward high school graduation shall be approved by the division superintendent and *local* school board.

## 8 VAC 20-131-140. College preparation programs and opportunities for postsecondary credit.

Each middle and secondary school shall provide for the early identification and enrollment of students in a college preparation program with a range of educational and academic experiences in and outside the classroom, including an emphasis on experiences that will motivate disadvantaged and minority students to attend college.

Beginning in the middle school years, students shall be counseled as to opportunities for beginning postsecondary education prior to high school graduation. Students taking advantage of such opportunities shall not be denied participation in school activities for which they are otherwise eligible. Wherever possible, students shall be encouraged and afforded opportunities to take college courses simultaneously for high school graduation and college degree credit (*dual enrollment*), under the following conditions:

1. ~~Prior~~ Written approval of the high school principal ~~for the cross registration prior to participation in dual enrollment~~ must be obtained;
2. The college must accept the student for admission to the course or courses; and
3. The course or courses must be given by the college for degree credits (~~hence~~, no remedial courses will be accepted).

Schools that comply with this standard shall not be penalized in receiving state appropriations.

## 8 VAC 20-131-150. Standard school year and school day.

A. The standard school year shall be 180 days. The standard school day for students in grades 1 through 12 shall average at least 5-1/2 hours, excluding ~~intermissions~~ *breaks* for meals, and a minimum of three hours for kindergarten. School divisions may develop alternative schedules for meeting these requirements as long as a minimum of 990 hours of instructional time is provided for grades 1 through 12 and 540 hours for kindergarten. Such alternative plans must be approved by the local school board and by the board of ~~Education~~ *Education* under guidelines established by the board of ~~Education~~ *Education*. No alternative plan which reduces the instructional time in the core academics shall be approved.

B. All students in grades 1 through 12 shall maintain a full day schedule of classes (5 1/2 hours), unless a waiver is granted ~~by the local superintendent of schools. Conditions of such waivers shall be in accordance with policies~~ defined by the local school board.

## 8 VAC 20-131-170. Family Life Education.

Each school may implement the Standards of Learning for the Family Life Education program promulgated by the board of ~~Education~~ or a Family Life Education program consistent with the guidelines developed by the board of ~~Education~~, which shall have the goals of reducing the incidence of pregnancy and sexually-transmitted diseases and substance abuse among teenagers.

## 8 VAC 20-131-180. Off-site instruction.

A. Homebound instruction shall be made available to students who are confined for periods that would prevent normal school attendance based upon certification of need by a licensed physician or licensed clinical psychologist. For students eligible for special education or related services, the Individualized Education Program or 504 Plan committee must revise the IEP, as appropriate. Credit for the work shall be awarded when it is done under the supervision of a certified teacher, a person eligible to hold a Virginia certificate, or other appropriately licensed professional employed by the local school board, *and meets the requirements of 8 VAC 20-131-110.*

B. Students may enroll in and receive a standard or verified unit of credit for supervised correspondence courses ~~in subjects not available to them through the school's schedule~~ with prior approval of the principal. Credit shall be awarded for the successful completion of such courses when the course is equivalent to that offered in the regular school program and the work is done under the supervision of a licensed teacher, or a person eligible to hold a Virginia license, approved by ~~the local school authorities board~~. Verified *units of credit* may be earned when the student has passed the SOL test associated with the correspondence course completed. *The local school board shall develop policies governing this method of instruction in accordance with the provisions of 8 VAC 20-131-110 and the administration of required SOL tests prescribed by 8 VAC 20-131-30.*

C. Schools are encouraged to pursue alternative means to deliver instruction to accommodate student needs through emerging technologies and other similar means. Credit may be awarded for successful completion of such courses when the course is equivalent to that offered in the regular school program and the work is done under the supervision of a licensed teacher, or a person eligible to hold a Virginia teaching license and approved by local school board. Verified units of credit may be earned when the student has successfully completed the requirements and passed the SOL test associated with the course. The local school board shall develop policies governing this method of delivery of instruction that shall include the provisions of 8 VAC 20-131-110 and the administration of required SOL tests prescribed by 8 VAC 20-131-30.

## **8 VAC 20-131-210. Role of the principal.**

A. ~~The principal shall be responsible for~~ *is recognized as the instructional leadership and effective school management that promotes positive student achievement, a safe and secure environment in which to teach and learn, and efficient use of resources. As part of this responsibility, the principal shall ensure the development and implementation of the biennial school plan approved by the superintendent. leader of the school and is responsible for effective school management that promotes positive student achievement, a safe and secure environment in which to teach and learn, and efficient use of resources. As a matter of policy, the board, through these standards, recognizes the critically important role of principals to the success of public schools and the students who attend those schools and recommends that local school boards provide principals with the maximum authority available under law in all matters affecting the school including, but not limited to, instruction and personnel, in a manner that allows the principal to be held accountable in a fair and consistent manner for matters under his direct control.*

B. Instructional leadership. The principal, responsible for ensuring students are provided an opportunity to learn, shall:

1. Protect the academic instructional time from unnecessary interruptions and disruptions and enable the professional teaching staff to spend the maximum time possible in the teaching/learning process by keeping to a minimum clerical responsibility and the time students are out of class;
2. Ensure that the school division's student code of conduct is enforced and ~~that the school environment is safe and secure~~ *seek to maintain a safe and secure school environment;*
3. Analyze the school's test ~~and subject~~ scores annually by grade and by discipline to:
  - a. Direct and require appropriate ~~remediation/intervention~~ *prevention, intervention, and/or remediation* to those students performing below grade level or not passing the SOL tests;
  - b. Involve the staff of the school in identifying the types of staff development needed to improve student

achievement and ensure that the staff participate in those activities; and

c. Analyze classroom practices and methods for improvement of instruction;

4. Ensure that students' records are maintained and that criteria used in making placement and promotion decisions, as well as any instructional interventions used to improve the student's performance, are included in the record;

5. Monitor and evaluate the quality of instruction ~~and, provide for in-service training, professional assistance and staff development,~~ *provide support that is designed to improve instruction, and seek to ensure the successful attainment of the knowledge and skills required for students by the SOL tests; and*

6. Maintain records of students who drop out of school, including their reasons for dropping out and actions taken to prevent students from dropping out.

C. School management leadership. The principal, responsible for effective school management, shall:

1. Work with staff to create an atmosphere of mutual respect and courtesy and to facilitate constructive communication by establishing and maintaining a current handbook of personnel policies and procedures;

2. Work with the community to involve parents and citizens in the educational program and facilitate communication with parents by maintaining and disseminating a current student handbook of policies and procedures that includes the school division's standards of student conduct and procedures for enforcement, along with other matters of interest to parents and students;

3. Maintain a current record of licensure, endorsement, and in-service training completed by staff; and

4. Maintain records of receipts and disbursements of all funds handled. These records shall be audited annually by a professional accountant approved by the local school board.

## **8 VAC 20-131-220. Role of professional teaching staff.**

The professional teaching staff shall be responsible for providing instruction that is educationally sound in an atmosphere of mutual respect and courtesy, which is conducive to learning and in which all students are expected to achieve the objectives of the Standards of Learning for the appropriate grade level or ~~discipline~~ *course*. The staff shall:

1. Serve as ~~leadership models of~~ *role models* for effective oral and written communication with special attention to the correct use of language and spelling;

2. Strive to strengthen the basic skills of students in all subjects;

3. Establish teaching objectives to achieve the following:

- a. Identify what students are expected to learn; and

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b. Inform students of the achievement expected and keep them engaged in learning tasks;

4. Provide for individual differences of students through the use of differentiated instruction, varied materials, and activities suitable to their interests and abilities; and

5. Assess the progress of students and report promptly and constructively to them and their parents.

## **8 VAC 20-131-240. Administrative and support staff; staffing requirements.**

A. Each school shall have the ~~required staff as specified in the Standards of Quality~~ with proper licenses and endorsements. ~~The following shall be the minimum administrative and support staffing according to type of school and student enrollment including:~~

1. Position: principal; elementary: one half-time to 299, one full-time at 300; middle: one full-time; secondary: one full-time.

2. Position: assistant principal; elementary: one half-time at 600, one full-time at 900; middle: one full-time each 600; secondary: one full-time each 600.

3. Position: librarian; elementary: part-time to 299, one full-time at 300; middle: one half-time to 299, one full-time at 300, two full-time at 1,000; secondary: one half-time to 299, one full-time at 300, two full-time at 1,000.

4. Position: guidance counselors or reading specialists; elementary: one hour per day per 100, one full-time at 500, one hour per day additional time per 100 or major fraction.

5. Position: guidance counselor; middle: one period per 80, one full-time at 400, one additional period per 80 or major fraction; secondary: one period per 70, one full-time at 350, one additional period per 70 or major fraction.

6. Position: clerical; elementary: part-time to 299, one full-time at 300; middle: one full-time and one additional full-time for each 600 beyond 200 and one full-time for the library at 750; secondary: one full-time and one additional full-time for each 600 beyond 200 and one full-time for the library at 750.

~~B. A combined school, such as K through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school. This requirement shall apply to all staff, except the guidance staff, and shall be based on the school's total enrollment. The guidance staff requirement shall be based on the enrollment at the various school organization levels as defined in this chapter.~~

~~C. B.~~ The principal of each middle and secondary school shall be employed on a 12-month basis.

~~D. C.~~ Each secondary school with 350 or more students and each middle school with 400 or more students shall employ at least one member of the guidance staff for 11 months. Guidance counseling shall be provided for students to ensure that a program of studies contributing to the

student's academic achievement and meeting the graduation requirements specified in 8 VAC 20-131-50 is being followed. In addition, the counseling program shall provide for a minimum of 60% of the time of each member of the guidance staff devoted to such counseling of students.

~~E. D.~~ Middle school teachers in schools with a seven-period day may teach 150 student periods per day or 30 class periods per week, provided all teachers with more than 25 class periods per week have one period per day unencumbered of ~~all~~ any teaching or supervisory duties.

~~F. The secondary classroom teacher's standard load shall be no more than 25 class periods per week. One class period each day, unencumbered by supervisory or teaching duties, shall be provided for every full-time classroom teacher for instructional planning. Teachers of block programs with no more than 120 student periods per day may teach 30 class periods per week. Teachers who teach very small classes may teach 30 class periods per week, provided the teaching load does not exceed 75 student periods per day. If a classroom teacher teaches 30 class periods per week with more than 75 student periods per day, an appropriate contractual arrangement and compensation shall be provided.~~

~~E. Full-time secondary classroom teachers shall be provided planning time unencumbered by supervisory or teaching duties equal to a minimum of 12% of an instructional day. An appropriate contractual agreement and compensation shall be provided for a full-time classroom teacher whose planning time does not meet the 12% minimum.~~

~~G. F.~~ Middle or secondary school teachers shall teach no more than 750 student periods per week; however, physical education and music teachers may teach 1,000 student periods per week.

~~H. G.~~ Each school shall report the extent to which an unencumbered lunch is provided for all classroom teachers.

~~I. The number of students~~ ~~H. Staff-student ratios~~ in special and vocational education classrooms shall comply with regulations of the board of Education.

~~J. I.~~ Pupil personnel services, including visiting teachers, school social workers, school psychologists, and guidance counselors, shall be available as necessary to promote academic achievement.

## **8 VAC 20-131-250. Alternative staffing plan. (Repealed.)**

~~At the discretion of local school authorities, an alternative staffing plan may be developed which ensures that the services set forth in this chapter are met. Any alternative staffing plan shall be submitted to the Department of Education for approval. An alternative staffing plan that reduces the number of staff positions will not be acceptable.~~

## **8 VAC 20-131-260. School facilities and safety.**

A. Each school shall be maintained in a manner ensuring compliance with the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.) and regulations of the board of Education pertaining to facilities. In addition, the school administration shall:



1. Maintain a physical plant that is accessible, barrier free, safe, and clean;
2. Provide for the proper outdoor display of flags of the United States and of the Commonwealth of Virginia;
3. Provide suitable space for classrooms, administrative staff, pupil personnel services, library and media services, and for the needs and safety of physical education; and
4. Provide adequate, safe, and properly-equipped laboratories to meet the needs of instruction in the sciences, ~~computer~~ *technology*, fine arts, and vocational programs.

B. Each school shall maintain records of regular safety, health and fire inspections that have been conducted and certified by local health and fire departments. The frequency of such inspections shall be determined by the local school board in consultation with the local health and fire departments. In addition, the school administration shall:

1. Equip all exit doors with panic hardware as required by the Uniform Statewide Building Code (13 VAC 5-61-10 et seq.); and
2. Conduct fire drills at least once a week during the first month of school and at least once each month for the remainder of the school term. Evacuation routes for students shall be posted in each room. *Additionally, at least one simulated lock-down and crisis emergency evacuation activity should be conducted early in the school year.*

C. Each school shall have contingency plans for emergencies that include staff certified in cardiopulmonary resuscitation (*CPR*), the Heimlich maneuver, and emergency first aid. In addition, the school administration shall ensure that the school has:

1. Written procedures to follow in emergencies such as fire, injury, illness, and violent or threatening behavior. The plan shall be outlined in the student handbook and discussed with staff and students during the first week of each school year;
2. Space for the proper care of students who become ill; and
3. A written procedure, in accordance with guidelines established by the local school board, for responding to violent, disruptive or illegal activities by students on school property or during a school sponsored activity.

## **8 VAC 20-131-270. School and community communications.**

A. Each school shall promote communication and foster mutual understanding with parents and the community. Each school shall:

1. Involve parents, citizens, community agencies and representatives from business and industry in developing, disseminating and explaining the biennial school plan; on advisory committees; in curriculum studies; and in evaluating the educational program.

2. Provide annually *to the parents and the community* a School Performance Report Card, in a manner prescribed by the board and ~~beginning with data from the 1997-98 school year, to the parents of children attending the school and to the community that includes, but is not. The information contained therein will be for the most recent three-year period. Such information shall include but not be limited to:~~

~~a. Schoolwide test scores on the SOL tests, statewide averages and division averages for the most recent three year period for which such data are available, students with disabilities and limited English proficient students' participation in those tests, the performance of children with disabilities on the SOL tests or alternate assessments as appropriate, the percentage of students with disabilities and the percentage of limited English proficient students exempted from SOL testing, and the percentage of the school population eligible to participate in the SOL testing program;~~

~~b. Attendance rates for students for the most recent three year period for which such data are available;~~

~~c. Incidents of physical violence and weapon possession occurring at the school reported by the school division to the Department of Education under § 22.1-280.1 of the Code of Virginia for the most recent three year period for which such data are available;~~

~~a. SOL test scores for the school, school division, and state.~~

~~b. Percentage of students tested, as well as the percentage of students not tested, to include a breakout of students with disabilities and limited English proficient students.~~

~~c. Percentage of students who are otherwise eligible but do not take the SOL tests due to enrollment in an alternative, or any other program not leading to a standard, advanced studies, or IB diploma.~~

~~d. Performance of students with disabilities and limited English proficient students on SOL tests and alternate assessments as appropriate.~~

~~e. The accreditation rating awarded to the school.~~

~~f. Attendance rates for students.~~

~~g. Information related to school safety to include, but not limited to, incidents of physical violence (including fighting and other serious offenses), possession of firearms, and possession of other weapons.~~

~~h. Information related to qualifications and experience of the teaching staff including the percentage of the school's teachers endorsed in the area of their primary teaching assignment.~~

~~i. In addition, secondary schools' School Performance Report Cards shall include the following:~~

~~(1) The number and percentage of students taking advanced placement courses and the number and~~

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~~percentage of those earning a score of 3 or better on the advanced placement test;~~

~~(2) The number and percentage of students taking college-level courses and the percentage of those students passing at least one such course;~~

~~(3) The number of standard, advanced studies, special and International Baccalaureate diplomas, as well as the number and percentage of students awarded certificates of program completion and GED certificates for the most recent three-year period for which such data are available; and~~

~~(4) Dropout rates for the current and previous three years.~~

~~e. The accreditation rating awarded to the school for the current and previous three years.~~

~~(1) Advanced Placement (AP) information to include percentage of students who take AP courses and percentage who take AP tests;~~

~~(2) International Baccalaureate (IB) information to include percentage of students who are enrolled in IB programs and percentage of students who receive IB diplomas;~~

~~(3) College-level course information to include percentage of students who take college-level courses;~~

~~(4) Percentage of (i) diplomas, (ii) certificates awarded to the senior class including GED certificates, and (iii) students who do not graduate;~~

~~(5) Percentage of students in alternative programs that do not lead to a standard or advanced studies diploma;~~

~~(6) Percentage of students in academic year Governor's Schools; and~~

~~(7) Percentage of drop-outs.~~

3. Cooperate with business and industry in formulating vocational educational programs and conduct joint enterprises involving personnel, facilities, training programs, and other resources.

4. Encourage and support the establishment *and/or continuation* of a parent-teacher association or other organization and work cooperatively with it.

B. At the beginning of each school year, schools shall provide to its students' parents or guardians:

1. The ~~academic learning~~ objectives developed in accordance with the provisions of 8 VAC 20-131-70 to be achieved at their child's grade level or, in high school, a copy of the syllabus for each of their child's courses, *and a copy of the school division promotion, retention, and remediation policies;*

2. A copy of the Standards of Learning applicable to the child's grade or course requirements and the

approximate date and potential impact of the child's next SOL testing; and

3. An annual notice to students of all grade levels of all requirements for standard and advanced studies diplomas, *and the board's policies on promotion and retention as outlined in 8 VAC 20-131-30.*

## **8 VAC 20-131-280. Expectations for school accountability.**

A. Schools will be accredited annually based on compliance with pre-accreditation eligibility requirements and achievement of the school accountability requirements of 8 VAC 20-131-300 D.

B. These standards apply to schools for all grade levels, K through 12, as listed below:

1. Schools with grades K through 5 shall be classified as elementary schools;

2. Schools with grades 6 through 8 shall be classified as middle schools;

3. Schools with grades 9 through 12 shall be classified as secondary schools.

4. Schools with grade configurations other than these shall be classified in accordance with policies and practices of the Department of Education.

A- C. Each school shall be accredited based, primarily, on achievement of the criteria established in 8 VAC 20-131-30 as specified below:

1. All students enrolled in a grade or course in which a SOL test is administered shall take each applicable SOL test unless exempted from participating in all or part of the testing program by one of the following:

a. IEP or 504 Plan;

b. LEP committee; or

c. Use of alternate means for verified units of credit as outlined in 8 VAC 20-131-110 B.

2. Evaluating the performance of schools shall take into consideration:

a. The percentage of eligible students who achieve a passing score on the prescribed SOL tests or other assessments used for verified units of credit as outlined in 8 VAC 20-131-110 B;

b. The percentage of those students with disabilities whose IEPs or 504 Plans specify their participation in alternate assessment who attain a proficient level score (beginning with the 2000-01 school year); and

c. The school's annual improvement as described in 8 VAC 20-131-300 D.

3. Eligible students shall be defined as the total number of students enrolled in the school at a grade or course for which an SOL test is required unless excluded under subsection E of this section and those students with

*disabilities who participate in the alternate assessment program.*

~~1. Elementary 4. Schools shall be evaluated by the percentage of the school's eligible students in grades three and five who achieve a passing score on the SOL tests in the four core academic areas for their respective grades administered in the school.~~

~~2. Middle schools shall be evaluated by achievement of eligible students on the SOL tests in the four core academic areas for eighth grade and end-of-course tests where applicable.~~

~~3. Secondary schools shall be evaluated by student achievement on the end-of-course SOL tests taken.~~

~~4. Schools with grade configurations other than those identified in 8 VAC 20-131-290 E for elementary, middle, or secondary schools shall be evaluated by student achievement on state SOL tests for the grades identified above that are housed in the school.~~

~~5. Schools with grade configurations that do not house a grade or offer courses for which SOL tests are administered will be paired with another school in the division housing one or more of the grades in which SOL tests are administered. The pairing of such schools will be made upon the advice or recommendation of the local superintendent. The schools should have a "feeder" relationship and the grades should be contiguous.~~

~~6. For purposes of accreditation, eligible students shall be the total number of students enrolled in the school at the grade level of the SOL tests except for those students whose IEP or 504 Plan or LEP committee excludes them from participating in the testing program.~~

~~B. D. Special purpose schools such as regional or stand-alone, special education, alternative, or vocational schools that serve as the student's school of principal enrollment shall be evaluated on standards appropriate to the school's program programs offered in the school and approved by the board of Education prior to August 1 of the school year for which approval is requested. Every school that awards a diploma shall meet the requirements for secondary schools and for graduation as defined in Parts III (8 VAC 20-131-30 et seq.) and IV (8 VAC 20-131-70 et seq.) of this chapter. Any student graduating from a special purpose school with a standard or advanced studies diploma must meet the requirements prescribed in 8 VAC 20-131-50.~~

~~C. Evaluating the performance of schools shall take into consideration the percentage of eligible students who achieve a passing score on the prescribed SOL tests or, for those students with disabilities who cannot participate in the SOL tests, a proficient level score on an alternative assessment prescribed by the board (beginning with school year 2000-2001) and the school's annual improvement during the implementation years toward the established standard school expectations at the various levels as described in 8 VAC 20-131-300 D. Schools with large numbers of transient students or non-English speaking immigrant students may receive additional accommodations according to tolerances established by the Board of Education. Such schools shall be~~

~~evaluated according to the Individual School Accreditation Plan approved by the board.~~

~~E. When calculating the passing rates on SOL tests for the purpose of school accountability, the following tolerances for limited English proficient (LEP) and transfer students will apply:~~

~~1. LEP students shall have a one time exemption in each of the four core areas for SOL tests designed to assess SOL content in grades K through 8.~~

~~2. LEP students shall not be exempted from participating in the SOL end-of-course testing.~~

~~3. The scores of LEP students enrolled in Virginia public schools fewer than 11 semesters shall be removed from the calculation used for the purposes of school accreditation required by 8 VAC 20-131-280 C and 8 VAC 20-131-300 D. Completion of a semester shall be based on school membership days. Membership days are defined as the days the student is officially enrolled in a Virginia public school, regardless of days absent or present. For a semester to count as a completed semester, a student must have been in membership for a majority of the membership days of the semester. Semesters need not be consecutive.~~

~~4. In accordance with the provisions of 8 VAC 20-131-30, all students who transfer into Virginia public schools are expected to take and pass all applicable SOL tests unless they have been exempted as defined in subdivision C 1 of this section.~~

~~5. All students who transfer within a school division shall have their scores counted in the calculation of the school's accountability (accreditation) rating. Students who transfer into a Virginia school from another Virginia school division, another state, or another country, in grades K through 8 shall be expected to take all applicable SOL tests. However, if the transfer takes place after the 20th instructional day following the opening of school, the scores on these tests will not be used in calculating school accountability (accreditation) ratings.~~

~~6. Students who transfer into a Virginia middle or high school from another state or country and enroll in a course for which there is an end-of-course SOL test shall be expected to take the test for that course. However, if the transfer takes place after 20 instructional hours per course have elapsed following the opening of school or beginning of the semester if applicable, the scores on those tests will not be used in calculating school accountability (accreditation) ratings in the year the transfer occurs.~~

~~D. F. As a prerequisite to the awarding of an accreditation rating as defined in 8 VAC 20-131-300, each new or existing school shall document, in a manner prescribed by the board, its the following: (i) compliance with the requirements to offer courses that will allow students to complete the graduation requirements in 8 VAC 20-131-50, (ii) the ability to offer the instructional program prescribed in 8 VAC 20-131-70 through 8 VAC 20-131-100, (iii) the leadership and staffing~~

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requirements of 8 VAC 20-131-210 through 8 VAC 20-131-240, and (iv) the facilities and safety provisions of 8 VAC 20-131-260.

## **8 VAC 20-131-290. Procedures for certifying accreditation eligibility.**

A. Schools will be ~~initially~~ accredited under these standards annually based on compliance with the pre-accreditation criteria described in 8 VAC 20-131-280 ~~and F~~.

B. To be eligible for accreditation, the principal of *each school* and *the division* superintendent shall certify to the Department of Education:

1. The extent to which each school meets standards reported as met in the previous year described in 8 VAC 20-131-280 ~~and shall submit information on F~~.
2. *That the SOL have been fully incorporated into the school division's curriculum in all accreditation-eligible schools and the SOL material is being taught to all students eligible to take the SOL tests. This shall be verified in writing to the board no later than July 1 of every year, by each local school division superintendent.*
3. Actions taken to correct any ~~warnings or advisements~~ *noncompliance issues* cited in the previous year.

The principal of each school *and the division superintendent* shall submit, ~~as required,~~ pre-accreditation eligibility reports in a manner prescribed by the board, ~~through the division superintendent,~~ and to the Department of Education. Failure to submit the reports on time will constitute grounds for denying accreditation to the school.

C. In keeping with provisions of the Standards of Quality, and in conjunction with the six-year plan of the division, each school shall prepare and implement a biennial school plan which shall be available to students, parents, staff and the public. Each biennial school plan shall be evaluated as part of the development of the next *biennial* plan. ~~Except for the biennial school plan, written divisionwide plans available in and applicable to each school may be used to satisfy all other written plans required in these standards. Schools may use other plans to satisfy the requirement for the biennial plan with prior written approval from the Department of Education.~~

D. With the approval of the local school board, local schools seeking to implement experimental or innovative programs, or both, that are not consistent with accreditation standards or other regulations promulgated by the board shall submit a waiver request, on forms provided, to the board of ~~Education~~ for evaluation and approval prior to implementation. The request must include the *following*:

1. Purpose and objectives of the experimental/innovative programs;
2. Description and duration of the programs;
3. Anticipated outcomes, ~~outline, length,~~
4. Number of students affected, ~~and;~~
5. Evaluation procedures; and

6. Mechanisms for measuring goals, objectives, and student academic achievement.

Except as specified below, the board may grant, for a period up to five years, a waiver of any regulations promulgated by the board that are not mandated by state law or federal law or designed to promote health or safety. The board may grant all or a portion of the request. Waivers of requirements in 8 VAC 20-131-30, 8 VAC 20-131-50, 8 VAC 20-131-70, and 8 VAC 20-131-280 through 8 VAC 20-131-340 shall not be granted, and no waiver may be approved for a program which would violate the provisions of the Standards of Quality.

~~E. These standards apply to schools for all grade levels, K through 12, as listed below:~~

- ~~1. Schools with grades K through 5 shall be classified as elementary schools;~~
- ~~2. Schools with grades 6 through 8 shall be classified as middle schools;~~
- ~~3. Schools with grades 9 through 12 shall be classified as secondary schools.~~

## **8 VAC 20-131-300. Application of the standards.**

A. ~~Existing Schools which that~~ meet the pre-accreditation requirements prescribed in 8 VAC 20-131-280 ~~and may F shall~~ be assigned one of the following ratings as *described in this section: fully accredited, provisionally accredited, accredited with warning, or accreditation denied.*

1. *Earned During Academic Years Ending in 2000 through 2003:*

- a. *Fully Accredited*
  - (1) *Fully Accredited with Honors*
  - (2) *Fully Accredited with High Honors*
- b. *Provisionally Accredited*
- c. *Provisionally Accredited/Needs Improvement*
- d. *Accredited with Warning in (specified academic area or areas)*
- e. *Conditionally Accredited*

2. *Earned During Academic Years Ending in 2004 and 2005:*

- a. *Fully Accredited*
  - (1) *Fully Accredited with Honors*
  - (2) *Fully Accredited with High Honors*
- b. *Accredited with Warning in (specified academic area or areas)*
- c. *Conditionally Accredited*

3. *Earned During Academic Years Ending in 2006 and Beyond*

- a. *Fully Accredited*

~~(1) Fully Accredited with Honors~~

~~(2) Fully Accredited with High Honors~~

~~b. Accredited with Warning in (specified academic area or areas)~~

~~c. Accreditation Denied~~

~~(1) Accreditation Denied/Improving School Near Accreditation (not to be used after academic year ending in 2009)~~

~~(2) Accreditation Denied/Reconstituted School (not to be used after academic year ending in 2009)~~

~~(3) Accreditation Denied/Failed to Reconstitute (not to be used after academic year ending in 2009)~~

~~B. New schools will be awarded the status of conditionally accredited pending an evaluation of the school's achievement performance and when pre-accreditation requirements prescribed in 8 VAC 20-131-280 D have been met.~~

~~C. B. Compliance with the student academic achievement expectations shall be documented to the board directly through the reporting of the results of student performance on SOL tests and other alternative means of assessing student academic achievement as outlined in 8 VAC 20-131-110 B. Compliance with other standards provisions of these regulations will be documented in accordance with procedures prescribed by the board.~~

~~D. C. Accreditation ratings defined.~~

~~1. Fully accredited. A school will be rated Fully Accredited when the prescribed levels of eligible student performance identified below on SOL tests are met and the school meets pre-accreditation requirements prescribed in 8 VAC 20-131-280 D. For the purposes of school accreditation: its eligible students meet the pass rate of 70% in each of the four core academic areas except in the third grade where the pass rate in science and history is 50%.~~

~~a. At third grade, the percentage of students passing shall be as follows: 70% for English/reading, 70% for mathematics, 50% for science, and 50% for history.~~

~~b. At the fifth and eighth grades, the percentage of students passing shall be 70% in each of the four core disciplines.~~

~~c. At the secondary school level, the percentage of students passing shall be 70% in each of the four core disciplines.~~

~~2. Provisionally accredited. A school will be provisionally accredited during the period of implementation of these accrediting procedures when the student achievement requirements for full accreditation are not met, and yet there is annual improvement in the percentage of the school's eligible students who earn a passing score on the SOL tests. The provisionally accredited rating will cease to exist at the end of the 2002-2003 school year.~~

~~All schools will be rated as provisionally accredited on July 1, 1998.~~

~~3. Accredited with warning. A school will be accredited with warning when the requirements for the fully accredited rating are not met and, in school years prior to 2003-04, the school fails to meet the requirements for the provisionally accredited rating.~~

~~a. Schools that are accredited with warning shall develop a corrective action plan as described in 8 VAC 20-131-310 designed to improve student achievement on the SOL tests for the grade levels identified in 8 VAC 20-131-280 over two years.~~

~~b. No school may be accredited with warning for more than three consecutive years.~~

~~4. Accreditation denied. A school will be denied accreditation when the requirements for the rating of fully accredited are not met and when, after three years of being rated accredited with warning and despite corrective action, the school has failed to meet the specified achievement level.~~

~~2. A school will be rated Fully Accredited with Honors when the pass rate reaches or exceeds 80% in each of the four core academic areas.~~

~~3. A school will be rated Fully Accredited with High Honors when the pass rate reaches or exceeds 90% in each of the four core academic areas.~~

~~4. Provisionally Accredited. A school will be rated Provisionally Accredited when it has met annual improvement benchmarks but has not met the requirement to be rated Fully Accredited during the academic years 1999-2000 through 2002-03.~~

~~5. Provisionally Accredited/Needs Improvement. A school will be rated Provisionally Accredited/Needs Improvement when it fails to meet improvement benchmarks as defined in 8 VAC 20-131-320 of these regulations, in one or more academic area(s) during the academic years 1999-2000 through 2002-03.~~

~~6. Accredited with Warning (in specific academic area or areas).~~

~~a. Based on a school's academic performance as set forth herein during academic years ending in 2000-03, a school will be Accredited with Warning (in specific academic area or areas) if its pass-rate performance on SOL tests is 20 or more percentage points below any of annual improvement benchmarks set forth in the Appendix to these standards.~~

~~b. Based on a school's academic performance during academic years ending in 2004 and 2005, a school will be Accredited with Warning in (specific academic area or areas) if it does not meet the pass-rate requirements to be Fully Accredited.~~

~~c. Based on a school's academic performance during academic years ending in 2006 and beyond, a school will be Accredited with Warning in (specific academic area or areas) if it has achieved Fully Accredited status but has failed to meet the requirements to maintain that status in any one year. Following 2006, a school~~

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may remain in the Accredited with Warning status for no more than three consecutive years.

7. *Accreditation Denied.* Based on a school's academic performance as set forth herein during academic years ending in 2006 and beyond, a school shall be rated Accreditation Denied if it fails to meet the requirements to be rated Fully Accredited, except for schools rated Accredited with Warning as set forth in subdivision 4 c of this subsection.

8. *Accreditation Denied/Improving School Near Accreditation.* A school that has never met the requirements to be rated Fully Accredited by end of the academic year ending in 2006 may apply to the board for this accreditation designation. To be eligible, the school must meet the following criteria:

- a. At least 70% of its students must have passed the applicable English SOL tests in the year ending in 2006,
- b. At least 60% of its students must have passed the SOL tests in the other three core academic areas in the year ending in 2006,
- c. In each academic area in which the pass rate is below 70%, the school's pass rate must have increased by at least 25 percentage points as compared to the pass rates on tests taken during the academic year ending in 1999.

To retain this rating, a school must continue to show annual improvement in each academic area in which the pass rate is below 70%. This rating will cease to exist after the academic year ending in 2009.

9. *Accreditation Denied/Reconstituted School.* A school that has failed to meet the requirements to be rated Fully Accredited or Accredited with Warning after the academic year ending in 2006 may apply to the board for the designation of Accreditation Denied/Reconstituted School. The board may grant this designation to the applicant school if the school effectively completes a reconstitution in accordance with the criteria set forth in subdivision D 9 of this section. This designation will cease to exist after the academic year ending in 2009.

10. *Accreditation Denied/Failed to Reconstitute.* Following the academic year ending in 2006, a school that has failed to meet the requirements to be rated Fully Accredited or Accredited with Warning and which has not been approved by the board for either of the ratings in subdivision 6 or 7 of this subsection shall be rated Accreditation Denied/Failed to Reconstitute. This designation will cease to exist after the academic year ending in 2009.

11. *Conditionally Accredited.* New schools that are comprised of students from one or more existing schools in the division will be awarded this status pending an evaluation of the school's eligible students' performance on SOL tests to be rated Fully Accredited for a period not to exceed two years.

In the second year, if the school does not meet the requirements to be rated Fully Accredited or higher, it will retain its Conditionally Accredited status for another year. School improvement targets shall be set in accordance with 8 VAC 20-131-320 for ratings in subsequent years.

### D. Action requirements for ratings.

1. Effective with the end of the academic year 1999-2000, the board will establish year-by-year pass-rate benchmarks that must be met in each academic area for a school to achieve a rating of Provisionally Accredited. The benchmarks shall be based on test results, combining pass rates on all tests administered in a school within each academic area.

2. Schools that fail to meet the benchmarks to be rated Provisionally Accredited shall be rated either Provisionally Accredited/Needs Improvement or, in the case of schools that fall 20 percentage points or more below one or more benchmarks, Accredited with Warning in (Academic Area).

3. The benchmarks shall be incorporated into these regulations as an Appendix to these standards.

4. With such funds as are appropriated by the General Assembly, the Department of Education shall develop a school academic review process and monitoring plan designed to assist schools rated as Accredited with Warning. All procedures and operations for the academic review process shall be approved and adopted by the board.

5. Any school that is rated Accredited with Warning in English or mathematics is expected to adopt an instructional method that has a proven track record of success at raising student achievement in those areas as appropriate.

6. The superintendent and principal shall certify in writing to the board that such a method has been adopted and implemented.

7. The board shall publish a list of recommended instructional methods.

8. Adoption of instructional methods referenced in subdivisions 5 and 7 of this subsection shall be funded by eligible local, state and federal funds.

9. A school that seeks the reconstituted status shall be reconstituted under the supervision of an improvement audit team in consultation with the division superintendent. The reconstitution shall include:

- a. A request to the board from the local school board seeking a rating of Accreditation Denied/Reconstituted School for any school in the division shall include an agreement to conduct significant review and needs assessment of the school by an Improvement Audit Team (hereinafter "Team"). All procedures and operations for the improvement audit teams shall be approved and adopted by the board. The review and needs assessment shall include, but not be limited to:

(1) Evaluation of the performance of all personnel in the school and the central office, the school's operating procedures and the school board's policies;

(2) The level of parent participation in the school program; and

(3) Certification as to whether the school adopted an instructional method with a proven track record as expected by subdivision 5 of this subsection.

b. An evaluation of school operations including:

(1) An evaluation of the principal for retention, transfer or dismissal by the Team with the appropriate action taken by the local school division based on the Team's recommendations;

(2) An evaluation of the teaching staff for retention, transfer or dismissal, with appropriate action taken by the local school division based on the recommendation of the Team. The principal (either retained or newly hired) shall take part in the evaluation of the teaching staff as an equal partner with the Team; and

(3) As a part of the evaluation of the school and its staff, the following factors shall be considered:

(a) The level of improvement on the SOL tests demonstrated by the school in each academic areas since 1998;

(b) The performance of the school's students on the two most recent Stanford Achievement Test Series, 9<sup>th</sup> Edition (or then equivalent) nationally-normed test used in the Virginia State Assessment Program; and

(c) The level of cooperation with the Team demonstrated by the school when the school was rated Accredited with Warning, including whether the school implemented the instructional models recommended for schools which fell more than 20 percentage points below the benchmarks in English or mathematics.

(d) Meaningful input of teachers of the school in the development of the reports submitted to the board and the school's reconstitution plan; and

(e) Input of parents concerning the reconstitution process and goals.

The board may approve as an acceptable reconstitution alternative remedial actions that have been effectively implemented by the school or local school board that the board believes represent fundamental changes in the operations of the school that are designed to achieve the rating of "Fully Accredited."

Schools that receive this status shall annually report their progress toward meeting the requirements to be rated Fully Accredited to the Governor, the chairmen of the House and Senate Education, Senate Finance, and

House Appropriations committees of the General Assembly, and the board.

10. In any school division in which one-third or more of the schools have been rated Accreditation Denied, the superintendent shall be evaluated by the local school board with a copy of such evaluation submitted to the board no later than July 1 of each year in which such condition exists.

## **8 VAC 20-131-310. Improvement planning for schools that are accredited with warning.**

A. Schools that are rated Accredited with Warning must undertake improvement planning targeted to increasing student achievement as measured by the SOL tests immediately upon receipt of the results of an academic review conducted in accordance with policies and operations adopted by the board. The plan shall be developed collaboratively by the principal and teaching staff of the school. Parents shall be included in the planning process. The plan should be completed by the end of the first semester and, to the extent possible, implemented in the second semester.

~~B. A corrective action plan must be developed upon receipt of notification of the awarding of this rating. The plan must be signed by the principal and the local superintendent and approved by the local school board and submitted to the Board of Education for approval. The plan shall be developed with the assistance of parents and teachers and made available to the public. During the implementation years from 1998-2002, a school that is accredited with warning shall develop and implement an improvement plan approved by the local school board and designed to assist the school to meet the student achievement standard to be fully accredited as outlined in 8 VAC 20-131-300 D 1. If a school continues to be accredited with warning during the 2001-02 school year, the school shall submit by October 1, 2002, an improvement plan to the Board of Education with the components outlined in 8 VAC 20-131-310 D in a manner prescribed by the Board of Education. The plan shall be implemented not later than the beginning of the 2003-04 school year.~~

~~C. The Board of Education shall establish a Peer Educator Advisory Group to provide technical assistance in evaluating corrective action plans. The advisory group shall consist of 15 educators with five representatives each from urban, suburban, and rural schools. Representatives shall be academic classroom teachers and principals from elementary, middle, and secondary schools and shall be selected from among the top 10% of schools in each category on the state SOL tests. Each member of the committee shall serve for no more than two years. Terms of service shall be designed to provide continuity to the group as a whole.~~

B. A three-year School Improvement Plan must be developed and implemented, based on the results of an academic review of each school that is rated Accredited with Warning upon receipt of notification of the awarding of this rating and receipt of the results of the academic review.

1. The plan shall be developed with the assistance of parents and teachers and made available to the public.

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2. The plan must include the components outlined in subsection D of this section.

3. The improvement plan must be approved by the division superintendent and the local school board and be designed to assist the school in meeting the student achievement standard to be Fully Accredited as outlined in 8 VAC 20-131-300.

~~D.~~ C. The plan shall address the annual improvement benchmarks set in accordance with the provisions of 8 VAC 20-131-320. In addition, the improvement plan shall include each of the following:

1. How the school will meet the school improvement benchmarks for each of the years covered by the plan,
2. Specific measures for achieving and documenting student academic improvement,
3. Amount of time in the school day devoted to instruction in the core academic areas,
4. Instructional practices designed to remediate ~~currently failing~~ students who have not been successful on SOL tests,
5. Intervention strategies designed to prevent ~~future students from experiencing similar failure~~ further declines in student performance,
6. Staff development ~~required, assistance needed, and~~
7. Strategies to involve and assist parents in raising their child's academic performance,
8. Flexibility or waivers to state or local regulations necessary to meet the objectives of the plan, and
9. A description of the manner in which local, state and federal funds are used to support the implementation of the components of this plan.

As part of its approval of the ~~corrective action~~ school improvement plan, the board of Education may grant a local school board a waiver from the requirements of any regulations promulgated by the board when such a waiver is available.

~~E.~~ D. Schools in this rating rated Accredited with Warning shall document to assure their community that appropriate and effective instructional intervention or remediation, or both, and additional instructional time is being provided for those students:

- ~~(i)~~ 1. Not achieving a passing score of ~~proficient~~ on the SOL tests,
- ~~or (ii)~~ 2. Not passing the Literacy Passport Tests, or
3. Students identified as at-risk.

E. The school improvement plan and related annual reports submitted to the board shall provide documentation of the continuous efforts of the school to achieve the requirements to become rated Fully Accredited and be sealed by clerk of board. The board shall adopt and approve all policies and formats for the submission of annual reports under this

section. The reports shall be due no later than October 1 of the school year.

## 8 VAC 20-131-320. School improvement levels.

The board of Education will set the minimum acceptable level of annual school improvement required for a school ~~accredited with warning~~ beginning at the end of the 1999-2000 academic year to achieve the rating of Provisionally Accredited. These improvement levels are outlined in the Appendix to these standards. The benchmarks are based on test results, combining pass rates on all tests within each academic area. In no event shall a school be awarded the status of fully accredited if the minimum student pass rate established by the board is not met.

## 8 VAC 20-131-325. Recognitions and rewards for school accountability performance.

A. Schools rated as Fully Accredited with High Honors, Fully Accredited with Honors, Fully Accredited, or Provisionally Accredited shall be recognized by the board in accordance with procedures it shall establish. Such recognition may include:

1. Public announcements recognizing individual schools;
2. Tangible rewards;
3. Waivers of certain board regulations;
4. Exemptions from certain reporting requirements;
5. Recognition as a Superior School of Merit; or
6. Other commendations deemed appropriate to recognize high achievement.

In addition to board recognition, local school boards shall adopt policies to recognize individual schools through public announcements, media releases, participation in community activities for input purposes when setting policy relating to schools and budget development, as well as other appropriate recognition.

B. Schools and school divisions may be eligible to receive recognition as follows:

1. Superior School of Merit. The designation of Superior School of Merit is the highest recognition and honor that a school can receive in Virginia. To be recognized as a Superior School of Merit, a school must make application to and be approved by the board in accordance with the policies and guidelines established by the board. A school may qualify for this recognition by: (i) achieving the accreditation status of Accredited with High Honors, Accredited with Honors, or Fully Accredited and (ii) by providing assistance to schools rated as Provisionally Accredited, Provisionally Accredited/Needs Improvement or Accredited with Warning. The board shall formally award and recognize all Superior Schools of Merit on an annual basis.
2. Superior School Division of Merit. The designation of Superior School Division of Merit is the highest recognition and honor that a local school division can receive in Virginia. To be recognized as a Superior



School Division of Merit a school division must make application to and be approved by the board in accordance with the policies and guidelines established by the board. To be recognized as a Superior School Division of Merit, a school division must have at least:

- a. 50% of its schools recognized as Superior Schools of Merit; or
- b. 25% of its schools recognized as Superior Schools of Merit and central office staff provides technical assistance to a school or schools outside the division that are rated as Provisionally Accredited, Provisionally Accredited/Needs Improvement, or Accredited with Warning in accordance with policies and guidelines adopted by the board.

The board shall formally award and recognize all Superior School Divisions of Merit on an annual basis.

C. A school that achieves a rating of Fully Accredited with Honors or Fully Accredited with High Honors, may, upon application to the Department of Education, receive a waiver from the following regulations and reporting requirements for a period of up to three years or as long as the schools maintain a passing rate on SOL tests of 70% or above:

- 8 VAC 20-131-80. Instructional Programs in Elementary Schools
- 8 VAC 20-131-90. Instructional Programs in Middle Schools
- 8 VAC 20-131-100. Instructional Programs in Secondary Schools
- 8 VAC 20-131-110. Standard and Verified Units of Credit (Clock Hour Requirement Only)
- 8 VAC 20-131-120. Summer School
- 8 VAC 20-131-130. Elective Credit
- 8 VAC 20-131-140. College Preparatory Programs and Opportunities for Postsecondary Credit
- 8 VAC 20-131-150. Standard School Year and School Day
- 8 VAC 20-131-190. Library Media, Materials and Equipment
- 8 VAC 20-131-200. Extracurricular and Other School Activities
- 8 VAC 20-131-210. Role of the Principal
- 8 VAC 20-131-220. Role of Professional Staff
- 8 VAC 20-131-230. Role of Support Staff
- 8 VAC 20-131-240. Administrative and Support Staff Required
- 8 VAC 20-131-250. Alternative Staffing Plan

D. Governor's award for outstanding improvement. This award will be given to schools in each classification defined in 8 VAC 20-131-280 B rated below Fully Accredited that exceed the improvement levels defined in 8 VAC 20-131-320

by 10 percentage points or more in one year. In addition, any school that raises its rating from Accredited with Warning to Fully Accredited in one year will receive this award when it was ten percentage points or more below the performance level to be rated Fully Accredited.

E. Exemplary instructional method of high distinction.

1. The designation of Exemplary Instructional Method of High Distinction is the an honor awarded by the board to recognize instructional methods that have been highly successful in improving student achievement. To be recognized as an Exemplary Instructional Method of High Distinction, an applicant must make application to and be approved by the board in accordance with the policies and guidelines established by the board. An instructional method that has not been commercially developed may qualify for this recognition by having a demonstrated and documented proven track record of success in improving the academic achievement of pupils in:

- a. At least 11 public schools in one school division; or,
- b. Seven school divisions that have used the same method.

2. This award shall be awarded annually by the board.

F. Exemplary Administrative Method of Distinction.

1. The designation of Exemplary Administrative Method of High Distinction is an honor awarded by the board to recognize administrative methods that have improved school operations that resulted in improvement student achievement. To be recognized as a Exemplary Administrative Method of High Distinction, an applicant must make application to and be approved by the board in accordance with the policies and guidelines established by the board. An administrative method that has not been commercially developed may qualify for this recognition by having a demonstrated and documented successful, proven, track record of success in improving the academic achievement of pupils in:

- a. At least 11 public schools in one school division; or,
- b. Seven school divisions that have used the same method.

2. This distinction will be awarded annually by the board.

G. Master Principal of Distinction.

1. The designation of Master Principal of Distinction is an honor awarded by the board to outstanding principals in Virginia public schools. To be recognized as a Master Principal of Distinction, application must be made to, and be approved by, the board in accordance with policies and guidelines established by the board. The application must show, at a minimum, that the principal has mentored at least two other principals.

2. This distinction will be awarded on an annual basis.

H. Master Teacher of Distinction.

1. The designation of Master Teacher of Distinction is an honor awarded by the board to outstanding teachers in a

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Virginia public school. To be recognized as a Master Teacher of Distinction, application must be made to, and be approved by, the board in accordance with the policies and guidelines established by the board. The application must show, at a minimum, that the teacher has mentored at least two other teachers.

2. This distinction will be awarded on an annual basis.

## I. Master Creative Educator.

1. The designation of Master Creative Educator is an honor awarded by the board to recognize the use of creativity in Virginia public schools. To be recognized as a Master Creative Educator, application must be made to, and be approved by, the board in accordance with the policies and guidelines established by the board. The application must show, at a minimum, that the educator has demonstrated creativity in the education environment.

2. This distinction will be awarded on an annual basis.

## 8 VAC 20-131-340. Effective dates.

A. ~~With the exception of certain provisions identified in this section, this chapter is effective October 29, 1997.~~

~~B. A. The units of credit requirements for graduation described in 8 VAC 20-131-50 are effective with the ninth grade class of 1998-99 for the graduating class of 2002. Only standard units of credit will be available until the implementation of the requirement of verified units of credit. Students entering the ninth grade prior to the 1998-99 school year shall meet the requirements of standards adopted by the board that became effective in October 1992.~~

~~C. B. The requirement for verified units of credit based on student performance on the SOL tests related to courses will become effective for graduation with the ninth grade class of 2000-01 for the graduating class of 2004.~~

~~D. Each school that does not meet the requirements to be rated fully accredited will be rated as provisionally accredited during the implementation period of 1998-1999 through 2002-2003 provided there is annual improvement in the percentage of the school's eligible students who earn a passing score on each of the SOL tests and the school continues to meet the pre-accreditation requirements of 8 VAC 20-131-280 D. If there is no improvement or there is a decline in the SOL test result percentages over the previous year, the school will be rated accredited with warning. Schools that meet the requirements to be rated fully accredited will be upgraded to that rating. C. Beginning with the 2000-01 school year, schools rated accredited with warning must undergo an academic review in accordance with guidelines adopted by the board and prepare a school improvement plan as required by 8 VAC 20-131-310.~~

E. D. Beginning with the 2003-2004 accrediting cycle, each school will be expected to meet the level of performance established for a fully accredited rating in accordance with the provisions of 8 VAC 20-131-300. Schools not meeting this requirement will be rated accredited with warning.

E. Beginning with the accreditation ratings earned during the 2007-08 school year, the awarding of an accreditation rating shall be based on the percentage of students passing SOL tests on a trailing three-year average of passing percentages in each of the four core academic areas, or the most current year's scores, whichever is higher.

## APPENDIX I

### Improvement Chart for Provisional Accreditation Through 2003

Each School Must Meet Following Annual Pass-Rate Benchmarks in Tests Given in the Academic Years Indicated to Earn Provisional Accreditation:

	English	Math	Science	History/Soc. Studies
<b>Grade 3</b>				
1999-00	60%	60%	50%	50%
2000-01	63%	63%	50%	50%
2001-02	66%	66%	50%	50%
2002-03	70%	70%	50%	50%
<b>Grade 5 (includes tests given in Grade 4)</b>				
1999-00	60%	50%	60%	45%
2000-01	63%	55%	63%	50%
2001-02	66%	65%	66%	60%
2002-03	70%	70%	70%	70%
<b>Middle (includes any tests given in middle school grades)</b>				
1999-00	60%	55%	60%	45%
2000-01	63%	60%	63%	50%
2001-02	66%	65%	66%	60%
2002-03	70%	70%	70%	70%
<b>High School</b>				
1999-00	60%	55%	55%	45%
2000-01	63%	60%	60%	55%
2001-02	66%	65%	65%	65%
2002-03	70%	70%	70%	70%

\* Schools that do not meet the benchmarks (but are within 19 percentage points in each academic area will be rated "Provisionally Accredited/Needs Improvement"

\*\* Schools that are 20 or more percentage points below the benchmarks in any academic area will be rated "Accredited with Warning in (academic area)"

VA.R. Doc. No. R99-240; Filed November 3, 1999, 11:21 a.m.



**TITLE 9. ENVIRONMENT**

**STATE AIR POLLUTION CONTROL BOARD**

Title of Regulation: **Regulations for the Control and Abatement of Air Pollution (Rev. S97).**

**9 VAC 5-20-10 et seq. General Provisions (amending 9 VAC 5-20-21 and 9 VAC 5-20-202).**

**9 VAC 5-40-10 et seq. Existing Stationary Sources (adding 9 VAC 5-40-6000 through 9 VAC 5-40-6230).**

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

Public Hearing Date: January 4, 2000 - 9 a.m.

Public comments may be submitted until January 24, 2000.

(See Calendar of Events section for additional information)

Basis: Section 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare.

Purpose: The purpose of the regulation is to establish emission standards that will require the owners of hospital/medical/infectious waste incinerators (HMIWIs) to limit emissions of organics (such as dioxins/furans), metals (such as particulate matter), and acid gases (such as sulfur dioxide and hydrogen chloride) to a specified level necessary to protect public health and welfare. 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 Ec of federal regulations.

Substance: The major provisions of the proposal are summarized below:

1. The regulation identifies the sources and geographic areas to which the regulation applies, as well as exemptions (9 VAC 5-40-6000).
2. Terms unique to the article are defined (9 VAC 5-40-6010).
3. Emission limits for particulate matter, carbon monoxide, dioxins/furans, hydrogen chloride, sulfur dioxide, nitrogen oxides, lead, cadmium, and mercury are established (9 VAC 5-40-6020 through 9 VAC 5-40-6100).
4. Cross references to existing state requirements for visible emissions, fugitive dust/emissions, odor, and toxic pollutants are provided (9 VAC 5-40-6110 through 9 VAC 5-40-6140).
5. HMIWI operator training and qualification requirements are specified (9 VAC 5-40-6150).
6. Waste management plans are required. The regulation includes required elements of such plans, which are intended for sources to separate certain

components of solid waste from the health care waste stream in order to reduce the amount of toxic emissions from the incinerated waste (9 VAC 5-40-6160).

7. The regulation requires that sources achieve and maintain compliance with the emission limitations and work practices, along with requirements for inspections; compliance, emissions testing, and monitoring; recordkeeping and reporting; and compliance schedules (9 VAC 5-40-6170 through 9 VAC 5-40-6200).

8. Cross references to existing state requirements for registration, facility and control equipment maintenance or malfunction; and permits are provided (9 VAC 5-40-6210 through 9 VAC 5-40-6230).

Issues: The primary advantages and disadvantages of implementation and compliance with the regulation by the public and the department are discussed below.

1. Public: A limited segment of the general public may experience an economic disadvantage in increased fees where affected HMIWIs must install pollution control systems. However, the general public will experience a number of health and welfare advantages. HMIWI emissions cause a number of serious health effects, including cancer. Therefore, reduction of these emissions will reduce disease and its related costs. Reduction of HMIWI emissions will also reduce the risk of damage to vegetation and property, which will in turn enhance property values, tax revenues, payroll, and other socioeconomic components. Generally, the wide availability of alternatives to incineration will limit disadvantages, and may in fact provide a benefit in the form of reduced costs.

A limited number of HMIWIs may experience an economic disadvantage if they must install pollution control systems. HMIWIs as well as industry in general will also benefit from the rule: overall ozone reductions may lessen the risk of current attainment areas being designated nonattainment, and current nonattainment areas being reclassified to a more serious classification.

2. Department: The department may need to perform additional inspection, monitoring and recordkeeping to ensure that the emissions limitations are being met, which will require increased expenditure in personnel and equipment. However, the increase in data to be gathered and analyzed will benefit the department by enhancing its ability to make both short- and long-term planning decisions. Furthermore, these sources have been, for the most part, permitted, inspected, and monitored for many years, therefore, little additional new effort will be expended. It is anticipated that more sources will seek alternatives to incineration, thereby reducing the number of sources the department will need to inspect and monitor.

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 25 (98). Section 9-6.14:7.1

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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.** Federal regulations require that emission limits be established for hospital/medical/infectious waste incinerators (HMIWIs). The rules require limitations on a number of pollutants including certain organic chemicals, metals, and acid gases. These regulations implement the federal rules under EPA's state implementation plan.

**Estimated economic impact.** These rules implement new federal emission limits for facilities that incinerate hospital wastes, medical wastes or wastes containing infectious materials. The rule, as written, simply implements the federal emission limits on facilities that incinerate these types of waste. The limits in the federal rule are significantly more stringent than those that currently apply to the affected facilities. The rules include emission standards for a number of pollutants including reactive organic chemicals, metals, acid gases, and criteria pollutants (carbon monoxide, nitrogen oxides and particulate matter). There are also minimum qualifications and training standards for operators of the incinerator units. Finally, the rule requires that the sources of the affected waste develop plans for separating certain components out of the health care waste stream in order to reduce toxic emissions from incinerators.

According to the Department of Environmental Quality, there are just over 140 sources affected by this rule. Of these, one is a large commercial incinerator, located in Hampton Roads, that accepts waste from throughout Virginia and parts of North Carolina. Approximately 10 are large hospitals, and the rest are small hospitals, laboratories, and veterinary clinics. Of this last group, approximately 10% have either already stopped receiving waste or plan to do so in the near future. It is not known what portion of this latter group are discontinuing incineration in anticipation of the new regulations and what portion would have done so even under the existing rule.

There are a number of alternatives to incinerating these wastes. The wastes can now be sterilized by a number of means and then disposed of in a landfill. These alternative methods appear to be increasingly competitive with local incineration. The implementation of this rule should accelerate the move toward nonincineration alternatives. The presence of these nonincineration alternatives reduces compliance costs for many facilities far below what they would be were these facilities required to upgrade their own facilities to meet the new emissions standards. It can be expected that a number of existing incinerators will shut down rather than upgrade their facilities to meet the new standards.

In its regulatory impact analysis, the Environmental Protection Agency estimated the total national compliance costs of this

rule to be approximately \$85 million per year (annualized). Virginia's share of these costs can be expected to be on the order of \$5 million per year; all dollar amounts are in 1999 dollars. This is a very rough estimate due to the large uncertainty about the costs of alternative treatment technologies.

The cost picture is further clouded by the estimate of compliance costs for the one large commercial incinerator located in Hampton Roads. This facility is already in compliance with the new standards. The decision to build a new facility in compliance with the anticipated new rules is probably due to a combination of two factors. First, it would almost certainly be cheaper to design the facility with the new rules in mind rather than to retrofit it after the new rules take affect. This portion of the compliance costs must be credited to this rule even though the facility was brought into operation before the rules took affect. However, the difficulty of siting new incinerator facilities in recent years would certainly have forced this facility to implement controls much more stringent than the old rules whether or not new federal rules were anticipated. This portion of the compliance costs for any newer facilities is not due to this rule and should not be included in the compliance costs estimate.

We can conclude from this that the compliance costs in Virginia that result directly from this rule are likely to be below the EPA estimate of \$5 million. Local pressures on the siting of noxious facilities would have resulted in significant reductions from uncontrolled emissions levels even in the absence of this rule.

The economic benefits of controlling emissions from medical waste incinerators are known to be substantial, but the magnitude of these benefits cannot be estimated with any real accuracy at this time. We know that the chemicals released as air emissions from medical waste incinerators can have harmful effects on human health, agricultural crops, materials, and aesthetic values. Estimating the benefits of controlling these emissions requires first that we have reasonably good estimates of the distribution of the wastes once they leave the incinerator smoke stack. We need to know who is exposed, to what concentrations, and for how long. We also need to know what the dose response is to exposure to these emissions. Unfortunately, even these essential facts are not well known. After estimating the actual physical outcome of the emissions, we would need to estimate the willingness of the exposed population to pay for reduced exposure. There have been numerous studies that demonstrate a very substantial willingness to pay for reductions in exposure to incinerator emissions. While these studies may not be directly translated into values for the emission reductions called for in this regulation, they do indicate that there is a very significant economic value to the reductions.

Given the foregoing discussion, it is not possible to determine with any certainty whether this regulation results in a net economic gain to Virginia. The uncertainty of the estimates involved is large enough that no firm conclusions may be drawn about the sign or magnitude of the economic impact on Virginia. However, given the falling compliance costs attributable to this rule and the significant economic value that the public places on reduced exposure to incinerator

emissions, there is a significant probability that this regulation will generate a net economic gain for Virginia.

Businesses and entities affected. There are approximately 144 HMIWIs with permits from DEQ. The agency indicates that 10% of these are either closed or are expected to close in the very near future. There will also be an impact on the businesses that provide alternatives to small local incinerators. These include large incinerators, landfills, and businesses that pre-treat this waste to prepare it for landfill disposal. The number of these firms is not available at this time.

Localities particularly affected. This regulation applies throughout the Commonwealth. However, one locality may see a larger impact than others. The only large off-site incinerator in Virginia is in Hampton Roads. This facility is likely to see an increase in business. This may generate a small increase in area income due to increased use of this incinerator. Also, any increased emissions from this incinerator may produce some increased risk to the local population. However, any additional risks are expected to be quite small especially relative to the risks posed by having the waste incinerated at smaller, unregulated facilities.

Projected impact on employment. No significant net impact on employment is expected. There will be some shift of employment away from the operation of small medical facility incinerators toward large incinerators, landfills, and pre-treatment firms. The magnitude of this change cannot be estimated with the information available at this time.

Effects on the use and value of private property. Costs will increase somewhat for the operators of small on-site incinerators. This reduces the economic value of these facilities. However, there are two offsetting effects. First, property in close proximity to these incinerators may increase in value, since incinerators are generally considered noxious facilities. Also, the value of the firms providing alternative disposal services will see their business increase. In the short run, this may increase the value of their facilities.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget prepared an economic impact analysis for the proposal as required by § 9-6.14:7.1 G of the Administrative Process Act. The Department of Environmental Quality takes no issue with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

*The proposed regulation applies to hospital/medical/infectious waste incinerators (HMIWIs), and includes emission limits for particulate matter, carbon monoxide, dioxins/furans, hydrogen chloride, sulfur dioxide, nitrogen oxides, lead, cadmium, and mercury. Special HMIWI operator training and qualification requirements are included in order to assure proper facility operation and compliance with the emissions limitations; sources are also required to prepare overall waste management plans. Compliance, emissions testing, and monitoring requirements are delineated, as*

*well as recordkeeping and reporting of such test results. Finally, specific compliance schedules are provided.*

**9 VAC 5-20-21. Documents incorporated by reference.**

A. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on key federal regulations and nonstatutory documents incorporated by reference and their availability may be found in subsection E of this section.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR (1998) in effect July 1, 1998. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR 35.20 means § 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this section any document referenced in the regulations shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this section may be examined by the public at the headquarters office of the Department of Environmental Quality, Eighth Floor, 629 East Main Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

E. Information on federal regulations and nonstatutory documents incorporated by reference and their availability may be found below in this subsection.

1. Code of Federal Regulations.
  - a. The provisions specified below from the Code of Federal Regulations (CFR) are incorporated herein by reference.
    - (1) 40 CFR Part 50 - National Primary and Secondary Ambient Air Quality Standards.
      - (a) Appendix A - Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).
      - (b) Appendix B - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).
      - (c) Appendix C - Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the

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- Atmosphere (Non-Dispersive Infrared Photometry).
- (d) Appendix D - Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.
- (e) Appendix E - Reference Method for Determination of Hydrocarbons Corrected for Methane.
- (f) Appendix F - Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).
- (g) Appendix G - Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.
- (h) Appendix H - Interpretation of the National Ambient Air Quality Standards for Ozone.
- (i) Appendix I - Reserved.
- (j) Appendix J - Reference Method for the Determination of Particulate Matter as PM<sub>10</sub> in the Atmosphere.
- (k) Appendix K - Interpretation of the National Ambient Air Quality Standards for Particulate Matter.
- (2) 40 CFR Part 51 - Requirements for Preparation, Adoption, and Submittal of Implementation Plans.
- Appendix M - Recommended Test Methods for State Implementation Plans.
- Appendix S - Emission Offset Interpretive Ruling.
- Appendix W - Guideline on Air Quality Models (Revised).
- (3) 40 CFR Part 58 - Ambient Air Quality Surveillance.
- Appendix B - Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.
- (4) 40 CFR Part 60 - Standards of Performance for New Stationary Sources.
- The specific provisions of 40 CFR Part 60 incorporated by reference are found in Article 5 (9 VAC 5-50-400 et seq.) of Part II of Chapter 50, Rule 5-5, Environmental Protection Agency Standards of Performance for New Stationary Sources.
- (5) 40 CFR Part 61 - National Emission Standards for Hazardous Air Pollutants.
- The specific provisions of 40 CFR Part 61 incorporated by reference are found in Article 1 (9 VAC 5-60-60 et seq.) of Part II of Chapter 60, Rule 6-1, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants.
- (6) 40 CFR Part 63 - National Emission Standards for Hazardous Air Pollutants for Source Categories.
- The specific provisions of 40 CFR Part 63 incorporated by reference are found in Article 2 (9 VAC 5-60-90 et seq.) of Part II of Chapter 60, Rule 6-2, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants for Source Categories.
- b. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.
2. U.S. Environmental Protection Agency.
- a. The following documents from the U.S. Environmental Protection Agency are incorporated herein by reference.
- (1) Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. PB82250721, 1980.
- (2) Compilation of Air Pollutant Emission Factors (AP-42). Volume I: Stationary and Area Sources, Publication No. PB95196028, 1995; Volume II: Supplement A, Publication No. PB96192497, 1996.
- b. Copies may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone (703) 487-4650.
3. U.S. government.
- a. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1987 (U.S. Government Printing Office stock number 041-001-00-314-2).
- b. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 512-1800.
4. American Society for Testing and Materials (ASTM).
- a. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.
- (1) D323-94, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)" from Section 5, Volume 05.01 of the 1985 Annual Book of ASTM Standards.
- (2) D97-93, "Standard Test Method for Pour Point of Petroleum Oils" from Section 5, Volume 05.01 of the 1989 Annual Book of ASTM Standards.
- (3) D129-91, "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)," 1991.
- (4) D388-95, "Standard Classification of Coals by Rank," 1995.

(5) D396-92, "Standard Specification for Fuel Oils," 1992.

(6) D975-94, "Standard Specification for Diesel Fuel Oils," 1994.

(7) D1072-90, "Standard Test Method for Total Sulfur in Fuel Gases," 1990, reapproved 1994.

(8) D1265-92, "Standard Practice for Sampling Liquefied Petroleum (LP) Gases (Manual Method)," 1992.

(9) D2622-94, "Standard Test Method for Sulfur in Petroleum Products by X-Ray Spectrometry," 1994.

(10) D4057-88, "Standard Practice for Manual Sampling of Petroleum and Petroleum Products," 1988.

(11) D4294-90, "Standard Test Method for Sulfur in Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy," 1990.

b. Copies may be obtained from: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; phone (610) 832-9585.

5. American Petroleum Institute (API).

a. The following document from the American Petroleum Institute is incorporated herein by reference: API Publication 2517, Evaporation Loss from External Floating Roof Tanks, Third Edition, 1989.

b. Copies may be obtained from: American Petroleum Institute, 2101 L Street, Northwest, Washington, D.C. 20037; phone (202) 682-8000.

6. American Conference of Governmental Industrial Hygienists (ACGIH).

a. The following document from the ACGIH is incorporated herein by reference: Threshold Limit Values for Chemical Substances 1991-1992 and Physical Agents and Biological Exposure Indices (ACGIH Handbook).

b. Copies may be obtained from: ACGIH, 6500 Glenway Avenue, Building D-7, Cincinnati, Ohio 45211-4438; phone (513) 742-2020.

7. National Fire Prevention Association (NFPA).

a. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

(1) NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 1990 Edition.

(2) NFPA 30, Flammable and Combustible Liquids Code, 1993 Edition.

(3) NFPA 30A, Automotive and Marine Service Station Code, 1993 Edition.

b. Copies may be obtained from the National Fire Prevention Association, Batterymarch Park, Quincy, Massachusetts 02269; phone (617) 770-3000.

8. American Society of Mechanical Engineers (ASME).

a. The documents specified below from the American Society of Mechanical Engineers are incorporated herein by reference.

(1) ASME Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1--1964 (R1991).

(2) ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971).

(3) Standard for the Qualification and Certification of Resource Recovery Facility Operators, ASME QRO-1-1994.

b. Copies may be obtained from the American Society of Mechanical Engineers, 22 Law Drive, Fairfield, New Jersey 07004.

9. *Reserved.*

10. American Hospital Association (AHA)

a. *The following document from the American Hospital Association is incorporated herein by reference: An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, AHA Catalog no. W5-057007, 1993.*

b. *Copies may be obtained from: American Hospital Association, P.O. Box 92683, Chicago, IL 60675-2683; phone (800) 242-2626.*

**9 VAC 5-20-202. Metropolitan statistical areas.**

Metropolitan Statistical Areas are geographically defined as follows:

Title	Geographical Area
Bristol MSA	Bristol City Scott County Washington County
Charlottesville MSA	Charlottesville City Albemarle County Fluvanna County Greene County
Danville MSA	Danville City Pittsylvania County
Lynchburg MSA	<i>Bedford City</i> Lynchburg City Amherst County <i>Bedford County</i> Campbell County
Norfolk-Virginia Beach- Newport News MSA	Chesapeake City  Norfolk City Portsmouth City Suffolk City Virginia Beach City

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Richmond-Petersburg MSA  
Hampton City  
Newport News City  
Poquoson City  
Williamsburg City  
Gloucester County  
Isle of Wight County  
James City County  
Mathews County  
York County  
Richmond City  
Colonial Heights City  
Hopewell City  
Petersburg City  
Charles City County  
Chesterfield County  
Goochland County  
Hanover County  
Henrico County  
New Kent County  
Powhatan County  
Prince George County  
Dinwiddie County

Roanoke MSA  
Roanoke City  
Salem City  
Botetourt County  
Roanoke County

National Capital MSA  
Alexandria City  
Fairfax City  
Falls Church City  
Fredericksburg City  
Manassas City  
Manassas Park City  
Arlington County  
Clarke County  
Culpeper County  
Fairfax County  
King George County  
Loudoun County  
Prince William County  
Spottsylvania County  
Stafford County  
Warren County

1. Combustors during periods when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned, provided the owner:
  - a. Notifies the board of an exemption claim; and
  - b. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned.
2. Any co-fired combustor if the owner of the co-fired combustor:
  - a. Notifies the board of an exemption claim;
  - b. Provides an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels and or wastes to be combusted; and
  - c. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.
3. Any combustor required to have a permit under § 3005 of the Solid Waste Disposal Act (42 USC § 6901 et seq.).
4. Any combustor which meets the applicability requirements under subpart Ea or Eb of 40 CFR Part 60 (standards for certain municipal waste combustors).
5. Any pyrolysis unit.
6. Cement kilns firing hospital waste and medical/infectious waste or both.

D. The provisions of this article do not apply to affected facilities subject to other emission standards in this part, including the standards in 9 VAC 5 Chapter 40, Article 46 (9 VAC 5-40-7950 et seq.).

E. Physical or operational changes made to an existing HMIWI unit solely for the purpose of complying with this article are not considered a modification and do not result in an existing HMIWI unit becoming subject to the provisions of subpart Ec of 40 CFR Part 60 (see 40 CFR 60.50c).

F. Beginning September 15, 2000, affected facilities subject to this article shall operate pursuant to a federal operating permit.

## 9 VAC 5-40-6010. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this article, all terms not defined here shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

"Batch HMIWI" means an HMIWI that is designed such that neither waste charging nor ash removal can occur during combustion.

## PART II. EMISSION STANDARDS.

### Article 44.

#### Hospital/Medical/Infectious Waste Incinerators.

### 9 VAC 5-40-6000. Applicability and designation of affected facility.

A. Except as provided in subsections C and D of this section, the affected facility to which the provisions of this article apply is each individual HMIWI for which construction was commenced on or before June 20, 1996.

B. The provisions of this article apply throughout the Commonwealth of Virginia.

C. Exempted from the provisions of this article are the following:



"Biologicals" means preparations made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing, or treating humans or animals or in research pertaining thereto.

"Blood products" means any product derived from human blood, including but not limited to blood plasma, platelets, red or white blood corpuscles, and other derived licensed products, such as interferon, etc.

"Body fluids" means liquid emanating or derived from humans and limited to blood; dialysate; amniotic, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids; and semen and vaginal secretions.

"Bypass stack" means a device used for discharging combustion gases to avoid severe damage to the air pollution control device or other equipment.

"Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.

"Co-fired combustor" means a unit combusting hospital waste and medical/infectious waste or both with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, 10% or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted.

"Combustor" means any type of stationary equipment in which solid, liquid or gaseous fuels and refuse are burned (including, but not limited to, furnaces, ovens, and kilns) for the primary purpose of destroying matter or reducing the volume, or both, of the waste by removing combustible matter.

"Commenced" means an owner has undertaken a continuous program of construction or modification or that an owner has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

"Compliance schedule" means a legally enforceable schedule specifying a date or dates by which a source must comply with specific emission limits contained in this article or with any increments of progress to achieve such compliance.

"Construction" means fabrication, erection, or installation of an affected facility.

"Continuous emission monitoring system" means a monitoring system for continuously measuring and recording the emissions of a pollutant from an affected facility.

"Continuous HMIWI" means an HMIWI that is designed to allow waste charging and ash removal during combustion.

"Dioxins/furans" means the combined emissions of tetra-through octa-chlorinated dibenzo-para-dioxins and dibenzofurans, as measured by Reference Method 23.

"Dry scrubber" means an add-on air pollution control system that injects dry alkaline sorbent (dry injection) or sprays an alkaline sorbent (spray dryer) to react with and neutralize acid gases in the HMIWI exhaust stream forming a dry powder material.

"Fabric filter" means an add-on air pollution control system that removes particulate matter and nonvaporous metals emissions by passing flue gas through filter bags.

"Facilities manager" means the individual in charge of purchasing, maintaining, and operating the HMIWI or the owner's representative responsible for the management of the HMIWI. Alternative titles may include director of facilities or vice president of support services.

"Federal operating permit" means a permit issued under Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80.

"High-air phase" means the stage of the batch operating cycle when the primary chamber reaches and maintains maximum operating temperatures.

"Hospital" means any facility which has an organized medical staff, maintains at least six inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of 24 hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuing medical supervision.

"Hospital/medical/infectious waste incinerator" or "HMIWI" or "HMIWI unit" means any device that combusts any amount of hospital waste and medical/infectious waste or both.

"Hospital/medical/infectious waste incinerator operator" or "HMIWI operator" means any person who operates, controls or supervises the day-to-day operation of an HMIWI.

"Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

"Infectious agent" means any organism (such as a virus or bacteria) that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.

"Intermittent HMIWI" means an HMIWI that is designed to allow waste charging, but not ash removal, during combustion.

"Large HMIWI" means:

1. Except as provided in subdivision 2 of this definition,

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- a. An HMIWI whose maximum design waste burning capacity is more than 500 pounds per hour;
- b. A continuous or intermittent HMIWI whose maximum charge rate is more than 500 pounds per hour; or
- c. A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day.

2. The following are not large HMIWI:

- a. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 500 pounds per hour; or
- b. A batch HMIWI whose maximum charge rate is less than or equal to 4,000 pounds per day.

"Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 USC § 2014(e)(2)).

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions. During periods of malfunction the HMIWI operator shall operate within established parameters as much as possible, and monitoring of all applicable operating parameters shall continue until all waste has been combusted or until the malfunction ceases, whichever comes first.

"Maximum charge rate" means:

1. For continuous and intermittent HMIWI, 110% of the lowest three-hour average charge rate measured during the most recent emissions test demonstrating compliance with all applicable emission limits.
2. For batch HMIWI, 110% of the lowest daily charge rate measured during the most recent emissions test demonstrating compliance with all applicable emission limits.

"Maximum design waste burning capacity" means:

1. For intermittent and continuous HMIWI,

$$C = P_v \times 15,000/8,500$$

where:

C = HMIWI capacity, lb/hr

$P_v$  = primary chamber volume, ft<sup>3</sup>

15,000 = primary chamber heat release rate factor, Btu/ft<sup>3</sup>/hr

8,500 = standard waste heating value, Btu/lb;

2. For batch HMIWI,

$$C = P_v \times 4.5/8$$

where:

C = HMIWI capacity, lb/hr

$P_v$  = primary chamber volume, ft<sup>3</sup>

4.5 = waste density, lb/ft<sup>3</sup>

8 = typical hours of operation of a batch HMIWI, hours.

"Maximum fabric filter inlet temperature" means 110% of the lowest three-hour average temperature at the inlet to the fabric filter (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the dioxin/furan emission limit.

"Maximum flue gas temperature" means 110% of the lowest three-hour average temperature at the outlet from the wet scrubber (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the mercury emission limit.

"Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed in subdivisions 1 through 7 of this definition. The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in 40 CFR Part 261; household waste, as defined in 40 CFR 261.4(b)(1); ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials identified in 40 CFR 261.4(a)(1).

1. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.

2. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.

3. Human blood and blood products including:

- a. Liquid waste human blood;

- b. Products of blood;

- c. Items saturated or dripping or both with human blood; or

- d. Items that were saturated or dripping or both with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also include in this category.

4. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.

5. Animal waste including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.

6. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.

7. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

"Medium HMIWI" means:

1. Except as provided in subdivision 2 of this definition,
  - a. An HMIWI whose maximum design waste burning capacity is more than 200 pounds per hour but less than or equal to 500 pounds per hour;
  - b. A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or
  - c. A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day but less than or equal to 4,000 pounds per day.
2. The following are not medium HMIWI:
  - a. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour or more than 500 pounds per hour; or
  - b. A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day or less than or equal to 1,600 pounds per day.

"Minimum dioxin/furan sorbent flow rate" means 90% of the highest three-hour average dioxin/furan sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent emissions test demonstrating compliance with the dioxin/furan emission limit.

"Minimum mercury sorbent flow rate" means 90% of the highest three-hour average mercury sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent emissions test demonstrating compliance with the mercury emission limit.

"Minimum hydrogen chloride sorbent flow rate" means 90% of the highest three-hour average hydrogen chloride sorbent flow rate (taken, at a minimum, once every hour) measured during the most recent emissions test demonstrating compliance with the hydrogen chloride emission limit.

"Minimum horsepower or amperage" means 90% of the highest three-hour average horsepower or amperage to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the applicable emission limits.

"Minimum pressure drop across the wet scrubber" means 90% of the highest three-hour average pressure drop across the wet scrubber particulate matter control device (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the particulate matter emission limit.

"Minimum scrubber liquor flow rate" means 90% of the highest three-hour average liquor flow rate at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with all applicable emission limits.

"Minimum scrubber liquor pH" means 90% of the highest three-hour average liquor pH at the inlet to the wet scrubber (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the hydrogen chloride emission limit.

"Minimum secondary chamber temperature" means 90% of the highest three-hour average secondary chamber temperature (taken, at a minimum, once every minute) measured during the most recent emissions test demonstrating compliance with the particulate matter, carbon monoxide, or dioxin/furan emission limits.

"Modification" means any change to an HMIWI unit after March 16, 1998, such that:

1. The cumulative costs of the modifications, over the life of the unit, exceed 50% of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs, or
2. The change involves a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under § 111 or § 129 of the federal Clean Air Act.

"Operating day" means a 24-hour period between 12:00 midnight and the following midnight during which any amount of hospital waste or medical/infectious waste is combusted at any time in the HMIWI.

"Operation" means the period during which waste is combusted in the incinerator excluding periods of startup or shutdown.

"Particulate matter" means the total particulate matter emitted from an HMIWI as measured by Reference Method 5 or Reference Method 29.

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"Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, or tissue, the bags and containers used to collect and transport the waste material, and animal bedding (if applicable).

"Primary chamber" means the chamber in an HMIWI that receives waste material, in which the waste is ignited, and from which ash is removed.

"Pyrolysis" means the endothermic gasification of hospital waste or medical/infectious waste or both using external energy.

"Secondary chamber" means a component of the HMIWI that receives combustion gases from the primary chamber and in which the combustion process is completed.

"Shutdown" means the period of time after all waste has been combusted in the primary chamber. For continuous HMIWI, shutdown shall commence no less than two hours after the last charge to the incinerator. For intermittent HMIWI, shutdown shall commence no less than four hours after the last charge to the incinerator. For batch HMIWI, shutdown shall commence no less than five hours after the high-air phase of combustion has been completed.

"Small HMIWI" means:

1. Except as provided in subdivision 2 of this definition,
  - a. An HMIWI whose maximum design waste burning capacity is less than or equal to 200 pounds per hour;
  - b. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour; or
  - c. A batch HMIWI whose maximum charge rate is less than or equal to 1,600 pounds per day.
2. The following are not small HMIWI:
  - a. A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour;
  - b. A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day.

"Small, rural HMIWI" means any small HMIWI which is located more than 50 miles from the boundary of the nearest Metropolitan Statistical Area and which burns less than 2,000 pounds per week of hospital waste and medical/infectious waste. The 2,000 pounds-per-week limitation does not apply during emissions tests.

"Startup" means the period of time between the activation of the system and the first charge to the unit. For batch HMIWI, startup means the period of time between activation of the system and ignition of the waste.

"Wet scrubber" means an add-on air pollution control device that utilizes an alkaline scrubbing liquor to collect particulate matter (including nonvaporous metals and condensed organics), and to absorb and neutralize acid gases, or both.

## **9 VAC 5-40-6020. Limit for particulate matter.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any particulate emissions in excess of the following limits:

1. For small HMIWI: 0.05 grains per dry standard cubic foot (115 milligrams per dry standard cubic meter).
2. For medium HMIWI: 0.03 grains per dry standard cubic foot (69 milligrams per dry standard cubic meter).
3. For large HMIWI: 0.015 grains per dry standard cubic foot (34 milligrams per dry standard cubic meter).
4. For small, rural HMIWI: 0.086 grains per dry standard cubic foot (197 milligrams per dry standard cubic meter).

## **9 VAC 5-40-6030. Limit for carbon monoxide.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any carbon monoxide emissions in excess of the following limits:

1. For small HMIWI: 40 parts per million by volume.
2. For medium HMIWI: 40 parts per million by volume.
3. For large HMIWI: 40 parts per million by volume.
4. For small, rural HMIWI: 40 parts per million by volume.

## **9 VAC 5-40-6040. Limit for dioxins/furans.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any dioxin/furan emissions in excess of the following limits:

1. For small HMIWI: 55 grains per dry billion standard cubic feet (125 nanograms per dry standard cubic meter) total dioxin/furan or 1.0 grains per billion standard cubic meter total TEQ (2.3 nanograms per dry standard cubic meter TEQ).
2. For medium HMIWI: 55 grains per billion dry standard cubic feet (125 nanograms per dry standard cubic meter) total dioxin/furan or 1.0 grains per billion standard cubic meter total TEQ (2.3 nanograms per dry standard cubic meter TEQ).
3. For large HMIWI: 55 grains per billion dry standard cubic feet (125 nanograms per dry standard cubic meter) total dioxin/furan or 1.0 grains per billion standard cubic meter total TEQ (2.3 nanograms per dry standard cubic meter TEQ).
4. For small, rural HMIWI: 350 grains per billion dry standard cubic feet (800 nanograms per dry standard cubic meter) total dioxin/furan or 6.6 grains per billion standard cubic meter total TEQ (15 nanograms per dry standard cubic meter TEQ).

## **9 VAC 5-40-6050. Limit for hydrogen chloride.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any hydrogen chloride emissions in excess of the following limits:

1. For small HMIWI: 100 parts per million by volume or 93% reduction.
2. For medium HMIWI: 100 parts per million by volume or 93% reduction.
3. For large HMIWI: 100 parts per million by volume or 93% reduction.
4. For small, rural HMIWI: 3,100 parts per million by volume.

**9 VAC 5-40-6060. Limit for sulfur dioxide.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any sulfur dioxide emissions in excess of the following limits:

1. For small HMIWI: 55 parts per million by volume.
2. For medium HMIWI: 55 parts per million by volume.
3. For large HMIWI: 55 parts per million by volume.
4. For small, rural HMIWI: 55 parts per million by volume.

**9 VAC 5-40-6070. Limit for nitrogen oxides.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any nitrogen oxide emissions in excess of the following limits:

1. For small HMIWI: 250 parts per million by volume.
2. For medium HMIWI: 250 parts per million by volume.
3. For large HMIWI: 250 parts per million by volume.
4. For small, rural HMIWI: 250 parts per million by volume.

**9 VAC 5-40-6080. Limit for lead.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any lead emissions in excess of the following limits:

1. For small HMIWI: 0.52 grains per thousand dry standard cubic feet (1.2 milligrams per dry standard cubic meter) or 70% reduction.
2. For medium HMIWI: 0.52 grains per thousand dry standard cubic feet (1.2 milligrams per dry standard cubic meter) or 70% reduction.
3. For large HMIWI: 0.52 grains per thousand dry standard cubic feet (1.2 milligrams per dry standard cubic meter) or 70% reduction.
4. For small, rural HMIWI: 4.4 grains per thousand dry standard cubic feet (10 milligrams per dry standard cubic meter).

**9 VAC 5-40-6090. Limit for cadmium.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any cadmium emissions in excess of the following limits:

1. For small HMIWI: 0.07 grains per thousand dry standard cubic feet (0.16 milligrams per dry standard cubic meter) or 65% reduction.
2. For medium HMIWI: 0.07 grains per thousand dry standard cubic feet (0.16 milligrams per dry standard cubic meter) or 65% reduction.
3. For large HMIWI: 0.07 grains per thousand dry standard cubic feet (0.16 milligrams per dry standard cubic meter).
4. For small, rural HMIWI: 1.7 grains per thousand dry standard cubic feet (4 milligrams per dry standard cubic meter).

**9 VAC 5-40-6100. Limit for mercury.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any mercury emissions in excess of the following limits:

1. For small HMIWI: 0.24 grains per thousand dry standard cubic feet (0.55 milligrams per dry standard cubic meter) or 85% reduction.
2. For medium HMIWI: 0.24 grains per thousand dry standard cubic feet (0.55 milligrams per dry standard cubic meter) or 85% reduction.
3. For large HMIWI: 0.24 grains per thousand dry standard cubic feet (0.55 milligrams per dry standard cubic meter) or 85% reduction.
4. For small, rural HMIWI: 3.3 grains per thousand dry standard cubic feet (7.5 milligrams per dry standard cubic meter).

**9 VAC 5-40-6110. Limit for visible emissions.**

A. The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Visible Emissions) apply except that the provisions in subsection B of this section apply instead of 9 VAC 5-40-80.

B. No owner or other person shall cause or permit to be discharged into the atmosphere from any HMIWI any visible emissions which exhibit greater than 10% opacity, six-minute block average. Failure to meet the requirements of this section because of the presence of condensed water vapor shall not be a violation of this section.

**9 VAC 5-40-6120. Limit for fugitive dust/emissions.**

The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Fugitive Dust/Emissions, Rule 4-1) apply.

**9 VAC 5-40-6130. Limit for odor.**

The provisions of Article 2 (9 VAC 5-40-130 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Odor, Rule 4-2) apply.

**9 VAC 5-40-6140. Limit for toxic pollutants.**

The provisions of Article 3 (9 VAC 5-40-160 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Toxic Pollutants, Rule 4-3) apply.

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## **9 VAC 5-40-6150. HMIWI operator training and qualification.**

A. No owner of an affected facility shall allow the affected facility to operate at any time unless a fully trained and qualified HMIWI operator is accessible, either at the facility or available within one hour. The trained and qualified HMIWI operator may operate the HMIWI directly or be the direct supervisor of one or more HMIWI operators.

B. HMIWI operator training and qualification shall be obtained through a program approved by the Board for Waste Management Facility Operators or by completing the requirements included in subsections C through G of this section.

C. Training shall be obtained by completing an HMIWI operator training course that includes, at a minimum, the following provisions:

1. Twenty-four hours of training on the following subjects:

- a. Environmental concerns, including pathogen destruction and types of emissions;
- b. Basic combustion principles, including products of combustion;
- c. Operation of the type of incinerator to be used by the HMIWI operator, including proper startup, waste charging, and shutdown procedures;
- d. Combustion controls and monitoring;
- e. Operation of air pollution control equipment and factors affecting performance (if applicable);
- f. Methods to monitor pollutants (continuous emission monitoring systems and monitoring of HMIWI and air pollution control device operating parameters) and equipment calibration procedures (where applicable);
- g. Inspection and maintenance of the HMIWI, air pollution control devices, and continuous emission monitoring systems;
- h. Actions to correct malfunctions or conditions that may lead to malfunction;
- i. Bottom and fly ash characteristics and handling procedures;
- j. Applicable federal, state, and local regulations;
- k. Work safety procedures;
- l. Pre-startup inspections; and
- m. Recordkeeping requirements.

2. An examination designed and administered by the instructor.

3. Reference material distributed to the attendees covering the course topics.

D. Qualification shall be obtained by:

1. Completion of a training course that satisfies the criteria under subsection C of this section; and

2. Either six months experience as an HMIWI operator, six months experience as a direct supervisor of an HMIWI operator, or completion of at least two burn cycles under the observation of two qualified HMIWI operators.

E. Qualification is valid from the date on which the examination is passed or the completion of the required experience, whichever is later.

F. To maintain qualification, the trained and qualified HMIWI operator shall complete and pass an annual review or refresher course of at least four hours covering, at a minimum, the following:

1. Update of regulations;
2. Incinerator operation, including startup and shutdown procedures;
3. Inspection and maintenance;
4. Responses to malfunctions or conditions that may lead to malfunction; and
5. Discussion of operating problems encountered by attendees.

G. A lapsed qualification shall be renewed by one of the following methods:

1. For a lapse of less than three years, the HMIWI operator shall complete and pass a standard annual refresher course described in subsection F of this section.
2. For a lapse of three years or more, the HMIWI operator shall complete and pass a training course with the minimum criteria described in subsection C of this section.

H. The owner of an affected facility shall maintain documentation at the facility that address the following:

1. Summary of the applicable limits under this article;
2. Description of basic combustion theory applicable to an HMIWI;
3. Procedures for receiving, handling, and charging waste;
4. HMIWI startup, shutdown, and malfunction procedures;
5. Procedures for maintaining proper combustion air supply levels;
6. Procedures for operating the HMIWI and associated air pollution control systems within the limits established under this article;
7. Procedures for responding to periodic malfunction or conditions that may lead to malfunction;
8. Procedures for monitoring HMIWI emissions;
9. Reporting and recordkeeping procedures; and

10. Procedures for handling ash.

I. The owner of an affected facility shall establish a program for reviewing the information listed in subsection H of this section annually with each HMIWI operator.

1. The initial review of the information listed in subsection H of this section shall be conducted within six months after (the effective date of this article) or prior to assumption of responsibilities affecting HMIWI operation, whichever date is later.

2. Subsequent reviews of the information listed in subsection H of this section shall be conducted annually.

J. The information listed in subsection H of this section shall be kept in a readily accessible location for all HMIWI operators. This information, along with records of training shall be available for inspection by the board.

K. The initial training requirements of this section shall be performed within one year from (the effective date of this article).

L. All training and licensing shall be in accordance with § 54.1-1212 of the Code of Virginia.

**9 VAC 5-40-6160. Waste management plans.**

A. The owner of an affected facility shall prepare a waste management plan. The waste management plan shall identify both the feasibility and the approach to separate certain components of solid waste from the health care waste stream in order to reduce the amount of toxic emissions from incinerated waste. A waste management plan may include, but is not limited to, elements such as paper, cardboard, plastics, glass, battery, or metal recycling; or purchasing recycled or recyclable products. A waste management plan may include different goals or approaches for different areas or departments of the facility and need not include new waste management goals for every waste stream. It should identify, where possible, reasonably available additional waste management measures, taking into account the effectiveness of waste management measures already in place, the costs of additional measures, the emission reductions expected to be achieved, and any other environmental or energy impacts they might have. The American Hospital Association publication entitled "An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities" (see 9 VAC 5-20-21) shall be considered in the development of the waste management plan.

B. The waste management plan shall be submitted to the board no later than 60 days after the initial emissions test as required under 9 VAC 5-40-6180.

**9 VAC 5-40-6170. Inspections.**

A. The owner shall conduct an initial equipment inspection of each affected small, rural HMIWI by (one year after the effective date of this article). At a minimum, each inspection shall include the following:

1. Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation; clean pilot flame sensor, as necessary;

2. Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;

3. Inspect hinges and door latches, and lubricate as necessary;

4. Inspect dampers, fans, and blowers for proper operation;

5. Inspect HMIWI door and door gaskets for proper sealing;

6. Inspect motors for proper operation;

7. Inspect primary chamber refractory lining; clean and repair or replace lining as necessary;

8. Inspect incinerator shell for corrosion and hot spots;

9. Inspect secondary and tertiary chambers and stack, clean as necessary;

10. Inspect mechanical loader, including limit switches, for proper operation, if applicable;

11. Visually inspect waste bed (grates), and repair or seal, as appropriate;

12. For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments;

13. Inspect air pollution control device(s) for proper operation, if applicable;

14. Inspect waste heat boiler systems to ensure proper operation, if applicable;

15. Inspect bypass stack components;

16. Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and

17. Generally observe that the equipment is maintained in good operating condition.

B. The owner shall conduct an equipment inspection of each affected small, rural HMIWI annually (no more than 12 months following the previous annual equipment inspection), as outlined in subsection A of this section.

C. Within 10 operating days following an equipment inspection all necessary repairs shall be completed unless the owner obtains written approval from the board establishing a date whereby all necessary repairs of the affected facility shall be completed.

**9 VAC 5-40-6180. Compliance, emissions testing, and monitoring.**

A. The emission limits under this article apply at all times except during periods of startup, shutdown, or malfunction, provided that no hospital waste or medical/infectious waste is charged to the affected facility during startup, shutdown, or malfunction.

B. Except as provided in subsection K of this section, the owner of an affected facility shall conduct an initial emissions test as required under this section to determine compliance with the emission limits using the procedures and test

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methods listed in this subsection. The use of the bypass stack during an emissions test shall invalidate the emissions test.

1. All emissions tests shall consist of a minimum of three test runs conducted under representative operating conditions.
2. The minimum sample time shall be one hour per test run unless otherwise indicated.
3. Reference Method 1 shall be used to select the sampling location and number of traverse points.
4. Reference Method 3 or 3A shall be used for gas composition analysis, including measurement of oxygen concentration. Reference Method 3 or 3A shall be used simultaneously with each reference method.
5. The pollutant concentrations shall be adjusted to 7.0% oxygen using the following equation:

$$C_{adj} = C_{meas}(20.9 - 7)(20.9 - \%O_2)$$

where:

$C_{adj}$  = pollutant concentration adjusted to 7.0% oxygen;

$C_{meas}$  = pollutant concentration measured on a dry basis;

$(20.9 - 7)$  = 20.9% oxygen - 7.0% oxygen (defined oxygen correction basis);

20.9 = oxygen concentration in air, percent; and

$\%O_2$  = oxygen concentration measured on a dry basis, percent.

6. Reference Method 5 or 29 be used to measure the particulate matter emissions.
7. Reference Method 9 shall be used to measure stack opacity.
8. Reference Method 10 or 10B shall be used to measure the carbon monoxide emissions.
9. Reference Method 23 shall be used to measure total dioxin/furan emissions. The minimum sample time shall be four hours per test run. If the affected facility has selected the toxic equivalency limits for dioxin/furans, under 9 VAC 5-40-6040, the following procedures shall be used to determine compliance:
  - a. Measure the concentration of each dioxin/furan tetra-through octa-congener emitted using Reference Method 23.
  - b. For each dioxin/furan congener measured in accordance with subdivision B 9 a of this section, multiply the congener concentration by its corresponding toxic equivalency factor specified in Table 4-44A of this article.

TABLE 4-44A.  
TOXIC EQUIVALENCY FACTORS

Dioxin/furan congener	Toxic equivalency factor
2,3,7,8-tetrachlorinated dibenzo-p-dioxin	1
1,2,3,7,8-pentachlorinated dibenzo-p-dioxin	0.5
1,2,3,4,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,7,8,9-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,6,7,8-hexachlorinated dibenzo-p-dioxin	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzo-p-dioxin	0.01
octachlorinated dibenzo-p-dioxin	0.001
2,3,7,8-tetrachlorinated dibenzofuran	0.1
2,3,4,7,8-pentachlorinated dibenzofuran	0.5
1,2,3,7,8-pentachlorinated dibenzofuran	0.05
1,2,3,4,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,7,8,9-hexachlorinated dibenzofuran	0.1
2,3,4,6,7,8-hexachlorinated dibenzofuran	0.1
1,2,3,4,6,7,8-heptachlorinated dibenzofuran	0.01
1,2,3,4,7,8,9-heptachlorinated dibenzofuran	0.01
Octachlorinated dibenzofuran	0.001

c. Sum the products calculated in accordance with subdivision B 9 b of this section to obtain the total concentration of dioxins/furans emitted in terms of toxic equivalency.

10. Reference Method 26 shall be used to measure hydrogen chloride emissions. If the affected facility has selected the percentage reduction limits for hydrogen chloride under 9 VAC 5-40-6050, the percentage reduction in hydrogen chloride emissions ( $\%R_{HCl}$ ) is computed using the following formula:

$$(\% R_{HCl}) = \left( \frac{E_i - E_o}{E_i} \right) \times 100$$

where:

$\%R_{HCl}$  = percentage reduction of hydrogen chloride emissions achieved;

$E_i$  = hydrogen chloride emission concentration measured at the control device inlet, corrected to 7.0% oxygen (dry basis); and

$E_o$  = hydrogen chloride emission concentration measured at the control device outlet, corrected to 7.0% oxygen (dry basis).

11. Reference Method 29 shall be used to measure lead, cadmium, and mercury emissions. If the affected facility has selected the percentage reduction limits for metals under 9 VAC 5-40-6080, 9 VAC 5-40-6090, or 9 VAC 5-40-6100, the percentage reduction in emissions ( $\%R_{metal}$ ) is computed using the following formula:



$$(\% R_{metal}) = \left( \frac{E_i - E_o}{E_i} \right) \times 100$$

where:

$\%R_{metal}$  = percentage reduction of metal emission (lead, cadmium, or mercury) achieved;

$E_i$  = metal emission concentration (lead, cadmium, or mercury) measured at the control device inlet, corrected to 7.0% oxygen (dry basis); and

$E_o$  = metal emission concentration (lead, cadmium, or mercury) measured at the control device outlet, corrected to 7.0% oxygen (dry basis).

C. Following the date on which the initial emissions test is completed or is required to be completed under this section, whichever date comes first, the owner of an affected facility shall:

1. Determine compliance with the opacity limit by conducting an annual emissions test (no more than 12 months following the previous emissions test) using the applicable procedures and test methods listed in subsection B of this section.
2. Determine compliance with the particulate matter, carbon monoxide, and hydrogen chloride emission limits by conducting an annual emissions test (no more than 12 months following the previous emissions test) using the applicable procedures and test methods listed in subsection B of this section. If all three emissions tests over a three-year period indicate compliance with the emission limit for a pollutant (particulate matter, carbon monoxide, or hydrogen chloride), the owner may forego an emissions test for that pollutant for the subsequent two years. At a minimum, an emissions test for

particulate matter, carbon monoxide, and hydrogen chloride shall be conducted every third year (no more than 36 months following the previous emissions test). If an emissions test conducted every third year indicates compliance with the emission limit for a pollutant (particulate matter, carbon monoxide, or hydrogen chloride), the owner may forego an emissions test for that pollutant for an additional two years. If any emissions test indicates noncompliance with the respective emission limit, an emissions test for that pollutant shall be conducted annually until all annual emissions tests over a three-year period indicate compliance with the emission limit. The use of the bypass stack during an emissions test shall invalidate the emissions test.

3. Facilities using a continuous emission monitoring system to demonstrate compliance with any of the emission limits under 9 VAC 5-40-6020 through 9 VAC 5-40-6100 shall:

- a. Determine compliance with the appropriate emission limit(s) using a 12-hour rolling average, calculated each hour as the average of the previous 12 operating hours (not including startup, shutdown, or malfunction).
- b. Operate all continuous emission monitoring systems in accordance with the applicable procedures under Appendices B and F of 40 CFR Part 60.

D. The owner of an affected facility equipped with a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and wet scrubber shall:

1. Establish the appropriate maximum and minimum operating parameters, indicated in Table 4-44B of this article for each control system, as site specific operating parameters during the initial emissions test to determine compliance with the emission limits; and

TABLE 4-44B.  
OPERATING PARAMETERS TO BE MONITORED  
AND MINIMUM MEASUREMENT AND RECORDING FREQUENCIES

OPERATING PARAMETERS TO BE MONITORED	MINIMUM FREQUENCY		CONTROL SYSTEM		
	DATA MEASUREMENT	DATA RECORDING	DRY SCRUBBER/ FABRIC FILTER	WET SCRUBBER	DRY SCRUBBER/ FABRIC FILTER & WET SCRUBBER
MAXIMUM OPERATING PARAMETERS					
MAXIMUM CHARGE RATE	CONTINUOUS	1 X HOUR	✓	✓	✓
MAXIMUM FABRIC FILTER INLET TEMPERATURE	CONTINUOUS	1 X MINUTE	✓		✓
MAXIMUM FLUE GAS TEMP	CONTINUOUS	1 X MINUTE		✓	✓

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MINIMUM OPERATING PARAMETERS					
MINIMUM SECONDARY CHAMBER TEMP	CONTINUOUS	1 X MINUTE	✓	✓	✓
MINIMUM DIOXIN/FURAN SORBENT FLOW RATE	HOURLY	1 X HOUR	✓		✓
MINIMUM HCl SORBENT FLOW RATE	HOURLY	1 X HOUR	✓		✓
MINIMUM Hg SORBENT FLOW RATE	HOURLY	1 X HOUR	✓		✓
MINIMUM PRESSURE DROP ACROSS WET SCRUBBER OR MINIMUM HORSEPOWER OR AMPERAGE TO WET SCRUBBER	CONTINUOUS	1 X MINUTE		✓	✓
MINIMUM SCRUBBER LIQUOR FLOW RATE	CONTINUOUS	1 X MINUTE		✓	✓
MINIMUM SCRUBBER LIQUOR pH	CONTINUOUS	1 X MINUTE		✓	✓

2. Following the date on which the initial emissions test is completed or is required to be completed under this section, whichever date comes first, ensure that the affected facility does not operate above any of the applicable maximum operating parameters or below any of the applicable minimum operating parameters listed in Table 4-44B of this article and measured as three-hour rolling averages (calculated each hour as the average of the previous three operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during emissions tests. Operation above the established maximum or below the established minimum operating parameters shall constitute a violation of established operating parameters.

E. Except as provided in subsection H of this section, for affected facilities equipped with a dry scrubber followed by a fabric filter:

1. Operation of the affected facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the carbon monoxide emission limit.
2. Operation of the affected facility above the maximum fabric filter inlet temperature, above the maximum charge rate, and below the minimum dioxin/furan sorbent flow rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.
3. Operation of the affected facility above the maximum charge rate and below the minimum hydrogen chloride sorbent flow rate (each measured on a three-hour rolling

average) simultaneously shall constitute a violation of the hydrogen chloride emission limit.

4. Operation of the affected facility above the maximum charge rate and below the minimum mercury sorbent flow rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the mercury emission limit.

5. Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the particulate matter, dioxin/furan, hydrogen chloride, lead, cadmium, and mercury emission limits.

F. Except as provided in subsection H of this section, for affected facilities equipped with a wet scrubber:

1. Operation of the affected facility above the maximum charge rate and below the minimum pressure drop across the wet scrubber or below the minimum horsepower or amperage to the system (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the particulate matter emission limit.
2. Operation of the affected facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the carbon monoxide emission limit.
3. Operation of the affected facility above the maximum charge rate, below the minimum secondary chamber temperature, and below the minimum scrubber liquor flow rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.

4. Operation of the affected facility above the maximum charge rate and below the minimum scrubber liquor pH (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the hydrogen chloride emission limit.

5. Operation of the affected facility above the maximum flue gas temperature and above the maximum charge rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the mercury emission limit.

6. Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the particulate matter, dioxin/furan, hydrogen chloride, lead, cadmium, and mercury emission limits.

G. Except as provided in subsection H of this section, for affected facilities equipped with a dry scrubber followed by a fabric filter and a wet scrubber:

1. Operation of the affected facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the carbon monoxide emission limit.

2. Operation of the affected facility above the maximum fabric filter inlet temperature, above the maximum charge rate, and below the minimum dioxin/furan sorbent flow rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the dioxin/furan emission limit.

3. Operation of the affected facility above the maximum charge rate and below the minimum scrubber liquor pH (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the hydrogen chloride emission limit.

4. Operation of the affected facility above the maximum charge rate and below the minimum mercury sorbent flow rate (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the mercury emission limit.

5. Use of the bypass stack (except during startup, shutdown, or malfunction) shall constitute a violation of the particulate matter, dioxin/furan, hydrogen chloride, lead, cadmium, and mercury emission limits.

H. The owner of an affected facility may conduct a repeat emissions test within 30 days of violation of applicable operating parameters to demonstrate that the affected facility is not in violation of the applicable emission limits. Repeat emissions tests conducted pursuant to this subsection shall be conducted using the identical operating parameters that indicated a violation under subsection E, F, or G of this section.

I. The owner of an affected facility using an air pollution control device other than a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits under 9 VAC 5-40-6020 through 9 VAC 5-40-6100 shall petition the board for other site-specific operating parameters

to be established during the initial emissions test and continuously monitored thereafter. The owner shall not conduct the initial emissions test until after the petition has been approved by the board.

J. The owner of an affected facility may conduct a repeat emissions test at any time to establish new values for the operating parameters. The board may request a repeat emissions test at any time.

K. Small, rural HMIWIs subject to the emission limits under 9 VAC 5-40-6020 through 9 VAC 5-40-6100 shall meet the following compliance and emissions testing requirements:

1. Conduct the emissions testing requirements in subdivisions B 1 through 9, B 11 (mercury only), and C 1 of this section. The 2,000 lb/week limitation under 9 VAC 5-40-6010 does not apply during emissions tests.

2. Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial emissions test to determine compliance with applicable emission limits.

3. Following the date on which the initial emissions test is completed or is required to be completed under this section, whichever date comes first, ensure that the affected facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as three-hour rolling averages (calculated each hour as the average of the previous three operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during emissions tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameters.

4. Except as provided in subdivision B 5 of this section, operation of the affected facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the particulate matter, carbon monoxide, and dioxin/furan emission limits.

5. The owner of an affected facility may conduct a repeat emissions test within 30 days of violation of applicable operating parameters to demonstrate that the affected facility is not in violation of the applicable emission limits. Repeat emissions tests conducted pursuant to this subsection must be conducted using the identical operating parameters that indicated a violation under subdivision 4 of this subsection.

L. Owners of affected facilities shall perform monitoring as follows, except as provided for under subsection M of this section.

1. The owner of an affected facility shall install, calibrate (to manufacturers' specifications), maintain, and operate devices (or establish methods) for monitoring the applicable maximum and minimum operating parameters listed in Table 4-44B of this article such that these devices (or methods) measure and record values for

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these operating parameters at the frequencies indicated in Table 4-44B of this article at all times except during periods of startup and shutdown.

2. The owner of an affected facility shall install, calibrate (to manufacturers' specifications), maintain, and operate a device or method for measuring the use of the bypass stack including date, time, and duration.

3. The owner of an affected facility using something other than a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits under 9 VAC 5-40-6020 through 9 VAC 5-40-6100 shall install, calibrate (to the manufacturers' specifications), maintain, and operate the equipment necessary to monitor the site-specific operating parameters developed pursuant to subsection 1 of this section.

4. The owner of an affected facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75% of the operating hours per day for 90% of the operating days per calendar quarter that the affected facility is combusting hospital waste and medical/infectious waste or both.

M. Small, rural HMIWI subject to the emission limits under 9 VAC 5-40-6020 through 9 VAC 5-40-6100 shall meet the following monitoring requirements:

1. Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

2. Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

3. The owner of an affected facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75% of the operating hours per day for 90% of the operating hours per calendar quarter that the affected facility is combusting hospital waste and medical/infectious waste or both.

### **9 VAC 5-40-6190. Recordkeeping and reporting.**

A. The owner of an affected facility shall maintain the following information (as applicable) for a period of at least five years:

1. Calendar date of each record;
2. Records of the following data:

- a. Concentrations of any pollutant listed in 9 VAC 5-40-6020 through 9 VAC 5-40-6100 or measurements

of opacity as determined by the continuous emission monitoring system (if applicable);

b. HMIWI charge dates, times, and weights and hourly charge rates;

c. Fabric filter inlet temperatures during each minute of operation, as applicable;

d. Amount and type of dioxin/furan sorbent used during each hour of operation, as applicable;

e. Amount and type of mercury sorbent used during each hour of operation, as applicable;

f. Amount and type of hydrogen chloride sorbent used during each hour of operation, as applicable;

g. Secondary chamber temperatures recorded during each minute of operation;

h. Liquor flow rate to the wet scrubber inlet during each minute of operation, as applicable;

i. Horsepower or amperage to the wet scrubber during each minute of operation, as applicable;

j. Pressure drop across the wet scrubber system during each minute of operation, as applicable,

k. Temperature at the outlet from the wet scrubber during each minute of operation, as applicable;

l. pH at the inlet to the wet scrubber during each minute of operation, as applicable;

m. Records indicating use of the bypass stack, including dates, times, and durations; and

n. For affected facilities complying with 9 VAC 5-40-6180 I and 9 VAC 5-40-6180 L 3, the owner shall maintain all operating parameter data collected.

3. Identification of calendar days for which data on emission rates or operating parameters specified under subdivision 2 of this subsection have not been obtained, with an identification of the emission rates or operating parameters not measured, reasons for not obtaining the data, and a description of corrective actions taken.

4. Identification of calendar days, times and durations of malfunctions, a description of the malfunction and the corrective action taken.

5. Identification of calendar days for which data on emission rates or operating parameters specified under subdivision 2 of this subsection exceeded the applicable limits, with a description of the exceedances, reasons for such exceedances, and a description of corrective actions taken.

6. The results of the initial, annual, and any subsequent emissions tests conducted to determine compliance with the emission limits or to establish operating parameters, as applicable.

7. Records showing the names of HMIWI operators who have completed review of the information in 9 VAC 5-40-6150 H as required by 9 VAC 5-40-6150 I, including the

date of the initial review and all subsequent annual reviews.

8. Records showing the names of the HMIWI operators who have completed the HMIWI operator training requirements, including documentation of training and the dates of the training.

9. Records showing the names of the HMIWI operators who have met the criteria for qualification under 9 VAC 5-40-6150 and the dates of their qualification.

10. Records of calibration of any monitoring devices as required under 9 VAC 5-40-6180 L 1, 2 and 3.

B. The owner of an affected facility shall submit the information specified in this subsection no later than 60 days following the initial emissions test. All reports shall be signed by the facilities manager.

1. The initial emissions test data as recorded under 9 VAC 5-40-6180 B 1 through 11, as applicable.

2. The values for the site-specific operating parameters established pursuant to 9 VAC 5-40-6180 D or I, as applicable.

3. The waste management plan as specified in 9 VAC 5-40-6150.

C. An annual report shall be submitted one year following the submission of the information in subsection B of this section and subsequent reports shall be submitted no more than 12 months following the previous report (once the unit is subject to a federal operating permit as provided in 9 VAC 5-40-6000 F, the owner of an affected facility must submit these reports semiannually). The annual report shall include the information specified in this subsection. All reports shall be signed by the facilities manager.

1. The values for the site-specific operating parameters established pursuant to 9 VAC 5-40-6180 D or I, as applicable.

2. The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported, pursuant to 9 VAC 5-40-6180 D or I, as applicable.

3. The highest maximum operating parameter and the lowest minimum operating parameter, as applicable for each operating parameter recorded pursuant to 9 VAC 5-40-6180 D or I for the calendar year preceding the year being reported, in order to provide the board with a summary of the performance of the affected facility over a two-year period.

4. Any information recorded under subdivisions A 3 through 5 of this section for the calendar year being reported.

5. Any information recorded under subdivisions A 3 through 5 of this section for the calendar year preceding the year being reported, in order to provide the board with a summary of the performance of the affected facility over a two-year period.

6. If an emissions test was conducted during the reporting period, the results of that test.

7. If no exceedances or malfunctions were reported under subdivisions A 3 through 5 of this section for the calendar year being reported, a statement that no exceedances occurred during the reporting period.

8. Any use of the bypass stack, the duration, reason for malfunction, and corrective action taken.

D. The owner of an affected facility shall submit semiannual reports containing any information recorded under subdivisions A 3 through 5 of this section no later than 60 days following the reporting period. The first semiannual reporting period ends six months following the submission of information in subsection B of this section. Subsequent reports shall be submitted no later than six calendar months following the previous report. All reports shall be signed by the facilities manager.

E. All records specified under subsection A of this section shall be maintained onsite in either paper copy or computer-readable format, unless an alternative format is approved by the board.

F. The owner of each small, rural HMIWI shall:

1. Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days of an inspection or the timeframe established by the board; and

2. Submit an annual report containing information recorded under subdivision 1 of this subsection no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report (once the unit is subject to a federal operating permit as provided in 9 VAC 5-40-6000 F, the owner must submit these reports semiannually). The report shall be signed by the facilities manager.

## **9 VAC 5-40-6200. Compliance schedules.**

A. Except as provided in subsection B of this section, owners shall:

1. Comply with the emission limits in this article as expeditiously as possible but in no case later than (one year after the effective date of this article), and

2. Conduct the initial emissions test of the air pollution control device no later than (180 days plus one year after the effective date of this article).

B. Until (six months after the effective date of this article), owners of affected facilities may petition the board for an extension to the compliance date in subsection A of this section. This petition shall include the following:

1. Documentation of the analyses undertaken to support the need for an extension, including an explanation of why until September 15, 2002, is needed to comply with this article while compliance by (one year after the effective date of this article) is not feasible. The documentation shall also include an evaluation of the

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option to transport the waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and

2. Documentation of measurable and enforceable incremental steps of progress to be taken towards compliance with the emission guidelines, including:

- a. If applicable, date for submitting a petition for site-specific operating parameters under 40 CFR 60.56c(i).
- b. Date for submittal of the control plan;
- c. Date for obtaining services of an architectural and engineering firm regarding the air pollution control device(s);
- d. Date for obtaining design drawings of the air pollution control device(s);
- e. Date for ordering the air pollution control device(s);
- f. Date for obtaining the major components of the air pollution control device(s);
- h. Date for initiation of site preparation for installation of the air pollution control device(s);
- h. Date for initiation of installation of the air pollution control device(s);
- i. Date for initial startup of the air pollution control device(s);
- j. Date for initial emissions test(s) of the air pollution control device(s); and
- k. Date for final compliance.

## **9 VAC 5-40-6210. Registration.**

The provisions of 9 VAC 5-20-160 (Registration) apply.

## **9 VAC 5-40-6220. Facility and control equipment maintenance or malfunction.**

The provisions of 9 VAC 5-20-180 (Facility and control equipment maintenance or malfunction) apply.

## **9 VAC 5-40-6230. Permits.**

A permit may be required prior to beginning any of the activities specified below if the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) apply. Owners contemplating such action should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.

1. Construction of a facility.
2. Reconstruction (replacement of more than half) of a facility.
3. Modification (any physical change to equipment) of a facility.
4. Relocation of a facility.
5. Reactivation (restart-up) of a facility.
6. Operation of a facility.

## DOCUMENT INCORPORATED BY REFERENCE

*An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, AHA Catalog no. W5-057007, 1993.*

VA.R. Doc. No. R99-35; Filed November 3, 1999, 11:41 a.m.



## **TITLE 12. HEALTH**

### **STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD**

#### **Withdrawal**

Title of Regulation: **12 VAC 35-110-10 et seq. Rules and Regulations to Assure the Rights of Residents in Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.**

The State Mental Health, Mental Retardation and Substance Abuse Services Board has withdrawn the proposed action to repeal the Rules and Regulations to Assure the Rights of Residents in Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services, which was published in 14:26 VA.R. 4218-4219 September 14, 1998.

VA.R. Doc. No. R94-291, October 27, 1999, 11:56 a.m.

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#### **Withdrawal**

Title of Regulation: **12 VAC 35-115-10 et seq. Rules and Regulations to Assure the Rights of Clients in Facilities and Programs Operated, Funded or Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.**

The State Mental Health, Mental Retardation and Substance Abuse Services Board has withdrawn the proposed regulation entitled: Rules and Regulations to Assure the Rights of Clients in Facilities and Programs Operated, Funded or Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services, which was published in 14:26 VA.R. September 14, 1998. The board has filed a Notice of Intended Regulatory Action for the development of a new proposed regulation entitled 12 VAC 35-115-10 et seq., Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Addiction Services, which is published in the Notices of Intended Regulatory Action section of this issue of the Virginia Register of Regulations.

VA.R. Doc. No. R94-293, November 4, 1999, 11:30 a.m.

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Withdrawal

Title of Regulation: 12 VAC 35-120-10 et seq. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

The State Mental Health, Mental Retardation and Substance Abuse Services Board has withdrawn the proposed action to repeal the Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services, which was published in 14:26 VA.R. 4245-4246 September 14, 1998.

VA.R. Doc. No. R98-137, October 27, 1999, 11:56 a.m.

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Withdrawal

Title of Regulation: 12 VAC 35-130-10 et seq. Rules and Regulations to Assure the Rights of Clients in Community Programs.

The State Mental Health, Mental Retardation and Substance Abuse Services Board has withdrawn the proposed action to repeal the Rules and Regulations to Assure the Rights of Clients in Community Programs which was published in 14:26 VA.R. 4246-4247 September 14, 1998.

VA.R. Doc. No. R94-292, October 27, 1999, 11:56 a.m.



TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

Title of Regulation: 14 VAC 5-215-10 et seq. Rules Governing Independent External Review of Final Adverse Utilization Review Decisions.

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

Summary:

The purpose of the proposed rules is to carry out the provisions of Chapter 59 (§ 38.2-5900 et seq.) of Title 38.2 of the Code of Virginia dealing with External Review of Final Adverse Review Decisions. The proposed rules provide a process for appeals to be made to the State Corporation Commission's Bureau of Insurance to obtain an independent external review of final adverse decisions made by or on behalf of Managed Care Health Insurance Plans. The proposed rules also establish procedures for both standard and expedited considerations of such

appeals, and establish standards, credentials, and qualifications for those impartial health entities that will be contracted by the Bureau of Insurance to perform the reviews of such appeals.

Agency Contact: Robert L. Wright, III, Principal Insurance Analyst, Life and Health Division, Bureau of Insurance, State Corporation Commission, 1300 E. Main Street, 5th Floor, Richmond, VA 23219; mailing address P.O. Box 1157, Richmond, VA 23218; telephone (804) 371-9074.

AT RICHMOND, NOVEMBER 2, 1999

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Rules Governing Independent External Review of Final Adverse Utilization Review Decisions (14 VAC 5-215-10 et seq.)

CASE NO. INS990252

ORDER TO TAKE NOTICE

WHEREAS, § 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, § 38.2-5905 of the Code of Virginia provides that the Commission shall promulgate regulations effectuating the purpose of Chapter 59 of Title 38.2 of the Code of Virginia;

WHEREAS, the rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed regulation entitled "Rules Governing Independent External Review of Final Adverse Utilization Review Decisions," which is to be published in Chapter 215 of Title 14 of the Virginia Administrative Code as rules at 14 VAC 5-215-10 through 14 VAC 5-215-130;

WHEREAS, the Bureau of Insurance has recommended to the Commission that the proposed regulation be adopted with an effective date of February 15, 2000; and

WHEREAS, the Commission is of the opinion that a hearing should be held to consider the adoption of the proposed regulation;

THEREFORE, IT IS ORDERED THAT:

(1) The proposed regulation be attached hereto and made a part hereof as rules to be designated 14 VAC 5-215-10 through 14 VAC 5-215-130;

(2) All interested persons TAKE NOTICE that the Commission shall conduct a hearing in the Commission's Courtroom, 2nd Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219 at 10:00 a.m. on December 16,

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# Proposed Regulations

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1999, to consider the adoption of the attached regulation proposed by the Bureau of Insurance with an effective date of February 15, 2000;

(3) On or before December 2, 1999, any person desiring to comment in support of, or in opposition to, the proposed regulation shall file such comments in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218;

(4) On or before December 2, 1999, any person intending to appear and be heard at the hearing on the proposed regulation shall file written notice of his intention to do so with the Clerk of the Commission at the address above;

(5) All filings made under paragraphs (3) or (4) shall contain a reference to Case No. INS990252;

(6) An attested copy hereof, together with a copy of the proposed regulation, be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the proposed adoption of the regulation by mailing a copy of this Order, together with a draft of the proposed regulation, to all insurers licensed by the Commission to write accident and sickness insurance in the Commonwealth of Virginia and all health services plans, health maintenance organizations, and dental or optometric services plans licensed by the Commission under Chapters 42, 43, and 45, respectively, of Title 38.2 of the Code of Virginia; and

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (6) above.

## CHAPTER 215.

### RULES GOVERNING INDEPENDENT EXTERNAL REVIEW OF FINAL ADVERSE UTILIZATION REVIEW DECISIONS.

#### **14 VAC 5-215-10. Scope and purpose.**

A. *This chapter shall apply to all utilization review entities as that term is defined in 14 VAC 5-215-30 of this chapter, the issuer of a covered person's policy or contract of health benefits, and covered persons.*

B. *This chapter shall not apply to utilization performed under contract with the federal government for utilization of patients eligible for hospital services under Title XVIII of the Social Security Act (42 USC § 1395 et seq.) or under contract with a plan otherwise exempt from the operation of this chapter pursuant to the Employee Retirement Income Security Act of 1974 (29 USC § 1001 et seq.).*

*This chapter shall not apply to programs administered by the Department of Medical Assistance Services or under contract with the Department of Medical Assistance Services.*

C. *The purpose of this chapter is to set forth rules to carry out the provisions of Chapter 59 (§ 38.2-5900 et seq.) of Title 38.2 of the Code of Virginia so as to provide (i) a process for appeals to be made to the Bureau of Insurance to obtain an independent external review of final adverse decisions made by a utilization review entity; (ii) procedures for expedited consideration of appeals in cases of emergency health care;*

*and (iii) standards, credentials, and qualifications for impartial health entities.*

#### **14 VAC 5-215-20. Evidence of Coverage forms.**

A. *The right of appeal contained in this chapter shall commence with regard to final adverse decisions rendered on or after May 17, 2000. Evidences of Coverage affected by this chapter that are issued, extended, renewed, amended, or reissued on or after February 15, 2000, shall conform to the provisions of this chapter. Evidences of Coverage in force on February 15, 2000, shall be deemed to be in compliance with this chapter and may continue to be used until the date that they are extended, renewed, amended, or reissued. If any provision of an Evidence of Coverage in force February 15, 2000, conflicts with provisions of this chapter, the Bureau of Insurance and the impartial health entity shall use the provision more beneficial to the covered person.*

B. *In the event of a final adverse decision, a utilization review entity shall provide to the covered person or treating health care provider requesting the decision a clear and understandable written notification of (i) the right to appeal final adverse decisions to the Bureau of Insurance in accordance with the provisions of Chapter 59 of Title 38.2 of the Code of Virginia; (ii) the procedures for making such an appeal; and (iii) the binding nature and effect of such an appeal. The notice shall include a copy of the then current "Appeal of Final Adverse Decision" form, or such other form or forms as may then be required by the Bureau of Insurance pursuant to 14 VAC 5-215-120.*

#### **14 VAC 5-215-30. Definitions.**

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

*"Adverse decision" means a utilization review determination by the utilization review entity that the health care service rendered or proposed to be rendered was or is not medically necessary, when such determination may result in noncoverage of the health care service.*

*"Appellant" means (i) the covered person, the covered person's parent if the covered person is a minor, or the covered person's legal guardian or (ii) the covered person's treating health care provider acting with the consent of the covered person, the covered person's parent if the covered person is a minor, or the covered person's legal guardian.*

*"Commission" means the Virginia State Corporation Commission.*

*"Commissioner" means the Commissioner of Insurance.*

*"Covered person" means a subscriber, policyholder, member, enrollee or dependent, as the case may be, under a policy or contract issued or issued for delivery in Virginia by a managed care health insurance plan licensee, insurer, health services plan, or preferred provider organization.*

*"Emergency health care" means health care items and medical services furnished or required to evaluate and treat an emergency medical condition.*



"Emergency medical condition" means the sudden and, at the time, unexpected onset of a health condition or illness that requires immediate medical attention, the absence of which would result in a serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy. "Emergency medical condition" also means those health care services that are necessary to treat a condition or illness of a covered person that if not treated within the time frame allotted for a standard review under this chapter will result in serious risk of harm to the health of the covered person.

"Evidence of Coverage" means any certificate, individual or group agreement or contract, or identification card or related documents issued in conjunction with the certificate, agreement or contract, issued to a subscriber setting out the coverage and other rights to which a covered person is entitled.

"Final adverse decision" means a utilization review determination made by a utilization review entity in: (i) declining to grant an expedited review in a situation involving an alleged emergency medical condition; (ii) declining to provide coverage or services for an alleged emergency medical condition, whether before or after granting an expedited review; or (iii) a reconsideration of a prior adverse decision, and upon which a covered person or a treating health care provider acting with the consent of a covered person may base an appeal. For purposes of this chapter, a final adverse decision shall be deemed to have been made on the date that it is communicated to the covered person or treating health care provider.

"Treating health care provider" or "provider," means a licensed health care provider who renders or proposes to render health care services to a covered person.

"Utilization review" means a system for reviewing the necessity, appropriateness, and efficiency of hospital, medical or other health care services rendered or proposed to be rendered to a patient or group of patients for the purpose of determining whether such services should be covered or provided by an insurer, health services plan, managed care health insurance plan licensee, or other entity or person. As used herein, "utilization review" shall include, but shall not be limited to, preadmission, concurrent and retrospective medical necessity determination, and review related to the appropriateness of the site at which services were or are to be delivered.

"Utilization review" shall also include determinations of medical necessity based upon contractual limitations regarding "experimental" or "investigational" procedures, by whatever terms designated in the evidence of coverage. "Utilization review" shall not include any: (i) review of issues concerning insurance contract coverage or contractual restrictions on facilities to be used for the provision of services; (ii) review of patient information by an employee of or consultant to any licensed hospital for patients of such hospital; or (iii) determination by an insurer as to the reasonableness and necessity of services for the treatment and care of an injury suffered by an insured for which reimbursement is claimed under a contract of insurance covering any classes of insurance defined in §§ 38.2-117

through 38.2-119, 38.2-124 through 38.2-126, 38.2-130 through 38.2-132, and 38.2-134 of the Code of Virginia.

"Utilization review entity" or "entity" means a person or entity performing utilization review.

#### **14 VAC 5-215-40. Minimum appealable amount.**

A. Appeals of final adverse decisions may be made to the Bureau of Insurance provided that the cost of the health care service or services to the covered person would exceed \$500 if the final adverse decision is not reversed. The cost of the health care service or services shall be determined by the amount the covered person has paid or has incurred a legal obligation to pay for such service or services, as well as the amount that the covered person would be obligated to pay in the event that the final adverse decision is not reversed.

B. The health care service or services must meet the following criteria in order to be eligible for an external review as provided by this chapter:

1. The service or services, as described by the most recent published editions of the applicable International Classification of Diseases 9th Revision Clinical Modification, Physician's Current Procedural Terminology, Diagnostic Related Groups, or other billing code, must have a minimum value, as measured by the cost to the covered person, that exceeds \$500.
2. No covered person or provider shall engage in "bundling" techniques designed to combine the value of denied services such that the cost to the covered person of denied services artificially exceeds \$500.
3. The commissioner, or his designee, shall have the final undisputed authority to determine if the cost to the covered person of the denied services exceeds \$500.

#### **14 VAC 5-215-50. Appeals.**

A. An appeal of a final adverse decision made by a utilization review entity shall be submitted to the Bureau of Insurance within 30 days of the final adverse decision. The appeal shall be made by (i) completing and signing a copy of the then current "Appeal of Final Adverse Decision" form, or such other form or forms as may then be required by the Bureau of Insurance pursuant to 14 VAC 5-215-120; (ii) completing and signing an "Authorization to Release Medical Information" in a form and manner required by the Bureau of Insurance; and (iii) forwarding a check or money order made payable to the "Treasurer of Virginia" in the amount of \$50. The Bureau of Insurance shall provide a copy of the written appeal to the utilization review entity that made the final adverse decision.

B. The \$50 fee required to file an appeal may be waived or refunded for good cause shown upon a determination by the Bureau of Insurance that payment of the filing fee will cause undue financial hardship for the covered person. Such determination shall be based upon information provided on the "Appeal of Final Adverse Decision" form then required by the Bureau of Insurance, and any supplemental information required by the Bureau of Insurance. The decision of the Bureau of Insurance as to whether good cause has been

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shown that payment of the filing fee will cause undue financial hardship shall be final.

C. A preliminary review of the appeal shall be conducted by the Bureau of Insurance or its designee to determine the following: (i) that the person on whose behalf the appeal has been filed is, or was, a covered person at the time the health care service in question was requested; (ii) that the appellant satisfies the definition of "appellant" set forth in 14 VAC 5-215-30; (iii) that the benefit or service that is the subject of the appeal reasonably appears to be a covered service for which the cost to the covered person would exceed \$500 if the final adverse decision is not reversed; (iv) that all other appeal procedures available to the appellant have been exhausted, except in the case of an appeal accepted as one requiring expedited review; and (v) that the appeal is otherwise complete and filed in accordance with this section. The Bureau of Insurance shall not accept an appeal that does not meet the foregoing requirements.

D. The preliminary review shall be conducted within five working days of receipt of all information and documentation necessary to conduct the preliminary review.

E. The Bureau of Insurance shall notify the appellant and the utilization review entity in writing within three working days of the completion of the preliminary review whether the appeal has been accepted for review, and if not accepted, the reason or reasons therefor.

F. The appellant, the treating health care provider, if not the appellant, and the utilization review entity shall provide to the Bureau of Insurance or its designee copies of all medical records relevant to the final adverse decision within 10 working days after the Bureau of Insurance has mailed written notice of its acceptance of the appeal. The confidentiality of these medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

G. The Bureau of Insurance, or its designee, may request additional medical records from the appellant, the treating health care provider, if not the appellant, or the utilization review entity. Such medical records shall be provided to the entity making the request, whether the Bureau of Insurance or its designee, within 10 working days of the request. The confidentiality of these medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth. Failure to comply with the request within the required time may result in dismissal of the appeal or reversal of the final adverse decision at the discretion of the Commissioner of Insurance.

H. If an appeal that is reviewed as an expedited appeal by a utilization review entity results in a final adverse decision, the utilization review entity shall take the following actions immediately: (i) notify the person who requested the expedited review of the final adverse decision; and (ii) notify the appellant, by telephone, telefacsimile, or electronic mail, that the appellant is eligible for an expedited appeal to the Bureau of Insurance without the necessity of providing the justification required pursuant to subdivision 1 of 14 VAC 5-215-80. The notification shall be followed within 24 hours by written notice to the appellant and the treating health care provider, if not the appellant, clearly informing them of the

right to appeal this decision to the Bureau of Insurance and providing the appropriate forms by which such appeal to the Bureau of Insurance may be filed. A copy of this written notice shall be retained by the utilization review entity and included with any materials forwarded to the Bureau of Insurance in the event the utilization review entity's decision is appealed to the Bureau of Insurance.

I. If a request for an expedited review is denied by a utilization review entity, the entity shall take the following actions immediately: (i) notify the appellant of the decision by telephone, telefacsimile, or electronic mail; and (ii) inform the appellant that the appellant has the right to file a request for an expedited appeal with the Bureau of Insurance pursuant to subdivision 1 of 14 VAC 5-215-80. This notification shall be followed within 24 hours by a written notice to the appellant and the treating health care provider, if not the appellant, clearly informing them of the right to appeal this decision to the Bureau of Insurance and providing the appropriate forms by which such appeal to the Bureau of Insurance may be filed. A copy of the written notice shall be retained by the utilization review entity and included with any materials forwarded to the Bureau of Insurance in the event the utilization review entity's decision is appealed to the Bureau of Insurance.

J. If the Bureau of Insurance, or its designee, determines that a request for an expedited review which has been reviewed in accordance with subsection I of this section does not meet its criteria for an expedited review, the appellant shall be notified in writing by the Bureau of Insurance, or its designee, within two working days from the time such determination is made. The notice shall instruct the appellant wishing to pursue the appeal to contact the issuer of coverage and request a review through the standard review process of the issues for which an expedited review was sought.

### **14 VAC 5-215-60. Impartial health entity.**

The Bureau of Insurance shall contract with one or more impartial health entities to perform the review of final adverse decisions made by utilization review entities. The impartial health entity shall examine the final adverse decision and determine whether the decision is objective, clinically valid, compatible with established principles of health care, and appropriate under the terms of the contractual obligations to the covered person. The impartial health entity shall issue its written recommendation affirming, modifying, or reversing the final adverse decision within 30 working days of the acceptance of the appeal by the Bureau of Insurance in the case of a standard review as set forth in 14 VAC 5-215-70. In the case of an expedited review, the impartial health entity shall issue its written recommendation within five working days of the acceptance of the appeal by the Bureau of Insurance.

### **14 VAC 5-215-70. Standard review.**

A. The Bureau of Insurance, within two working days following its acceptance of an appeal, shall assign an impartial health entity with which it has contracted pursuant to 14 VAC 5-215-60 to conduct an external review and to provide a written recommendation to the commissioner as to

whether to affirm, modify, or reverse the final adverse decision.

B. In reaching a recommendation, the assigned impartial health entity is not bound by any decisions or conclusions reached during the utilization review entity's utilization review process.

C. The utilization review entity shall provide to the assigned impartial health entity all documents, medical records, and other information relevant to the final adverse decision within 10 working days of the receipt of the notice required in 14 VAC 5-215-50 F.

D. Except as provided in subsection E of this section, failure of the utilization review entity to provide the documents, medical records and information within the time specified in subsection C of this section shall not delay the conduct of the external review.

E. 1. Upon receipt of a notice from the assigned impartial health entity that the utilization review entity, appellant, or the treating health care provider, if not the appellant, has failed to provide the documents, medical records, and information within the time specified in subsection C of this section, the commissioner may terminate the external review and make a decision to affirm or reverse the final adverse decision.

2. Immediately upon making the decision pursuant to subdivision 1 of this subsection, the commissioner shall communicate his decision in writing to the assigned impartial health entity, the appellant and the utilization review entity.

F. The assigned impartial health entity shall review all of the relevant information and documents received pursuant to subsection C of this section and any other information submitted in writing by the appellant that has been forwarded to the impartial health entity by the Bureau of Insurance.

G. In addition to the documents and information provided pursuant to subsection C of this section, the assigned impartial health entity, to the extent the information is available and the impartial health entity considers them appropriate, shall consider the following in making its recommendation:

1. The treating health care provider's recommendation;
2. Consulting reports from appropriate health care providers and other documents submitted by the utilization review entity, the appellant, or the covered person's treating health care provider, if not the appellant;
3. The terms of coverage under the covered person's health benefit plan;
4. The most appropriate practice guidelines, which may include generally accepted practice guidelines, evidence-based practice guidelines or any other practice guidelines developed by the federal government, national or professional medical societies, boards and associations; and

5. Any applicable clinical review criteria developed or used by the utilization review entity.

H. The assigned impartial health entity shall include in its recommendation provided pursuant to 14 VAC 5-215-60:

1. A general description of the reason or reasons for the request for external review;
2. The date the impartial health entity received the assignment from the Bureau of Insurance to conduct the external review;
3. The dates the external review began and concluded;
4. The date of its recommendation;
5. The principal reason or reasons for its recommendation;
6. The rationale for its recommendation; and
7. References to the evidence or documentation, including the practice guidelines or clinical criteria, considered in reaching its recommendation.

I. 1. Immediately upon receipt of the assigned impartial health entity's recommendation, the commissioner shall review the recommendation to ensure that it is not arbitrary or capricious.

2. The commissioner shall notify the appellant and the utilization review entity in writing of the decision to uphold or reverse the final adverse decision by issuing a written ruling affirming, modifying or reversing the final adverse decision. The written ruling shall bind the covered person and the issuer of the covered person's policy or contract for health benefits to the same extent to which each would have been bound by a judgment entered in an action at law or in equity with respect to the issues which the impartial health entity may examine when reviewing a final adverse decision.

3. The commissioner shall include in the notice sent pursuant to subdivision 2 of this subsection:

a. The principal reason or reasons for the decision, including, as an attachment to the notice or in any other manner that the commissioner considers appropriate, the information provided by the assigned impartial health entity supporting its recommendation; and

b. If applicable, the principal reason or reasons why the commissioner did not follow the assigned impartial health entity's recommendation.

4. Upon notice of a decision pursuant to subdivision 1 of this subsection reversing the final adverse decision, the utilization review entity immediately shall approve and provide, or provide reimbursement for, any and all medical services that were the subject of the final adverse decision.

**14 VAC 5-215-80. Expedited review.**

Appeals presented to the Bureau of Insurance as requiring emergency health care shall be evaluated as follows.

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1. Immediately upon receipt of an appeal indicating that emergency health care is required and otherwise meeting the requirements for review as provided in 14 VAC 5-215-50 C, the Bureau of Insurance shall consult with the impartial health entity to which the appeal normally would be assigned, and such entity shall determine if the appeal involves emergency health care.

2. If, after consultation with the impartial health entity, a determination is made by the Bureau of Insurance that the appeal does not qualify for an expedited review, the person making the request for the expedited review shall be notified within two working days of receipt by the Bureau of Insurance of sufficient information to support the request for expedited review. The declination by the Bureau of Insurance to provide an expedited review shall not preclude the appellant from resuming the normal appeal process within the utilization review entity or from filing a request for a standard review by the Bureau of Insurance, provided the requirements set forth in 14 VAC 5-215-50 A have been met.

3. Immediately upon acceptance of an appeal for expedited review, the Bureau of Insurance shall notify the utilization review entity and the appellant by the most expeditious means available, including telephone, telefacsimile, or electronic mail, of their right to submit information and supporting documentation. Such information shall be submitted to the Bureau of Insurance or the impartial health entity within two working days of the acceptance of the appeal.

4. Upon the acceptance of the appeal for expedited review the Bureau of Insurance shall assign the appeal to an impartial health entity for clinical review as provided in 14 VAC 5-215-60. The impartial health entity shall review the appeal and make a decision as required under 14 VAC 5-215-60 as soon as possible consistent with the medical exigencies of the case, but in no event more than five working days after its receipt of the appeal.

## **14 VAC 5-215-90. Reconsideration of final adverse decision.**

A. The utilization review entity may reconsider its final adverse decision that is the subject of the external review at any time.

B. Reconsideration by the utilization review entity of its final adverse decision shall not delay or terminate the external review.

C. The external review may be terminated if the utilization review entity decides, upon completion of its reconsideration, to reverse its final adverse decision and provide coverage or payment for the health care service that is the subject of the final adverse decision.

D. 1. Immediately upon making the decision to reverse its final adverse decision, the utilization review entity shall notify the appellant, the assigned impartial health entity, and the commissioner in writing of its decision.

2. The assigned impartial health entity shall terminate the external review upon receipt of the notice from the

utilization review entity sent pursuant to subdivision 1 of this subsection.

## **14 VAC 5-215-100. Payment of fees.**

Any utilization review entity that: (i) reverses a final adverse decision that has already been assigned to an impartial health entity for review; or (ii) is required to provide previously denied services as a result of the commissioner's written ruling shall be responsible for the payment of the actual costs, as determined by the Bureau of Insurance, incurred by the commission in the course of such review. This payment shall be made within 30 days of notification to the utilization review entity of the actual costs incurred.

## **14 VAC 5-215-110. Standards, credentials, and qualifications of the impartial health entity.**

A. In order to qualify to perform either standard or expedited external reviews pursuant to this chapter and § 38.2-5900 et seq. of the Code of Virginia an impartial health entity shall have and maintain written policies and procedures that govern all aspects of the standard and expedited external review processes that include, at a minimum:

1. A quality assurance mechanism in place that ensures:
  - a. That external reviews are conducted within the specified time frames and required notices are provided in a timely manner;
  - b. The selection of qualified and impartial clinical peer reviewers to conduct external reviews on behalf of the impartial health entity and suitable matching of reviewers to specific cases;
  - c. That the confidentiality of medical records is maintained in accordance with the confidentiality and disclosure laws of the Commonwealth; and
  - d. That any person employed by or under contract with the impartial health entity adheres to the requirements of this chapter as well as § 38.2-5900 et seq. of the Code of Virginia; and
2. An agreement to maintain and provide to the commission the information set out in § 38.2-5900 et seq. of the Code of Virginia.

B. All clinical peer reviewers assigned by an impartial health entity to conduct external reviews shall be physicians or other appropriate health care providers who meet the following minimum qualifications:

1. Be an expert in the treatment of the covered person's medical condition that is the subject of the external review;
2. Be knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical conditions as the covered person's;
3. Hold a nonrestricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review; and

4. Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical peer reviewer's physical, mental or professional competence or moral character.

C. In addition to the requirements set forth in subsection A of this section, an impartial health entity shall not be affiliated with or a subsidiary of, nor be owned or controlled by a health plan, a trade association of health plans, or a professional association of health care providers.

D. 1. In addition to the requirements set forth in subsections A, B, and C of this section, to be qualified to perform an external review of a specified case pursuant to this chapter, neither the impartial health entity selected to conduct the external review nor any clinical peer reviewer assigned by the impartial health entity to conduct the external review may have a material professional, familial or financial conflict of interest with any of the following:

- a. The utilization review entity that made the final adverse decision that is the subject of the external review;
- b. The covered person whose treatment is the subject of the external review;
- c. Any officer, director or management employee of the utilization review entity that made the final adverse decision which is the subject of the external review;
- d. The health care provider, the health care provider's medical group or independent practice association recommending the health care service or services subject to the external review;
- e. The facility at which the recommended health care service was or would be provided; or
- f. The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review.

2. In determining whether an independent review organization or a clinical peer reviewer of the impartial health entity has a material, professional, familial or financial conflict of interest for purposes of subdivision 1 of this subsection, the commissioner may take into consideration situations where the impartial health entity to be assigned to conduct an external review of a specified case or a clinical peer reviewer to be assigned by the impartial health entity to conduct an external review of a specified case may have an apparent professional, familial or financial relationship or connection with a person described in subdivision 1 of this subsection, but the characteristics of that relationship or connection are such that they are not a material professional, familial or financial conflict of interest sufficient to disqualify the impartial health entity or the clinical peer reviewer from conducting the external review.

**14 VAC 5-215-120. Modification of forms.**

The Bureau of Insurance shall be permitted to modify forms prepared for use in connection with this chapter as needed without requiring amendment to this chapter. Any modifications shall be provided to all insurers licensed to market health insurance, all licensed health maintenance organizations, and all licensed health services plans in the form of an administrative letter prepared by the Bureau of Insurance and sent by regular mail to such licensee's mailing address as shown in the records of the Bureau of Insurance. Failure to receive such administrative letter shall not be cause for exemption or grounds for noncompliance with the requirements set forth in this chapter. All original and subsequently modified forms shall be filed by the Bureau of Insurance for publication in the Virginia Register of Regulations.

**14 VAC 5-215-130. Severability.**

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

**NOTICE:** The forms used in administering 14 VAC 5-215-10 et seq., Rules Governing Independent External Review of Final Adverse Utilization Review Decisions, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the State Corporation Commission, 1300 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

**FORMS**

Instructions for Completing the Appeal of Final Adverse Decision Form (eff. 2/15/00).

Important Terms and Definitions (eff. 2/15/00).

Appeal of Final Adverse Decision (eff. 2/15/00).

Authorization to Release Medical Information (eff. 2/15/00).

VA.R. Doc. No. R00-41; Filed November 3, 1999, 8:05 a.m.



**TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**

**BOARD OF MEDICINE**

**Title of Regulation:** 18 VAC 85-20-10 et seq. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic and Physician Acupuncture (amending 18 VAC 85-20-22).

**18 VAC 85-31-10 et seq. Regulations Governing the Practice of Physical Therapy (amending 18 VAC 85-31-160).**

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**18 VAC 85-40-10 et seq. Regulations Governing the Practice of Respiratory Care Practitioners (amending 18 VAC 85-40-80).**

**18 VAC 85-50-10 et seq. Regulations Governing the Practice of Physician Assistants (amending 18 VAC 85-50-170).**

**18 VAC 85-80-10 et seq. Regulations Governing the Practice of Occupational Therapists (amending 18 VAC 85-80-120).**

**18 VAC 85-101-10 et seq. Regulations Governing the Practice of Radiologic Technologist Practitioners and Radiologic Technologists-Limited (amending 18 VAC 85-101-160).**

**18 VAC 85-110-10 et seq. Regulations Governing the Practice of Licensed Acupuncturists (amending 18 VAC 85-110-35).**

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

Public Hearing Date: December 3, 1999 - 8 a.m.

Public comments may be submitted until January 21, 2000.

(See Calendar of Events section for additional information)

Basis: Chapter 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary and the authority to levy and collect fees that are sufficient to cover all expenses for the administration of a regulatory program.

Section 54.1-113 of the Code of Virginia requires all regulatory boards of the Department of Health Professions to revise their fee schedules if after the close of any biennium there is more than a 10% percentage between revenues and expenditures.

Purpose: The purpose of the proposed amendments is to establish fees sufficient to cover the administrative and disciplinary activities of the Board of Medicine. Without adequate funding, the licensing of practitioners licensed by the board and approval of candidates to sit for examinations could be delayed. In addition, sufficient funding is essential to carry out the investigative and disciplinary activities of the board in order to protect the public health, safety and welfare.

Substance:

Proposed amendments to 18 VAC 85-20-22. Fees for application for licensure in medicine, osteopathy and podiatry have increased from \$200 to \$215 and now include \$75 for application processing and credential review, the cost of approximately half of a biennial renewal and license (\$120), the cost of approving a candidate to sit for an examination, and the cost of the wall certificate. The fee for application for licensure in chiropractic has decreased from \$200 to \$195 and now includes \$75 for application processing and credential review, the cost of approximately half of a biennial

renewal and license (\$110), and the cost of the wall certificate.

The fee for a temporary permit to practice medicine (no longer than three months) is increased from \$25 to \$30.

The application fee for a limited professorial or fellow license is decreased from \$125 to \$55; the annual renewal is increased from \$25 to \$35. An additional fee of \$15 is charged for a late renewal.

The application fee for a limited license as a resident or intern is set at \$55; the annual renewal is increased from \$10 to \$35. An additional fee of \$15 is charged for a late renewal.

The proposed fee of \$15 (decreased from \$25) to produce a duplicate wall certificate would make the process and fee uniform for all boards within the department. The cost for producing and sending a duplicate license has been reduced, so the proposed fee decreases from \$10 to \$5 and reflects the actual cost.

The proposed biennial renewal fee increases from \$125 to \$240 for licensure in medicine, osteopathy and podiatry and reflects the cost of the administrative and disciplinary activities of the Board of Medicine and the allocated costs of the department plus the estimated cost of the physician profiling system (\$25). Since chiropractors are not yet included in the physician profiling requirements, the biennial renewal fee for licensure is \$215.

Proposed regulations would establish a late fee of \$85 for a licensee in medicine, osteopathy or podiatry and \$75 for a licensee in chiropractic who renews the expired license within the biennium (approximately 35% of the biennial renewal).

For reinstatement following revocation or pursuant to § 54.1-2921, the applicant would pay a \$2,000 fee to offset the additional disciplinary cost for investigations, administrative proceedings, and a reinstatement hearing.

The application fee for licensure to practice acupuncture is reduced from \$100 to \$55; the biennial renewal fee would increase from \$50 to \$70.

If the license is allowed to lapse beyond the biennium, it would require reinstatement with an application review fee and payment of the late fee and biennial renewal fee for a combined total of \$290 for licensure in medicine, osteopathy and podiatry and \$270 for licensure in chiropractic.

The cost of verifying a license to another jurisdiction or providing a letter of good standing would continue to be set at \$10.

The fee for sending all or part of a transcript or certification of grades would continue to be \$25.

The proposed fee of \$25 is estimated to be the actual administrative costs for processing and collecting on a returned check; it is proposed to be the same fee for all boards within the department.

Proposed amendments to 18 VAC 85-31-160. Fees for application for licensure as a physical therapist would increase from \$100 to \$140 and for physical therapist assistant from \$100 to \$105. The fee now includes \$50 for

application processing and credential review, the cost of approximately half of a biennial renewal and license (\$70 for a PT and \$35 for a PTA), the cost of approving a candidate to sit for an examination (\$10), and the cost of the wall certificate (\$10).

The fee for licensure by endorsement would be identical to those for licensure by examination (increased from \$125 to \$140 for a PT and decreased from \$125 to \$105 for a PTA).

The proposed biennial renewal fee increases from \$100 to \$135 for licensure in physical therapy and reflects the cost of the administrative and disciplinary activities of the Board of Medicine and the allocated costs of the department. The biennial renewal fee for a physical therapist assistant would remain at \$70.

Proposed regulations would establish a late fee of \$50 for a physical therapist and \$25 for a physical therapist assistant who renews the expired license within the biennium (approximately 35% of the biennial renewal).

If the license is allowed to lapse beyond the biennium, it would require reinstatement with an application review fee (\$60), payment of the late fee and half the biennial renewal fee for a combined total of \$180 for licensure as a physical therapist and \$120 for licensure as a physical therapist assistant.

Other fees set forth in regulations would be identical to those assessed to other licensees of the Board of Medicine and are determined by the actual costs to the board for the particular activity or function. They include:

- \$15 for producing a duplicate wall certificate
- \$5 for producing and sending a duplicate license
- \$2,000 for reinstatement of a license pursuant to § 54.1-2921
- \$25 for processing and collecting on a returned check
- \$10 for verifying a license to another jurisdiction
- \$25 for sending all or part of a transcript or certification of grades

Proposed amendments to 18 VAC 85-40-80. The fee for application for licensure as a respiratory care practitioner would increase from \$100 to \$130 and would now include \$50 for application processing and credential review, the cost of approximately half of a biennial renewal and license (\$70), and the cost of the wall certificate (\$10).

The proposed biennial renewal fee increases from \$50 to \$135 and reflects the cost of the administrative and disciplinary activities of the Board of Medicine and the allocated costs of the department. The biennial renewal fee is consistent with similar practitioners licensed by the board.

Proposed regulations would establish a late fee of \$50 for a respiratory care practitioner who renews the expired license within the biennium (approximately 35% of the biennial renewal).

If the license is allowed to lapse beyond the biennium, it would require reinstatement with an application review fee (\$60), payment of the late fee and half the biennial renewal fee for a combined total of \$180.

Other fees set forth in regulations would be identical to those assessed to other licensees of the Board of Medicine and are determined by the actual costs to the board for the particular activity or function. They include:

- \$15 for producing a duplicate wall certificate
- \$5 for producing and sending a duplicate license
- \$2,000 for reinstatement of a license pursuant to § 54.1-2921
- \$25 for processing and collecting on a returned check
- \$10 for verifying a license to another jurisdiction
- \$25 for sending all or part of a transcript or certification of grades

Proposed amendments to 18 VAC 85-50-170. The fee for application for licensure as a physician assistant would increase from \$100 to \$130 and would now include \$50 for application processing and credential review, the cost of approximately half of a biennial renewal and license (\$70), and the cost of the wall certificate (\$10).

The proposed biennial renewal fee increases from \$80 to \$135 and reflects the cost of the administrative and disciplinary activities of the Board of Medicine and the allocated costs of the department. The biennial renewal fee is consistent with similar practitioners licensed by the board.

Proposed regulations would establish a late fee of \$50 for a physician assistant who renews the expired license within the biennium (approximately 35% of the biennial renewal).

A fee of \$15 is proposed for the processing and approval of a new protocol required whenever a physician assistant changes employment or accepts different responsibilities with his supervising physician.

Other fees set forth in regulations would be identical to those assessed to other licensees of the Board of Medicine and are determined by the actual costs to the board for the particular activity or function. They include:

- \$15 for producing a duplicate wall certificate
- \$5 for producing and sending a duplicate license
- \$2,000 for reinstatement of a license pursuant to § 54.1-2921
- \$25 for processing and collecting on a returned check
- \$10 for verifying a license to another jurisdiction

Proposed amendments to 18 VAC 85-80-120. The fee for an application for licensure as an occupational therapist would increase from \$100 to \$130 and would now include \$50 for application processing and credential review, the cost of approximately half of a biennial renewal and license (\$70), and the cost of the wall certificate (\$10).

The fee for reinstatement of a licensed lapsed from two years or more would increase from \$150 to \$180 and would include approximately half of the biennial renewal fee (\$70), the late fee (\$50), and a \$60 review fee.

The proposed biennial renewal fee increases from \$85 to \$135 and reflects the cost of the administrative and disciplinary activities of the Board of Medicine and the allocated costs of the department. The biennial renewal fee is consistent with similar practitioners licensed by the board.

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Proposed regulations would establish a late fee of \$50 for an occupational therapist who renews the expired license within the biennium (approximately 35% of the biennial renewal).

Other fees set forth in regulations would be identical to those assessed to other licensees of the Board of Medicine and are determined by the actual costs to the board for the particular activity or function. They include:

- \$15 for producing a duplicate wall certificate
- \$5 for producing and sending a duplicate license
- \$2,000 for reinstatement of a license pursuant to § 54.1-2921
- \$25 for processing and collecting on a returned check
- \$10 for verifying a license to another jurisdiction

Proposed amendments to 18 VAC 85-101-160. Fees for application for licensure as a radiologic technologist would increase from \$100 to \$130 and for a radiologic technologist-limited from \$50 to \$90. The fee would now include \$50 for application processing and credential review, the cost of approximately half of a biennial renewal and license (\$70 for a radiologic technologist and \$35 for a radiologic technologist-limited), and the cost of the wall certificate (\$10).

The proposed biennial renewal fee increases from \$75 to \$135 for licensure as a radiologic technologist and from \$25 to \$70 for a radiologic technologist-limited and reflects the cost of the administrative and disciplinary activities of the Board of Medicine and the allocated costs of the department.

Proposed regulations would establish a late fee of \$50 for a radiologic technologist and \$25 for a radiologic technologist-limited who renews the expired license within the biennium (approximately 35% of the biennial renewal).

If the license is allowed to lapse beyond the biennium, it would require reinstatement with an application review fee (\$60), payment of the late fee (\$50) and approximately half the biennial renewal fee (\$70) for a combined total of \$180 for licensure as a radiologic technologist and \$120 for licensure as a radiologic technologist-limited.

The application fee for a traineeship in as a radiologic technologist would be \$25.

Other fees set forth in regulations would be identical to those assessed to other licensees of the Board of Medicine and are determined by the actual costs to the board for the particular activity or function. They include:

- \$15 for producing a duplicate wall certificate
- \$5 for producing and sending a duplicate license
- \$2,000 for reinstatement of a license pursuant to § 54.1-2921
- \$25 for processing and collecting on a returned check
- \$10 for verifying a license to another jurisdiction
- \$25 for sending all or part of a transcript or certification of grades

Proposed amendments to 18 VAC 85-110-35. The fee for an application for licensure as an occupational therapist would decrease from \$150 to \$130 and would now include \$50 for application processing and credential review, the cost of approximately half of a biennial renewal and license (\$70), and the cost of the wall certificate (\$10).

The proposed biennial renewal fee increases from \$85 to \$135 and reflects the cost of the administrative and disciplinary activities of the Board of Medicine and the allocated costs of the department. The biennial renewal fee is consistent with similar practitioners licensed by the board.

Proposed regulations would establish a late fee of \$50 for a licensed acupuncturist who renews the expired license within the biennium (approximately 35% of the biennial renewal).

The fee for reinstatement of a licensed lapsed from two years or more would decrease from \$200 to \$180 and would include approximately half of the biennial renewal fee (\$70), the late fee (\$50), and a \$60 review fee.

Other fees set forth in regulations would be identical to those assessed to other licensees of the Board of Medicine and are determined by the actual costs to the board for the particular activity or function. They include:

- \$15 for producing a duplicate wall certificate
- \$5 for producing and sending a duplicate license
- \$2,000 for reinstatement of a license pursuant to § 54.1-2921
- \$25 for processing and collecting on a returned check
- \$10 for verifying a license to another jurisdiction

Issues: Prior to consideration of amendments to regulations by the Board of Medicine, the Department of Health Professions set forth a set of principles by which all boards would be guided in the development of regulations. The Principles for Fee Development are intended to provide structure, consistency, and equity for all professionals regulated within the department. In consideration of various alternatives and issues surrounding the adoption of fees, the principles served to guide the board in the development of an appropriate and necessary fee.

Based on the principles, the Board of Medicine established certain policies to be applied in the development of its proposed fees. According to its policy, certain occupations regulated by the board were grouped according to the amount of board resources consumed by those occupations, as determined by rates of complaints and disciplinary cases, personnel required for licensing, discipline and other activities, and other allocated costs. It was agreed that the practitioners of medicine, osteopathy, podiatry and chiropractic should be grouped as occupation category #1; practitioners of physical therapy, occupational therapy, respiratory therapy, radiologic technology, and licensed acupuncturists and physician assistants should be grouped as occupation category #2. Exceptions were made for persons who had restricted or limited licensure and who practiced under supervision rather than as independent professionals. Therefore, persons holding licensure as interns, residents, limited professorial licenses or fellows, physical therapist assistants or radiologic technologists-limited were categorized differently from fully licensed practitioners. The secondary license of physician acupuncturist was also recognized as an exception since persons who hold that license must also hold an active license as a doctor of medicine, osteopathy, podiatry or chiropractic.

ISSUE 1. Proration of initial licensure fees based on timing within the renewal cycle an applicant is initially licensed.



It is unknown at the time of application for initial licensure when or if the applicant will qualify. Applicants may be delayed or ineligible because they fail to subsequently submit required information (such as transcripts or verification from other states), do not meet substantive requirements (education, experience, moral character, etc.) or fail to pass an examination. While most candidates are eventually found eligible, it is impossible to predict when or if any given candidate will be licensed.

Therefore, in order to prorate an initial 'license fee' for the current period of licensure it would require the assessment, after the determination of eligibility, of each newly qualified candidate (estimated to be 5,100 per year, including licensure in all categories by examination and endorsement). To accomplish this, the department would need to incur a cost to program automated systems to generate assessments in various occupational categories. In addition to generating the assessment, the agency will be required to receive and account for the additional payment. This task could possibly be contracted out, as we do with a number of lock box transactions. All exceptions to lock box transactions however, are handled in-house, which is an activity that would result in additional administrative costs.

Prorating of fees would have negative impact on prompt licensing of nurses. It is likely that it would add a minimum of 14 days and likely average 21 days to the time it will take to issue a license after approval (the period to generate an assessment, mailing out, writing of a check, return mail, and accounting for the fee). In many cases a candidate is legally prohibited from employment until the license is in hand. Therefore, the equity that may be achieved by prorating fees will not be of sufficient value to lead to its implementation. During the two to three weeks of delay, the applicant could have been working with a license issued promptly upon approval by the board. The additional income earned during that period would far exceed the small amount of the initial licensure fee that might have been saved by a system of proration.

Advantages and disadvantages to the licensees. As is stated above, the advantage of not prorating fees is that initial licensure can occur in a more timely manner. For those who are applying for licensure by examination, the license is issued as soon as examination results are forwarded to the board, usually within one or two working days. For those applying for licensure by endorsement, a license is typically issued within one or two days of receipt of all verifying documentation. All practitioners newly licensed by the Board of Medicine receive at least half of a biennial renewal cycle, which is the amount included in the initial application and licensure fee. Therefore, there would be no advantage to prorating the initial licensure fee.

**ISSUE 2. Uniformity in renewal and application fees across similar professions.**

As is stated in the principles, renewal fees for all occupations regulated by a board should be consistent across occupations unless there is clear evidence to indicate otherwise. Doctors of medicine, osteopathy, podiatry and chiropractic proportionally account for similar administrative costs for the Board of Medicine, so those four professions are categorized

as Occupation Category #1. Within Occupation Category #1, there is an exception for the physician profiling system which is limited to physicians and podiatrists. Therefore, the estimated profiling cost of \$25 per practitioner per biennium is not assessed to the biennial renewal of a chiropractor. Otherwise, the professions are similar in the allocated cost of personnel, data processing and other administrative functions, in their rate of discipline, and in their participation in the Health Practitioner Intervention Program (HPIP). Likewise, the amount of work entailed in application processing and credential review is similar for all four professions, but there is an additional costs for approving medical and osteopathic doctors and podiatrists to sit for the national examination. The candidates for examination in chiropractic are approved by the National Board of Chiropractic Examiners.

Since the process for approval and amount of credential review is much less detailed, the application fee for persons who have a limited license is set at a different rate. Applicants for limited professorial or fellow license or as a resident or intern would pay \$55 or approximately \$20 for application processing and all of the first one-year renewal cycle (\$35). The fee for a temporary permit to practice medicine, which lasts up to three months, is set at \$30; that is an amount equivalent to the renewal for fully licensed practitioners who pay \$240 for 24 months of licensure. Physician acupuncturists would pay \$70 per biennium for their license, which is equivalent to other limited licenses issued by the board.

Other professions licensed by the board which have similar rates of discipline and administrative expenditures would also have similar fees set in the proposed regulations. Current regulations are inconsistent in the fee structure for radiologic technologists, licensed acupuncturists, physical therapists, occupational therapists, physician assistants and respiratory care practitioners. Proposed regulations would categorize all those professions as Occupation Category #2 and set identical renewal fees based on a percentage of 56% of the renewal fee for Occupation Category #1. The percentage was calculated on the percentage of total board cost which is attributable only to Occupation Category #1, primarily the disciplinary expenditures of the board. Within Occupation Category #2, there are two unique fees - an additional \$10 in the application fee for physical therapists, since there is an additional process for approving candidates to sit for the examination; and a \$15 fee for review and approval of a practice protocol submitted by a physician assistant when he has a change in his employment status or responsibilities.

Two professions, radiologic technologist-limited and physical therapist assistant, are categorized as Occupation Category #3 because they are limited in their scope of practice and must practice under the supervision of fully licensed persons. The board determined that a lesser renewal fee was appropriate and equitable for those two professions. Again, there is an additional \$10 for an application from a physical therapist assistant to cover the cost of approving the applicant to sit for the examination.

Advantages and disadvantages to the licensees. Most practitioners licensed by the Board of Medicine will

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experience increased renewal fees under the proposed regulations. While that is a disadvantage to the licensees, the alternative of reduced services for the board would be unacceptable to applicants, licensees and the general public. As a specially funded agency, renewal fees pay the vast majority of the expenses of board operations, which include investigation of complaints, adjudication of disciplinary cases, review and approval of applicants, verification of licensure and education to other jurisdictions and entities, and communications with licensees about current practice and regulation.

ISSUE 3. Establishment of fees for renewing an expired license versus reinstating a lapsed license.

Currently, all board regulations require a late fee for renewal of an expired license, and most of the regulations provide that the fee is cumulative for as long as the license is lapsed. For a practitioner who chooses not to practice in Virginia for a period of time (for whatever reason), the accumulation of late fees in addition to the reinstatement fee may become excessive. In the principles, there is a distinction made between those who are expired (have failed to renew within one renewal cycle) and those who are lapsed (have failed to renew beyond one renewal cycle). The appropriate late fee for an expired license should be set at no more than 35% of the renewal fee; the current renewal fee must also be paid. Since a reinstatement application is required for a licensee to reinstate a lapsed license, the reinstatement fee should include the current renewal fee, the late fee, and a credential review fee.

Reinstatement of a license which has been revoked or for which reinstatement following suspension has been denied necessitates additional costs of a pre-hearing investigation (approximately 15 to 20 hours), preparation of legal documents (5 to 10 hours of time by a legal assistant) and a hearing before the board (including per diem for members, travel expenses, and time for the office of the Attorney General). The proposed fee of \$2,000 for reinstatement of such a license was determined by a calculation of the actual cost, which the board believes should be paid by the applicant and not supported by renewal fees from other licensees.

Advantages and disadvantages to the licensees. There is an advantage to having consistency in the board's policy on payment of late fees and reinstatement fees. Currently, some regulations state that the fees are cumulative for as long as the license is lapsed and others do not. Reinstatement fees range from \$50 for a radiologic technologist to \$225 for a physical therapist; yet they are categorized in Occupation Category #2 and have similar costs to the board.

For those licensees who are late in paying a renewal fee (approximately 700 each year), there will be an increased cost. For some licensees, the cost of reinstating a license beyond the two-year renewal cycle will increase, while for others the cost will decrease. Doctors of medicine, osteopathy, and podiatry currently pay \$250 for reinstatement; under proposed regulations, they would pay \$290. Physical therapist assistants currently pay \$225; under proposed regulations, they would pay \$120.

For those who seek reinstatement after revocation (approximately eight per year), the cost will increase substantially from \$750 to \$2,000.

ISSUE 4. Uniformity among boards for setting miscellaneous fees.

In setting proposed fees for miscellaneous activities of the board, the principles call for uniformity among boards and regulated entities. Such activities as replacement of a duplicate license, duplicate certificate, or processing and collecting on a bad check are similar for all boards and should be based on cost estimates provided by the Deputy Director for Finance of the department.

Advantages and disadvantages to the licensees. The advantage of proposed regulations is that all persons licensed or certified by a board under the Department of Health Professions will consistently pay a fee for miscellaneous activities determined by actual costs for that activity. There will not be inconsistent fees for licensees regulated under different boards. For licensees of the Board of Medicine, the fee for a duplicate license will be reduced from \$10 to \$5; the fee for a duplicate wall certificate will be reduced from \$25 to \$15. The fee for a returned check will be established in regulation at \$25.

Advantage or disadvantages to the public. Fee increases proposed by the Board of Medicine should have no disadvantage to the consuming public. There is no projection of a reduction in the number of applicants for licensure or the number of licensed persons available to provide medical services to the public. For example, an increase in the biennial renewal fee will result in an additional \$57.50 per year for a doctor's license.

There would be considerable disadvantages to the public if the Board of Medicine took no action to address its deficit and increase fees to cover its expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work and delays in approval or disapproval of candidates to sit for examinations. Potentially, the most serious consequence would be a reduction in or reprioritization of the investigation of complaints against doctors and other licensees. In addition, there may be delays in adjudicating cases of substandard care, abuse or other violations, resulting in potential danger to the patients who are often the most sick and vulnerable consumers in the Commonwealth.

Advantages or disadvantage to the agency. As is stated above, the consequence of not increasing fees of the Board of Medicine would be a reduction in services and staff, resulting in delays in licensing and reductions in the cases investigated and brought through administrative proceedings to a hearing before the board. The Board of Medicine and the Department of Health Professions are solely funded by the fees charged to applicants and licensees. If higher fees are not adopted, the agency would have to cut its staff, both within the Board of Medicine and within other divisions of the Department of Health Professions since 29% of the costs of the agency is dependent on revenues from the Board of Medicine.

Estimated Fiscal Impact:

Number of entities affected by this regulation.

The number of regulated entities (as of May 3, 1999) who would be affected by these regulations is:

Medicine and osteopathy	27,059
Osteopathy	756
Podiatry	498
Chiropractic	1,488
Physician acupuncture	232
Interns and residents	2,208
Limited professorial	28
Physical therapists	3,601
Physical therapist assistants	1,277
Respiratory care practitioners	2,706
Physician assistants	498
Occupational therapists	1,801
Radiological technologists	1,826
Radiological technologist-limited	1,057
Licensed acupuncturists	58

Projected cost to the agency. The agency will incur some costs (approximately \$5,000) for mailings to the Public Participation Guidelines mailing list, conducting a public hearing, and sending copies of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

Projected costs to the affected entities. For most applicants and regulated entities, the costs of acquiring and maintaining licensure will increase. Doctors of medicine, osteopathy and podiatry will pay an additional \$115 every two years to maintain a license to engage in active practice. Chiropractors will pay an additional \$90 every two years. Residents and interns will have an annual increase in licensure renewal of \$25. Other professions will see increases in biennial renewal as follows: Physical therapists - \$35; respiratory care practitioners - \$85; physician assistants - \$55; occupational therapists - \$50; radiologic technologists - \$60; and radiologic technologist-limited - \$45. Physical therapist assistants have no increase proposed in their biennial renewal fee. Under the board's proposal, renewal fees for similar professions would be identical, rather than disparate and inconsistent as they are now.

Applicants for licensure (either by endorsement or examination) would pay a fee to have their application processed and credentials reviewed for licensure qualification. Once approved, they are licensed for at least half of the biennium and receive a calligraphied wall certificate at no charge. Proposed regulations would include the costs of a license and a wall certificate in that initial application fee.

For practitioners who are late sending in their biennial renewal but do renew an expired license within two years, the cost will increase and will be approximately 35% of their biennial renewal. For those whose license is lapsed beyond two years, a reinstatement application and fee will be required as well as payment of the late fee and an amount equal to approximately half the biennial renewal.

Miscellaneous costs, such as replacement of a duplicate license or wall certificate, verification of a license or transcript,

and returned check charges are uniformly proposed at amounts consistent with the actual costs incurred by the department for those activities.

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 25 (98). 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. The proposed regulations revise the schedule of fees paid by physicians and other medical professionals to the Board of Medicine. The purpose of these fee changes is to bring the board into compliance with the board's interpretation of § 54.1-113 of the Code of Virginia. Section 54.1-113 requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10% difference between revenues and expenditures. The proposed fee changes are as follows:

All Professions Regulated by the Board of Medicine

The following fees are determined by the actual costs to the board for the particular activity or function and are set identically for each of the professions regulated by the Board of Medicine:

- \$15 for producing a duplicate wall certificate,
- \$5 for producing and sending a duplicate license,
- \$2,000 for reinstatement of a license pursuant to §54.1-2921 (revoked licenses),
- \$25 for processing and collecting on a returned check,
- \$10 for verifying a license to another jurisdiction, and
- \$25 for sending all or part of a transcript or certification of grades.

Practice of Medicine, Osteopathy, Podiatry, and Chiropractic

Application for licensure in medicine, osteopathy, or podiatry will increase from \$200 to \$215, application for licensure in chiropractic will decrease from \$200 to \$195;

Biennial licensure renewal for licensure in medicine, osteopathy, and podiatry will increase from \$125 to \$240; biennial licensure renewal for chiropractic licensure will increase to only \$215 since chiropractors are not yet included in the physician profiling system requirements;

Application for a license to practice physician acupuncture is reduced from \$100 to \$55 and the biennial renewal fee will increase from \$50 to \$70;

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The fee for a temporary permit to practice medicine (for a maximum of three months) will rise from \$25 to \$30;

Application for a limited professorial or fellow license will decrease from \$125 to \$55; the annual renewal for this license will increase from \$25 to \$35 and a \$15 fee will be charged for late renewal;

Application for a limited license as a resident or intern is set at \$55; the annual renewal for this license will increase from \$10 to \$35 and a \$15 fee will be charged for late renewal;

The penalty for late renewal of a license will be \$85 for a license in medicine, osteopathy, or podiatry, and \$75 for a license in chiropractic (all renewal fees represent approximately 35% of the biennial renewal); and

Reinstatement of a lapsed license (a license not renewed for at least one biennium after expiration) will increase from \$250 to \$290 for a license in medicine, osteopathy, or podiatry, and \$270 for a chiropractic license.

## Physical Therapists

Application for licensure will increase from \$100 to \$140 for physical therapists and from \$100 to \$105 for physical therapist assistants;

The fee for application by endorsement, currently \$125, will be set identically to the fees for licensure by examination (\$140 for physical therapists and \$105 for physical therapist assistants);

Biennial renewal of a physical therapist license will rise from \$100 to \$135, biennial renewal for physical therapist assistants will remain at \$70;

The penalty for late renewal of a license will be \$50 for physical therapists, and \$25 for physical therapist assistants; and

Reinstatement of a lapsed license will be \$180 for physical therapist and \$120 physical therapist assistants;

## Respiratory Care Practitioners

Application for licensure will increase from \$100 to \$130;

Biennial renewal fee will rise from \$50 to \$135;

The penalty for late renewal of a license will be \$50; and

Reinstatement of a lapsed license will be \$180.

## Physician Assistants

Application for licensure will increase from \$100 to \$130;

Biennial renewal of physician assistant license will rise from \$80 to \$135;

The penalty for late renewal of a license will be \$50; and

A new \$15 fee will be established for the processing and approval of a new protocol required whenever a physician assistant changes employment or accepts different responsibilities with his supervising physician.

## Occupational Therapists

Application for licensure will increase from \$100 to \$130;

Biennial renewal of an occupational therapist license will rise from \$85 to \$135;

The penalty for late renewal of a license will be \$50; and

Reinstatement of a lapsed license will be \$180.

## Radiologic Technologists

Application for licensure will increase from \$100 to \$130 for radiologic technologists, and from \$50 to \$90 for a radiologic technologist-limited license;

Biennial renewal of a radiologic technologist license will rise from \$75 to \$135, and from \$25 to \$70 for radiologic technologists-limited;

The penalty for late renewal of a license will be \$50 for radiologic technologist, and \$25 for radiologic technologists-limited; and

Reinstatement of a lapsed license will be \$180 for radiologic technologist and \$120 radiologic technologists-limited.

## Licensed Acupuncturists

Application for licensure will decrease from \$150 to \$130;

Biennial renewal of an acupuncturist license will rise from \$85 to \$135;

The penalty for late renewal of a license will be \$50; and

Reinstatement of a lapsed license will be \$180.

Estimated economic impact. The primary effect of the proposed fee changes will be to increase compliance costs for practitioners under the Board of Medicine in Virginia by approximately \$4.3 million biannually.<sup>1</sup> Under the current fee structure, the Board of Medicine projects a \$3.8 million deficit by June 2002.<sup>2</sup> The proposed fee increases would substantially reduce the projected deficits during the 2000-2002 biennium and thereafter would begin to generate a modest surplus, thereby bringing the board into compliance with the Code.

According to the Board of Medicine, several circumstances have been responsible for the failure of fee revenue to keep up with expenditures. Such circumstances include implementation of the Health Practitioner Intervention Program, the mandated physician profile database and, to a lesser extent, staff pay raises and related benefit increases included in the Governor's budget, Y2K compliance, installation of a new computer system, and relocation of the Department of Health Professions (DHP). These circumstances have increased costs despite other efforts to improve efficiency (i.e., the privatization of certain functions, reductions in staff, etc...) undertaken by the department and

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<sup>1</sup> This figure reflects the difference between projected revenue for the Board of Medicine under the current fee structure and estimated revenue under the proposed fee schedule (\$6,270,395 and \$10,625,295).

<sup>2</sup> This figure reflects the difference of the projected budget through 6/30/2002 (\$10,242,110) and the projected revenue under the current fee structure (\$6,465,557).

the board during the past five years. According to DHP, the proposed fee increases are necessary so that the Board of Medicine can continue to perform its essential functions of licensing, investigations of complaints, and adjudication of disciplinary cases. These functions sustain the supply of medical professionals in Virginia and protect the public from continued practice by incompetent or unethical practitioners.

The level of the proposed fee increases, specifically the biennial renewal fees, are based on revenue and expenditure projections prepared by DHP for the Board of Medicine. The proposed amounts were selected such that projected revenues would be sufficient to cover projected expenditures but would not result in anything more than a modest surplus. Since a wide range of occupations are regulated by the Board of Medicine, they were grouped into categories so that professionals licensed by the board which have similar rates of discipline and administrative expenditures would also have similar fees set in the proposed regulations. Practitioners of medicine osteopathy, podiatry, and chiropractic were grouped into one occupational category. Physical therapists, occupational therapists, respiratory therapists, radiologic technologists, licensed acupuncturists, and physician assistants were grouped into a separate category. In addition, persons with a restricted or limited license (i.e., interns, residents, physical therapist assistants, etc.) were categorized differently from fully licensed practitioners. The changes in fee structures are largely based on DHP's Principles for Fee Development and are discussed below.<sup>3</sup>

### Application Fees

The proposed regulations amend the application fees for all professions regulated by the Board of Medicine. In most cases, the new fee is higher than the existing fee but, for some professions, the proposal represents a reduction from the current fee. The new application fees will cover the costs of application processing and credential review, approximately half of a biennial renewal cycle, and a wall certificate. The proposed fees are consistent across professions except where there is clear evidence that the costs are not similar. For example, applications for limited licenses require much less detailed review, therefore the board has chosen to set application fees for such licenses at a lower level. The existing fees vary widely across professions and do not accurately represent the true costs of initial application. For instance, applicants in many professions receive their first biennial license and their wall certificate at no cost. These costs are currently covered by renewal fees.

By charging individuals for the full costs of their application, the proposed fees are more efficient and equitable. They also will provide consistency across professions regulated by the Board of Medicine. Though the proposed application fees are higher than the existing fees in most cases, they represent a very small portion of the total cost of entry into the medical profession, which includes all education and training

expenses. Therefore, this fee increase is unlikely to have a significant effect on the decision of individuals to enter the medical profession and consequently, should not affect the number of applicants or the supply of medical professionals in Virginia.

### Reinstatement and Late Renewal Fees

The proposed regulations establish a late fee, equal to approximately 35% of the biennial renewal fee for each profession, for licensees renewing within one biennium of the expiration date and require reinstatement for the renewal of any licenses (now lapsed) beyond the biennium. The proposed reinstatement fees cover the costs of application processing and document review, and a portion of the biennial license renewal fee.

Currently, some professions regulated by the board charge cumulative penalty fees for as long as the license has been lapsed while other have flat reinstatement fees ranging from \$50 to \$225. The late fees and reinstatement fees in the proposed regulation establish a policy that differentiates between persons who are merely a day late in renewing their license from persons who have chosen to let their license lapse for a lengthy period of time (e.g., someone who had left the state, obtained a license in another jurisdiction, and then has returned to Virginia). According to DHP, the proposed late renewal fee more accurately reflects the costs incurred by the department for processing late renewals, which cannot be processed through the automated system but must be manually entered.

The application fee for reinstatement of a revoked license will be \$2,000. This change represents a significant increase from the current fee of \$750. The level of the proposed fee is based on the board's determination of the actual costs involved, including a pre-hearing investigation (approximately 15 to 20 hours), preparation of legal documents (5 to 10 hours of time by a legal assistant), and a hearing before the board (including per diem for members, travel expenses, and Attorney General office time). DHP estimates that eight individuals will request reinstatement of a revoked license each year. Compliance costs for these individuals would increase by a total of \$10,000 under the proposal. However, it is the board's opinion that these costs should be paid by the applicant and not supported by renewal fees from other licensees.

In addition to charging individuals for the full costs incurred on their behalf, which is both more efficient and equitable, the proposed reinstatement and late fees will provide consistency across professions regulated by the Board of Medicine, and should have a positive net economic benefit.

### Miscellaneous Fees

Almost all of the other proposed fee changes are intended to represent more accurately the actual cost of service. For example, the fee charged for a duplicate license is set at \$5 (a reduction in most cases), the returned check charge is set at \$25, and the fee for a transcript of an application or license record will be \$25. These fees are set uniformly across all professions under the Board of Medicine and will provide consistency and equity for members.

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<sup>3</sup> This document, dated May 20, 1999, outlines the principles by which DHP sets its licensing fees. The principles are intended to provide structure, consistency, and equity for all the professionals regulated within the department.

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# Proposed Regulations

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## Summary

While the proposed regulations reduce fees for certain services, the net effect of the new fee schedule will be an increase in application and licensure costs for all licensed medical professionals in Virginia. According to DHP, the proposed fee increases are necessary to prevent a delay in the performance of or the elimination of investigations and discipline proceedings, and license renewals, a delay which could negatively affect public health and safety and reduce the supply of medical care in Virginia.

Although the total increase in compliance costs is substantial, from an individual perspective, these fees represent a very small portion of the total cost of entry into the medical profession (e.g., the total cost of entry includes all education and training expenses). The proposed fee changes, therefore, are unlikely to have a significant effect on the decision of individuals to enter or exit the medical profession. For this reason, the proposed regulatory changes should have no economic consequences beyond the anticipated increase in licensing costs.

Businesses and entities affected. There are approximately 45,000 medical professionals licensed by the Board of Medicine in Virginia that will be affected by the proposed fee changes.<sup>4</sup> In addition to those individuals already licensed, any changes to these regulations will also affect all future applicants.

Localities particularly affected. The proposed fee changes will not have a disproportionate affect on any particular localities since they apply statewide.

Projected impact on employment. Since the application and licensure renewal fees represent a very small portion of the total cost of entry into the medical profession, no significant impact on employment in Virginia is expected.

Effects on the use and value of private property. The proposed fee changes are not expected to have any significant effects on the use and value of private property in 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.

## Summary:

*The proposed regulations revise the schedule of fees paid by physicians and other medical professionals to the Board of Medicine. These fee changes bring the board into compliance with the board's interpretation of § 54.1-113 of the Code of Virginia, which requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any*

*biennium, there is more than a 10% difference between revenues and expenditures.*

## 18 VAC 85-20-22. Required fees.

A. Unless otherwise provided, fees established by the board shall not be refundable.

B. All examination fees shall be determined by and made payable as designated by the board.

C. The application fee for licensure in medicine, osteopathy, and podiatry, ~~or chiropractic~~ shall be ~~\$200~~ \$215, and the fee for licensure in chiropractic shall be \$195. The fee for board approval to sit for Part 3 of the United States Medical Licensing Examination without subsequent licensure in Virginia shall be ~~\$150~~ \$85.

D. The fee for a temporary permit to practice medicine pursuant to § 54.1-2927 B (i) and (ii) of the Code of Virginia shall be ~~\$25~~ \$30.

E. The application fee for a limited professorial or fellow license issued pursuant to 18 VAC 85-20-210 shall be ~~\$125~~ \$55. The annual renewal fee shall be ~~\$25~~ \$35. An additional fee for late renewal of licensure shall be \$15.

F. The application fee for a limited license to interns and residents pursuant to 18 VAC 85-20-220 shall be ~~\$40~~ \$55. The annual renewal fee shall be \$35 a year. An additional fee for late renewal of licensure shall be ~~\$40~~ \$15.

G. The fee for a duplicate wall certificate shall be ~~\$25~~ \$15; the fee for a duplicate license shall be ~~\$40~~ \$5.

H. The fee for biennial renewal of license shall be ~~\$125~~ \$240 for licensure in medicine, osteopathy and podiatry and \$215 for licensure in chiropractic, due in the licensee's birth month. An additional fee to cover administrative costs for processing a late application shall be ~~\$25~~ for each renewal application within one renewal cycle shall be \$85 for licensure in medicine, osteopathy and podiatry and \$75 for licensure in chiropractic.

I. The fee for requesting reinstatement of licensure pursuant to § 54.1-2921 of the Code of Virginia shall be ~~\$750~~ \$2,000.

J. The application fee for licensure to practice acupuncture shall be ~~\$100~~ \$55. The biennial renewal fee shall be ~~\$50~~ \$70, due and payable by June 30 of each even-numbered year.

K. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia which has expired for a period of two years or more shall be ~~\$250~~ \$290 for licensure in medicine, osteopathy and podiatry and \$270 for licensure in chiropractic and shall be submitted with an application for licensure reinstatement.

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

M. The fee for certification of grades to another jurisdiction by the board shall be \$25. The fee shall be due and payable upon submitting the form to the board.

N. The fee for a returned check shall be \$25.

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<sup>4</sup> 27,059 medicine and osteopathy; 756 osteopathy; 498 podiatrists; 1,488 chiropractors; 232 physician acupuncturists; 2,208 medical interns and residents; 28 limited professorial licensees; 3,601 physical therapists; 1,277 physical therapist assistants; 2,706 respiratory care practitioners; 498 physician assistants; 1,801 occupational therapists; 1,826 radiologic technologists; 1,057 radiologic technologists-limited; and 58 licensed acupuncturists.

**NOTICE:** The forms used in administering 18 VAC 85-20-10 et seq., Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic and Physician Acupuncture, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Medicine, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

## FORMS

*Information & Instructions for Completing an Application for the United States Medical Licensing Examination (USLME) - American & Canadian Graduates With Subsequent Virginia Licensure (rev. 8/99).*

*Information & Instructions for Completing an Application for the United States Medical Licensing Examination (USLME) - Non-American Graduates With Subsequent Virginia Licensure (rev. 8/99).*

*Information & Instructions for Completing an Application for the United States Medical Licensing Examination (USLME) - American & Canadian Graduates Without Subsequent Virginia Licensure (rev. 8/99).*

*Information & Instructions for Completing an Application for the United States Medical Licensing Examination (USLME) - Non-American Graduates Without Subsequent Virginia Licensure (rev. 8/99).*

*Application for USMLE Step 3 With Subsequent Virginia Licensure (rev. 8/98).*

*Application USMLE Step 3 Without Subsequent Virginia Licensure (rev. 8/98).*

*Instructions for Completing National Boards/FLEX or USMLE Endorsement Application; American Graduates--revised May, 1997 (rev. 8/99).*

*Instructions for Completing FLEX or USMLE Endorsement Application; Non-American Graduates--revised June, 1997 (rev. 8/99).*

*Instructions for Completing PMLEXIS Examination/License Application--revised May, 1997 (rev. 8/99).*

*Instructions for Completing Chiropractic Endorsement Application--revised May, 1997 (rev. 8/99).*

*Instructions for Completing Podiatry Endorsement application--revised May, 1997 (rev. 8/99).*

*Instructions for Completing LMCC Endorsement Application; Canadian/American Graduates--revised May, 1997 (rev. 8/99).*

*Instructions for Completing LMCC Endorsement Application; Non-American Graduates--revised June, 1997 (rev. 8/99).*

*Instructions for Completing National Boards Endorsement Application--revised May, 1997.*

*Instructions for Completing Osteopathic National Boards Endorsement Application--revised May, 1997 (rev. 8/99).*

*Instructions for Completing Other Boards Endorsement Application; American Graduates--revised May, 1997 (rev. 8/99).*

*Instructions for Completing Other Boards Endorsement Application; Non-American Graduates--revised June, 1997 (rev. 8/99).*

*Form #A, Claims History Sheet--revised June, 1997 (rev. 6/97).*

*Form #B, Activity Questionnaire--revised June, 1997 (rev. 6/97).*

*Form #C, Clearance from Other State Boards--revised June, 1997 (rev. 6/97).*

*Form #D, Virginia Request for Physician Profile--revised June, 1997 (rev. 6/97).*

*Application for a License to Practice Medicine/Osteopathy--revised May, 1997 (rev. 5/97).*

*Form #H, Certification of Grades Attained on the Podiatric Medical Licensing Examination for States (PMLEXIS)--revised June, 1997 (rev. 6/97).*

*Form #I, National Board of Podiatric Medical Examiners Request for Scores on Part I and II--revised June, 1997 (rev. 6/97).*

*Form HRB-30-061, Requirements and Instructions for an Intern/Resident License--revised July, 1997 (rev. 8/99).*

*Intern/Resident Form #A, Memorandum from Associate Dean of Graduate Medical Education--revised July, 1997 (rev. 8/99).*

*Intern/Resident Form #B, Certificate of Professional Education--revised July, 1997 (rev. 8/99).*

*Instructions for Completing an Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow--revised January, 1998 (rev. 8/99).*

*Form DHP-030-056, Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow--revised January, 1998 (rev. 1/98).*

*Form #G--Request for Status Report of Educational Commission for Foreign Medical Graduates Certification--revised October, 1997 (rev. 10/97).*

*Instructions for Licensure to Practice as a Physician Acupuncturist--revised March, 1997 (rev. 8/99).*

*Application for a License to Practice Acupuncture--revised July, 1997 (rev. 7/97).*

*Instructions for Reinstatement of Medicine and Surgery or Osteopathy Licensure Application (rev. 8/99).*

*Instructions for Completing Reinstatement of Chiropractic Licensure Application (rev. 8/99).*

*Instructions for Reinstatement of Podiatry Licensure Application (rev. 8/99).*

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*Instructions for Medicine and Surgery or Osteopathy Licensure Application After Reinstatement Denied or License Revoked (rev. 8/99).*

*Application for Reinstatement of License to Practice Medicine/Osteopathy After Petition for Reinstatement Denied or License Revoked (rev. 8/99).*

*American Medical Association, Physician Profile Service Order Form for Licensure Application or Renewal (rev. 8/99).*

*Reinstatement, State Questionnaire Form (rev. 7/98).*

*Reinstatement, Activity Questionnaire Form (rev. 7/98).*

*Reinstatement, Disciplinary Inquiries to Federation of State Medical Boards (rev. 7/98).*

*Renewal Notice and Application—revised July, 1997 (rev. 7/97).*

## **18 VAC 85-31-160. Fees.**

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Licensure by examination.

1. The application fee shall be \$140 for a physical therapist ~~or~~ and \$105 for a physical therapist assistant ~~shall be \$100.~~

2. The fees for taking all required examinations shall be paid directly to the examination services.

C. Licensure by endorsement. The fee for licensure by endorsement shall be \$140 for a physical therapist ~~or~~ and \$105 for a physical therapist assistant ~~shall be \$125.~~

D. Licensure renewal and reinstatement.

1. The fee for active license renewal for a physical therapist shall be ~~\$400~~ \$135 and for a physical therapist assistant shall be \$70 and shall be due in the licensee's birth month in each even numbered year.

2. A fee of \$25 for a physical therapist assistant and \$50 for a physical therapist for processing a late renewal within one renewal cycle shall be paid in addition to the renewal fee.

3. The fee for reinstatement of a physical therapist ~~or a physical therapist assistant~~ license which has expired for ~~four~~ two or more years shall be ~~\$225~~ \$180 for a physical therapist and \$120 for a physical therapist assistant and shall be submitted with an application for licensure reinstatement.

E. Other fees.

1. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.

2. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.

3. The fee for a returned check shall be \$25.

4. The fee for a letter of good standing/verification to another jurisdiction shall be \$10; the fee for certification of grades to another jurisdiction shall be \$25.

**NOTICE:** The forms used in administering 18 VAC 85-31-10 et seq., Regulations Governing the Practice of Physical Therapy, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Medicine, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

## FORMS

Application for a License to Practice Physical Therapy (rev. 5/97).

Instructions for Licensure by ~~Examination~~ Endorsement to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of an ~~American~~ Approved Program), Form DHP-30-059 (rev. 8/99).

Instructions for Licensure by ~~Examination~~ Endorsement to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of a ~~Non-American~~ Approved Program), Form DHP-30-059 (rev. 8/99).

*Instructions for Licensure by Examination to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of an Approved Program), Form DHP-30-059 (rev. 8/99).*

*Instructions for Licensure by Examination to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of a Non-Approved Program), Form DHP-30-059 (rev. 8/99).*

Quiz on the Virginia Code and Regulations

The Interstate Reporting Services, National Physical Therapy Examination (PT/PTA), Score Registration and Transfer Request Application

Traineeship Application (4/96).

Foreign Trained Approved Traineeship Facilities (8/94).

Verification of Physical Therapy Practice (7/93).

Verification of State Licensure (4/96).

Licensure Registration (4/96).

Renewal Notice and Application (5/97).

## **18 VAC 85-40-80. Fees.**

The following fees are required:

1. The application fee, payable at the time the application is filed, shall be ~~\$400~~ \$130.

2. The biennial fee for renewal of licensure shall be \$50 \$135, payable in each odd-numbered year in the license holder's birth month.

3. ~~An additional fee to cover administrative costs for processing a late application may be imposed by the board.~~ The additional fee for late renewal of licensure within one renewal cycle shall be \$40 ~~for each renewal cycle~~ \$50.

4. ~~Lapsed license.~~ The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904



of the Code of Virginia, which has ~~expired~~ lapsed for a period of two years or more, shall be ~~\$400~~ \$180 and must be submitted with an application for licensure reinstatement.

5. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.

6. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.

7. The fee for a returned check shall be \$25.

8. The fee for a letter of good standing/verification to another jurisdiction shall be \$10; the fee for certification of grades to another jurisdiction shall be \$25.

**NOTICE:** The forms used in administering 18 VAC 85-40-10 et seq., Regulations Governing the Practice of Respiratory Care Practitioners, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Medicine, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

**FORMS**

Instructions for Completing a Respiratory Care Practitioner Application (rev. ~~7/98~~ 8/99).

Application for a License to Practice as a Respiratory Care Practitioner (rev. ~~7/98~~ 2/99).

Form #A, Claims History Sheet (rev. 7/98).

Form #B, Activity Questionnaire (rev. 7/98).

Form #C, Clearance from Other State Boards (rev. 7/98).

Form #L, Certificate of Professional Education (rev. 2/99).

Verification of Certification Request Form (NBRTC) (rev. 7/98).

Instructions for Completing Reinstatement of Respiratory Therapy Licensure (rev. 8/99).

Renewal Notice and Application (rev. 7/97).

**18 VAC 85-50-170. Fees.**

A. The initial application fee for a license, payable at the time application is filed, shall be ~~\$400~~ \$130.

B. The biennial fee for renewal of a license shall be ~~\$80~~ \$135 payable in each odd-numbered year in the birth month of the licensee.

C. ~~An additional fee to cover administrative costs for processing a late application may be imposed by the board.~~ The additional fee for late renewal of licensure *within one renewal cycle* shall be ~~\$40 for each renewal cycle~~ \$50.

D. A restricted volunteer license shall expire 12 months from the date of issuance and may be renewed without charge by receipt of a renewal application which verifies that the physician assistant continues to comply with the provisions of § 54.1-2951.3 of the Code of Virginia.

E. The fee for review and approval of a new protocol submitted following initial licensure shall be \$15.

F. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.

G. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.

H. The fee for a returned check shall be \$25.

I. The fee for a letter of good standing/verification to another jurisdiction shall be \$10.

**NOTICE:** The forms used in administering 18 VAC 85-50-10 et seq., Regulations Governing the Practice of Physician Assistants, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Medicine, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

**FORMS**

Instructions for Completing a Physician Assistant Licensure Application (rev. ~~7/98~~ 8/99).

Application for a License to Practice as a Physician Assistant (rev. 7/98).

Form #B, Activity Questionnaire (rev. 7/98).

Form #C, Clearance from Other State Boards (rev. 7/98).

Form #2, Physician Assistant Invasive Procedures Protocol, (rev. 7/98).

Renewal Notice and Application (rev. 7/97).

Protocol for Employment as a Physician Assistant (rev. 7/98).

**CHAPTER 80.**

**REGULATIONS FOR LICENSURE GOVERNING THE PRACTICE OF OCCUPATIONAL THERAPISTS.**

**18 VAC 85-80-120. Fees.**

The following fees have been established by the board:

1. The initial fee for the occupational therapist licensure shall be ~~\$400~~ \$130.

2. The fee for reinstatement of the occupational therapist licensure *which has been lapsed for two years or more* shall be ~~\$450~~ \$180.

3. The fee for licensure renewal shall be ~~\$85~~ \$135 and shall be due in the birth month of the licensed therapist in each even-numbered year.

4. The additional fee ~~to cover administrative costs~~ for processing a late *renewal* application shall be ~~\$25 for each~~ *within one renewal cycle* shall be \$50.

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

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6. The fee for reinstatement of ~~revoked~~ licensure pursuant to § 54.1-2921 of the Code of Virginia shall be ~~\$500~~ \$2,000.

7. The fee for a returned check shall be \$25.

8. The fee for a duplicate license shall be \$5; and the fee for a duplicate wall certificate shall be \$15.

**NOTICE:** The forms used in administering 18 VAC 85-80-10 et seq., Regulations Governing the Practice of Occupational Therapists, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Medicine, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

## FORMS

Instructions for Completing an Occupational Therapist Application (rev. ~~7/98~~ 8/99).

Application for a License to Practice Occupational Therapy (rev. ~~7/98~~ 2/99).

Form #A, Claims History Sheet (rev. 7/98).

Form #B, Activity Questionnaire (rev. 7/98).

Form #C, Clearance from Other State Boards (rev. 7/98).

Verification of Certification Request Form (NBCOT) (rev. 3/98).

Instructions for Completing Reinstatement of Licensure Application for Occupational Therapy (rev. 8/99).

Instruction for Supervised Practice, Occupational Therapy (rev. 8/99).

Supervised Practice Application, Occupational Therapy (rev. 8/99).

Report of Supervised Practice (rev. 8/99).

Renewal Notice and Application (rev. 7/97).

### 18 VAC 85-101-160. Fees required by the board.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Application or examination.

1. The application fee for radiologic technologist licensure shall be ~~\$100~~ \$130.

2. The application fee for the radiologic technologist-limited licensure shall be ~~\$50~~ \$90.

3. The fees for taking all required examinations shall be paid directly to the examination services.

4. Upon written request from an applicant to withdraw his application for licensure by examination, a fee of \$25 shall be retained by the Board of Medicine as a processing fee.

C. Licensure renewal and reinstatement.

1. The fee for license renewal for a radiologic technologist shall be ~~\$75~~ \$135 and for a radiologic technologist-limited shall be ~~\$25~~ \$70.

2. An additional fee of ~~\$25~~ \$50 for a radiologic technologist and \$25 for a radiologic technologist-limited to cover administrative costs for processing a late renewal application *within one renewal cycle* shall be imposed by the board.

3. The fee for reinstatement of a ~~lapsed~~ license which has ~~expired~~ lapsed for a period of two years or more shall be ~~\$50 and the respective licensure fee~~ \$180 for a radiologic technologist and \$120 for a radiologic technologist-limited and shall be submitted with an application for licensure reinstatement.

4. The fee for reinstatement of a ~~revoked~~ license pursuant to § 54.1-2921 of the Code of Virginia shall be ~~\$500~~ \$2,000.

D. Other fees.

1. The application fee for a traineeship shall be \$25.

2. The fee for a letter of good standing or verification to another state for licensure shall be \$10; *the fee for certification of grades to another jurisdiction shall be \$25.*

3. *The fee for a returned check shall be \$25.*

4. *The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.*

5. *The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.*

**NOTICE:** The forms used in administering 18 VAC 85-101-10 et seq., Regulations Governing the Practice of Radiologic Technologist Practitioners and Radiologic Technologists-Limited, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Medicine, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

## FORMS

Instructions for Completing an Application for Licensure as a Radiologic Technologist Practitioner By Examination/*Endorsement* (~~4/96~~ rev. 8/99).

Application for a License as a Radiologic Technologist (~~DHP-030-081~~, rev. ~~4/96~~ 11/98).

~~Traineeship Application - Statement of Authorization (11/96).~~

~~Instructions for Completing an Application for Licensure as a Radiologic Technologist Practitioner By Endorsement (11/96).~~

*Form #A, Claims History Sheet (rev. 7/97).*

*Form #B, Activity Questionnaire (rev. 7/97).*

*Form #C, Clearance from Other States (rev. 7/97).*

*Form #E, Letter of Good Standing (rev. 7/97).*

Form #F, Traineeship Application (rev. 7/97).

Instructions for Completing an Application for Licensure as a Radiologic Technologist-Limited (~~4/96~~ rev. 8/99).

Application for a License as a Radiologic Technologist-Limited (rev. ~~4/96~~ 2/99).

Form #2, Radiologic Technologist-Limited Training Application (rev. 5/99).

Instructions for Completing Reinstatement of Radiologic Technology Licensure (rev. 8/99).

Instructions for Completing Reinstatement of Radiologic Technologist-Limited Licensure (rev. 8/99).

Renewal Notice and Application, C-47533 (rev. 7/97).

**18 VAC 85-110-35. Fees.**

Unless otherwise provided, the following fees shall not be refundable:

1. The application fee for a license to practice as an acupuncturist shall be ~~\$150~~ \$130.
2. The fee for biennial license renewal shall be ~~\$85~~ \$135.
3. The additional fee for processing a late renewal *within one renewal cycle* shall be ~~\$25~~ \$50.
4. The fee for reinstatement of a license which has expired for two or more years shall be ~~\$200~~ \$180.
5. The fee for a letter of good standing/verification of a license to another ~~state~~ *jurisdiction* shall be \$10.
6. The fee for reinstatement of a ~~revoked~~ license pursuant to § 54.1-2921 of the Code of Virginia shall be ~~\$500~~ \$2,000.
7. The fee for a duplicate wall certificate shall be ~~\$25~~ \$15.
8. The fee for a duplicate renewal license shall be ~~\$40~~ \$5.
9. The fee for a returned check shall be \$25.

**NOTICE:** The forms used in administering 18 VAC 85-110-10 et seq., Regulations Governing the Practice of Licensed Acupuncturists, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Medicine, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

**FORMS**

Instructions for Completing the Application for Licensed Acupuncturist, American Graduates (rev. ~~4/98~~ 8/99).

Instructions for Completing the Application for Licensed Acupuncturist, Non-American Graduates (rev. ~~4/98~~ 8/99).

Application for a License to Practice as an Acupuncturist (rev. 7/98).

Form #A, Claims History Sheet (rev. 1/98).

Form #B, Activity Questionnaire (rev. 1/98).

Form #C, Clearance from Other State Boards (rev. 1/98).

Verification of NCCAOM Certification (rev. 7/98).

Renewal Notice and Application (rev. 7/97).

VA.R. Doc. Nos. R99-130 through R99-136; Filed November 3, 1999, 11:56 a.m.

**BOARD OF NURSING**

**Title of Regulation:** 18 VAC 90-20-10 et seq. Regulations Governing the Practice of Nursing (amending 18 VAC 90-20-30, 18 VAC 90-20-190, 18 VAC 90-20-230, and 18 VAC 90-20-350).

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

**Public Hearing Date:** November 30, 1999 - 2 p.m.

Public comments may be submitted until January 21, 2000.

(See Calendar of Events section for additional information)

**Basis:** Chapter 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary and the authority to levy and collect fees that are sufficient to cover all expenses for the administration of a regulatory program.

Section 54.1-113 of the Code of Virginia requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of the biennium, there is more than a 10% difference between revenues and expenditures.

**Purpose:** The purpose of the proposed amendments is to establish fees sufficient to cover the administrative and disciplinary activities of the Board of Nursing. Without adequate funding, the approval of nursing education programs and the licensing of nurses and registration of certified nurse aides could be delayed. In addition, sufficient funding is essential to carry out the investigative and disciplinary activities of the board in order to protect the public health, safety and welfare.

**Substance:**

18 VAC 90-20-30. Fees. Fees for application for licensure have increased from \$25 to \$105 for registered nurses and licensed practical nurses and now include \$25 for application processing and credential review, the cost of a biennial renewal and license (\$70), and the cost of the wall certificate.

A new fee of \$25 is proposed for processing another application and rereview of an applicant's credentials, if the application process and passage of the examination has not been completed within six months.

The proposed biennial renewal fee increases from \$40 to \$70 and reflects the cost of the administrative and disciplinary

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activities of the Board of Nursing and the allocated costs of the department.

Currently, anyone who does not renew his license by the due date must be "reinstated" at a cost of \$50, regardless of the amount of time the license was expired. Proposed regulations would establish a late fee of \$25 for anyone who renews the expired license within the biennium (approximately 35% of the biennial renewal). If the license is allowed to lapse beyond the biennium, it would require reinstatement with an application review fee and payment of the late fee and biennial renewal fee for a combined total of \$120. For reinstatement following suspension or revocation, the applicant would pay an additional \$40 to help offset the additional disciplinary cost for a reinstatement hearing.

The cost for producing and sending a duplicate license has been reduced, so the proposed fee decreases from \$15 to \$5 and reflects the actual cost.

A fee for replacing a wall certificate is currently been paid by the person making the request directly to the vendor. The proposed fee of \$15 would make the process and fee uniform for all boards within the department.

The cost of verifying a license to another jurisdiction or sending all or part of a transcript is estimated to be \$25, so the proposed fees of \$25 for either activity reflects those costs.

The proposed fee of \$25 is estimated to be the actual administrative costs for processing and collecting on a returned check; it is proposed to be the same fee for all boards within the department.

The fee for licensure of a clinical nurse specialist would include \$25 for application processing and credential review, the cost of the biennial renewal for the license and \$10 for a wall certificate.

The biennial renewal fee for a clinical nurse specialist is determined by the estimated administrative and disciplinary costs of the board and allocated costs of the department.

Reinstatement of a clinical nurse specialist registration would be set at \$105 and would necessitate an application processing and credential review fee, payment of the late renewal fee and cost of a biennial license.

The actual cost of verification of a clinical nurse specialist registration to another jurisdiction is estimated to be \$25, so there is no change proposed.

The penalty for late renewal of a certified nurse specialist registration is proposed to \$20 or 30% of the biennial renewal.

18 VAC 90-20-190. Licensure by examination. An amendment is proposed to clarify that the "fee" referred to in subsection C 3 and in subsection H 2 is the "reapplication" fee of \$25.

18 VAC 90-20-230. Reinstatement of licenses. Amendments are proposed to conform the policies on reinstatement of the Board of Nursing to those in the Principles for Fee Development for all boards within the department. Under the current rule, anyone who is late renewing his license (even by one day) would pay the current renewal fee and a

reinstatement fee of \$50. The proposed rule requires a person who wants to renew an expired license within one renewal cycle to pay a late fee of \$25 and the current renewal fee. Beyond the biennium, the lapsed license could be reinstated by submission of a reinstatement application and payment of a reinstatement fee.

The board also proposes a higher fee for reinstatement of a license which has been suspended or revoked to recover some of the costs for holding a hearing of the board.

18 VAC 90-20-350. Nurse aide registry. The proposed renewal fee for a certified nurse aide would increase from \$30 to \$45 per biennium; the charge for a returned check is increased from \$15 to \$25.

## Issues:

Prior to consideration of amendments to regulations by the Board of Nursing, the Department of Health Professions set forth a set of principles by which all boards would be guided in the development of regulations. The Principles for Fee Development are intended to provide structure, consistency, and equity for all professionals regulated within the department. In consideration of various alternatives and issues surrounding the adoption of fees, the principles served to guide the board in the development of an appropriate and necessary fee.

ISSUE 1: Proration of initial licensure fees based on timing within the renewal cycle an applicant is initially licensed.

It is unknown at the time of application for initial licensure when or if the applicant will qualify. Applicants may be delayed or ineligible because they fail to subsequently submit required information (such as transcripts or verification from other states), do not meet substantive requirements (education, experience, moral character, etc.) or fail to pass an examination. While most candidates are eventually found eligible, it is impossible to predict when or if any given candidate will be licensed.

Therefore, in order to prorate an initial license fee for the current period of licensure it would require the assessment, after the determination of eligibility, of each newly qualified candidate (estimated to be 5,880 per year, including licensure by examination and endorsement). To accomplish this, the Department would need to incur a cost to program automated systems to generate assessments in various occupational categories. In addition to generating the assessment, the agency will be required to receive and account for the additional payment. This task could possibly be contracted out, as we do with a number of lock box transactions. All exceptions to lock box transactions, however, are handled in-house, which is an activity that would result in additional administrative costs.

Prorating of fees would have negative impact on prompt licensing of nurses. It is likely that it would add a minimum of 14 days and likely average 21 days to the time it will take to issue a license after approval (the period to generate an assessment, mailing out, writing of a check, return mail, and accounting for the fee). In many cases a candidate is legally prohibited from employment until the license is in hand. Therefore, the equity that may be achieved by prorating fees

will not be of sufficient value to lead to its implementation. During the two to three weeks of delay, the applicant could have been working with a license issued promptly upon approval by the board. The additional income earned during that period would far exceed the small amount of the initial licensure fee that might have been saved by a system of proration.

In the proposed regulations, all applicants for a nursing license would be licensed for a full two years once eligibility has been determined. Since nurses renew biennially in their birth month, some applicants may receive more than two years, but no one would receive less than the equivalent of a biennial renewal, which is the amount calculated for initial licensure in the application fee.

Advantages and disadvantages to the licensees. As is stated above, the advantage of not prorating fees is that initial licensure can occur in a more timely manner. For those who are applying for licensure by examination, the license is issued as soon as examination results are forwarded to the board, usually within one or two working days. For those applying for licensure by endorsement, a license is typically issued within one or two days of receipt of all verifying documentation. All newly licensed nurses receive at least a full biennial renewal cycle, so there is no advantage to prorating the initial licensure fee.

**ISSUE 2.** Establishment of application and initial licensure fee for licensure by examination versus licensure by endorsement.

In accordance with Principles for Fee Development, the initial application and licensure fee should be based on: (i) the cost to the board for application processing and credential review; (ii) the examination costs, when paid by the board; (iii) an appropriate portion of the license fee (renewal cost) relative to the period that the initial license will be issued prior to the first renewal; (iv) cost of preparation and mailing a wall certificate; and (v) any other activity unique to and directly associated with initial licensure. Based on those principles, the application and licensure fee for licensure by examination and by endorsement should be identical. There is a similar amount of time spent in application processing and credential review, and there are no examination costs paid by the board. Candidates pay those costs directly to the examination services. Therefore, the application fee, which is currently \$25 for licensure by examination and \$50 for licensure by endorsement, would be identical in the proposed regulations.

Currently, newly licensed nurses pay only the costs of application processing and review. They receive their first biennial license and their wall certificate at no cost. Following the principles, the policy of the board, as reflected in proposed regulation, would be to include those costs in the initial application fee. Also, current regulations require a new application if the applicant does not complete the process and pass the examination within six months. Following the principles, the reapplication fee should be the amount necessary to cover costs for application processing and review (\$25), but should not include the licensure fee and the fee for a certificate because those amounts were already included in the initial application fee.

Advantages and disadvantages to the licensees. For applicants for licensure, there is a disadvantage to the proposed regulation since the initial licensure and wall certificate fee would now be included in the application fee. Costs associated with that initial licensure are currently being borne by nurses in their renewal fee. Therefore, it would be more equitable for newly licensed nurses receiving the benefit of a license for a two-year period to pay the cost of that license.

For applicants for licensure by endorsement, the current application fee is double that of an applicant for licensure by examination. While all application fees will increase, both types of applicants will be paying an identical and equitable amount.

**ISSUE 3.** Uniformity in renewal and application fees across professions.

As is stated in the principles, renewal fees for all occupations regulated by a board should be consistent across occupations unless there is clear evidence to indicate otherwise. Registered nurses and licensed practical nurses proportionally account for similar costs for the Board of Nursing. They are similar in their rate of discipline and in their participation in the Health Practitioner Intervention Program (HPIP). Likewise, the amount of work entailed in application processing and credential review is similar for the two professions. The proposed renewal fee for the clinical nurse specialist is less because there are proportionally fewer disciplinary cases and less participation in HPIP.

There is a separate cost code and budget for certified nurse aides, so the proposed renewal fee is based accordingly.

Advantages and disadvantages to the licensees.

Nurses licensed by the Board of Nursing will experience increased renewal fees under the proposed regulations. While that is a disadvantage to the licensees, the alternative of reduced services for the board would be unacceptable to applicants, licensees and the general public. As a specially funded agency, renewal fees pay the vast majority of the expenses of board operations, which include investigation of complaints against nurses and nurse aides, adjudication of disciplinary cases, review and approval of nursing and nurse aide education program, verification of licensure and education to other jurisdictions and entities, and communications with nurses about current practice and regulation. For certified nurse aides, renewal fees must cover the costs for investigation of complaints and adjudication of disciplinary cases under the Administrative Process Act.

**ISSUE 4.** Establishment of different fees for renewing an expired license versus reinstating a lapsed license.

Currently, Board of Nursing regulations require a fee of \$50 for an expired license, regardless of the amount of time elapsed – one day or 10 years. For a person who is simply late in paying the renewal fee, the current “reinstatement” fee may seem excessive. In the principles, there is a distinction made between those who are expired (have failed to renew within one renewal cycle) and those who are lapsed (have failed to renew beyond one renewal cycle). The appropriate late fee for an expired license should be set at 25% to 35% of

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the renewal fee (\$25 for a nurse or licensed practical nurse); the current renewal fee must also be paid. Since a reinstatement application is required for a licensee to reinstate a lapsed license, the reinstatement fee should include the current renewal fee, the late fee, and a credential review fee.

Reinstatement of a license which has been suspended or revoked necessitates an additional cost of a hearing before a panel of the board. Therefore, an additional amount of \$40 is proposed for reinstatement of a suspended or revoked license to recover some of those costs to the board.

Advantages and disadvantages to the licensees. For persons who are late in paying their biennial renewal but who pay within two years, there would be an advantage in the proposed regulations. Currently, the late fee is \$50; the proposed late fee is \$25. For those who fail to renew a license for more than a biennium, the proposed reinstatement will be a higher fee to cover the costs of a reinstatement application and the late fee.

ISSUE 5. Uniformity among boards for setting miscellaneous fees.

In setting proposed fees for miscellaneous activities of the board, the principles call for uniformity among boards and regulated entities. Such activities as replacement of a duplicate license, duplicate certificate, or processing and collecting on a bad check are similar for all boards and should be based on cost estimates provided by the Deputy Director for Finance of the department.

Advantages and disadvantages to the licensees. The advantage of proposed regulations is that all persons licensed or certified by a board under the Department of Health Professions will consistently pay a fee for miscellaneous activities determined by actual costs for that activity. There will not be inconsistent fees for licensees regulated under different boards. For nurses, the fee for a duplicate license will be reduced from \$15 to \$5.00; the fee for a returned check will increase from \$15 to \$25.

Advantage or disadvantages to the public. Fee increases proposed by the Board of Nursing should have no disadvantage to the consuming public. There is no projection of a reduction in the number of applicants for licensure or the number of licensed persons available to provide nursing services to the public. An increase in the biennial renewal fee will result in an additional \$15 per year for a nurse's license and \$7.50 per year for a certified nurse aide. Nurse aides who work in facilities which receive Medicare and Medicaid funding are required to hold the certification.

There would be considerable disadvantages to the public if the Board of Nursing took no action to address its deficit and increase fees to cover its expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work and delays in approval or disapproval of education programs. Potentially, the most serious consequence would be a reduction in or reprioritization of the investigation of complaints against nurses and nurse aides. In addition, there may be delays in adjudicating cases of substandard care, neglect, abuse or

other violations, resulting in potential danger to the patients who are often the most sick and vulnerable consumers in the Commonwealth.

## Estimated Fiscal Impact:

Number of entities affected by this regulation.

The number of regulated entities (as of May 3, 1999) who would be affected by these regulations is:

Registered nurses	76,707
Licensed practical nurses	26,214
Certified nurse aides	37,306
Clinical nurse specialists	432

Projected cost to the agency. The agency will incur some costs (approximately \$5,000) for mailings to the Public Participation Guidelines mailing list, conducting a public hearing, and sending copies of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

Projected costs to the affected entities. For most applicants and regulated entities, the costs of acquiring and maintaining licensure will increase. Registered nurses and licensed practical nurses will pay an additional \$30 every two years to maintain a license to practice nursing. Clinical nurse specialists will also pay an additional \$30 per biennium. Applicants for licensure have been paying only a \$25 fee to have their application processed and credentials reviewed for licensure qualification. Once approved, they were licensed for at least one biennium and received a calligraphied wall certificate at no charge. Proposed regulations would include the costs of a license and a wall certificate in that initial application fee.

For nurses who are late sending in their biennial renewal but do renew an expired license within two years, the cost will be reduced from \$50 to \$25. For those whose license is lapsed beyond two years, a reinstatement application and fee will be required at a cost of \$120 (including the late fee and the biennial renewal).

Miscellaneous costs, such as replacement of a duplicate license or wall certificate, verification of a license or transcript, and returned check charges are uniformly proposed at amounts consistent with the actual costs incurred by the department for those activities.

Certified nurse aides will have to pay an additional \$15 for biennial renewal of their registration, which is required for employment in any facility receiving Medicare or Medicaid funding.

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 25 (98). 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. The proposed regulation increases various fees paid by nurses and nurse aides to the Board of Nursing. The purpose of these fee increases is to bring the board into compliance with the Board's interpretation of § 54.1-113 of the Code of Virginia. Section 54.1-113 requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10% difference between revenues and expenditures. The proposed fee changes are as follows:

### Registered Nurses (RN) and Licensed Practical Nurses (LPN)

Initial application for licensure by examination will increase from \$25 to \$105, application for licensure by endorsement will increase from \$50 to \$105;

Biennial licensure renewal will increase from \$40 to \$70;

The penalty for late renewal of a license will decrease from \$50 to \$25;

Reinstatement of a lapsed license (a license not renewed for at least one biennium after expiration) will increase from \$50 to \$120;

Reinstatement of a suspended or revoked license will increase from \$50 to \$160;

The cost of obtaining a duplicate license would be reduced from \$15 to \$5.00;

The cost of obtaining a replacement wall certificate (\$15) will now be paid to the board rather than directly to the vendor;

Sending a transcript of all or part of an applicant's or licensee's record will increase from \$20 to \$25; and

The returned check charge will increase from \$15 to \$25.

### Clinical Nurse Specialists (CNS)

Application for CNS registration will increase from \$50 to \$95;

Biennial renewal of CNS registration will be raised from \$30 to \$60;

The penalty fee for late renewal will be reduced from \$25 to \$20; and

Reinstatement of a lapsed CNS registration will increase from \$25 to \$105.

### Certified Nurse Aides

Biennial renewal for nurse aide certification will rise from \$30 to \$45; and

The returned check charge will increase from \$15 to \$25.

Estimated economic impact. The primary effect of the proposed fee changes will be to increase compliance costs for nurses and certified nurse aides in Virginia by

approximately \$4.8 million biannually.<sup>1</sup> Under the current fee structure, the Board of Nursing projects a \$5.2 million deficit for the 2000-2002 biennium.<sup>2</sup> The proposed fee increases would substantially reduce the projected deficits during the 2000-2002 biennium and thereafter would begin to generate a modest surplus, thereby bringing the board into compliance with the Code of Virginia.

According to the Board of Nursing, several circumstances have been responsible for the failure of fee revenue to keep up with expenditures. Such circumstances include implementation of the Health Practitioner Intervention Program and to a lesser extent, staff pay raises and related benefit increases included in the Governor's budget, Y2K compliance, installation of a new computer system, and relocation of the Department of Health Professions (DHP). These circumstances have increased costs despite other efforts to improve efficiency (i.e., the privatization of certain functions, reductions in staff, etc..) undertaken by the department and the board during the past five years. According to DHP, the proposed fee increases are necessary so that the Board of Nursing can continue to perform its essential functions of licensing, investigations of complaints, adjudication of disciplinary cases, and the review and approval of nursing education programs. These functions sustain the supply of nurses in Virginia and protect the public from continued practice by incompetent or unethical nurses.

The level of the proposed fee increases, specifically the biennial renewal fee, is based on revenue and expenditure projections prepared by DHP for the Board of Nursing. The proposed amounts were selected such that projected revenues would be sufficient to cover projected expenditures but would not result in anything more than a modest surplus. The changes in fee structures are largely based on DHP's Principles for Fee Development and are discussed below.<sup>3</sup>

### Application Fees

Currently, newly licensed nurses pay only the costs of application processing and document review (application by examination is \$25, application by endorsement is \$50). They receive their first biennial license and their wall certificate at no cost. These costs are currently borne by nurses in their renewal fee. The proposed regulation sets one application fee for both examination and endorsement applicants since the costs for processing the applications are the same. The proposed application fee of \$105 includes \$25 for application

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<sup>1</sup> This figure reflects the difference between projected revenue for the Board of Nursing under the current fee structure and Proposal #2 (\$5,946,750 and \$10,311,590). Also included is the difference between projected revenues for the Certified Nurse Aide program (\$816,250 under the current fees and \$1,212,250 under the proposed \$45 renewal fee).

<sup>2</sup> This figure reflects the sum of the \$4,615,498 deficit projected for the Board of Nursing plus the \$624,744 deficit projected for the Certified Nurse Aide Program.

<sup>3</sup> This document, dated May 20, 1999, outlines the principles by which DHP sets its licensing fees. The principles are intended to provide structure, consistency, and equity for all the professionals regulated within the department.

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# Proposed Regulations

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processing and credential review, \$70 for one biennial license, and \$10 for a wall certificate.<sup>4</sup>

Though the proposed application fee is substantially higher than the existing fee, it represents a very small portion of the total cost of entry into the nursing profession, which includes all education and training expenses. Therefore, this fee increase is unlikely to have a significant effect on the decision of individuals to enter or exit the nursing profession and consequently, should not affect the number of applicants or the supply of nurses in Virginia.

## Reinstatement and Late Renewal Fees

The existing regulations require all individuals who do not renew their license by the expiration date to reinstate their license. Reinstatement includes submission of a reinstatement application and a fee of \$50. This policy does not differentiate between persons who are merely a day late in renewing their license from persons who have chosen to let their license lapse for a lengthy period of time (i.e., someone who had left the state, obtained a license in another jurisdiction, and then has returned to Virginia). The proposed rules would establish a \$25 late fee for licensees renewing within one biennium of the expiration date and require reinstatement for the renewal of any licenses (now lapsed) beyond the biennium. The proposed reinstatement fee of \$120 includes \$25 for application processing and document review, a \$25 late fee, and the \$70 biennial license renewal fee. Applicants reinstating a suspended or revoked license would be required to pay an additional \$40 (total fee of \$160) since a disciplinary reinstatement hearing must be held.

The board estimates that 2,315 nurses will benefit from a reduction in the late fee from \$50 to \$25. According to DHP, the proposed fee more accurately reflects the costs incurred by the department for processing late renewals, which cannot be processed through the automated system but must be manually entered. The new fee will result in estimated total savings of \$58,000 for nurses who renew past their deadline. The estimated number of nurses who will request reinstatement of lapsed or suspended/revoked licenses is 578 and 50, respectively. Compliance costs for these individuals would increase by a total of \$6,000 under the proposal. The net effect of the new reinstatement rules will be savings in compliance costs of approximately \$12,000. In addition, charging individuals for the full costs incurred on their behalf is both more efficient and equitable.

## Miscellaneous Fees

Almost all of the other proposed fee changes are intended to represent more accurately the actual cost of service. For example, the fee charged for a duplicate license is reduced from \$15 to \$5, the returned check charge is raised from \$15 to \$25, and the fee for a transcript of an application or license record will increase from \$20 to \$25. Based on estimates of the number of individuals who use these services, these

changes should result in a net savings for nurses.<sup>5</sup> By charging individuals for the full costs incurred on their behalf, the proposed changes are again both more efficient and equitable.

**Summary of analysis.** While the proposed regulation does reduce some fees charged by the Board of Nursing, the net effect of the new fees will be an increase in application and licensure costs for nurses and certified nurse aides in Virginia. According to DHP, the proposed fee increases are necessary to prevent a delay in the performance of or the elimination of investigations and discipline, license renewals, and educational program approvals, a delay which could negatively affect public health and safety and reduce the supply of nurses in Virginia.

Although the total increase in compliance costs is substantial, from an individual perspective, these fees represent a very small portion of the total cost of entry into the nursing profession (e.g., the *total* cost of entry includes all education and training expenses). The proposed fee changes, therefore, are unlikely to have a significant effect on the decision of individuals to enter or exit the nursing profession. For this reason, the proposed regulatory changes should have no economic consequences beyond the anticipated increase in licensing costs.

**Businesses and entities affected.** There are currently 76,707 registered nurses, 26,214 licensed practical nurses, 37,306 certified nurse aides, and 432 clinical nurse specialists licensed by the Board of Nursing in Virginia.

**Localities particularly affected.** The proposed fee changes will not affect any particular localities since they apply statewide.

**Projected impact on employment.** Since the application and licensure renewal fees represent a very small portion of the total cost of entry into the nursing profession, no significant impact on employment in Virginia is expected.

**Effects on the use and value of private property.** The proposed fee changes are not expected to have any significant effects on the use and value of private property in Virginia.

**Agency's Response to the Department of Planning and Budget's Economic Impact Analysis:** The board concurs with the economic impact analysis prepared by the Department of Planning and Budget.

## Summary:

*The proposed amendments increase certain fees pursuant to statutory mandate to levy fees as necessary to cover expenses of the Board of Nursing. Biennial renewal fees for registered nurses and licensed practical nurses are increased from \$40 to \$70. Similarly, biennial renewal fees for certified nurse aides are increased from \$30 to \$45, and such fees for clinical nurse specialists*

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<sup>4</sup> The application fee proposed for clinical nurse specialists is \$95 since the renewal fee for CNS registration is \$10 lower than that for RNs and LPNs.

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<sup>5</sup> The Board of Nursing provided estimates that 700 nurses will request a duplicate license (savings of \$7,000) and 275 nurses will request that a transcript be sent to another jurisdiction (increase of \$1,375). No estimate was provided for the number of nurses whose checks must be returned.



are increased from \$30 to \$60. While most fees are increased, the fee for a late renewal within one biennium would decrease from \$50 to \$25. Fees sufficient to fund the operations of the board are essential for activities such as licensing, approval of nurse education programs, investigation of complaints, and adjudication of disciplinary cases.

**18 VAC 90-20-30. Fees.**

Fees required in connection with the licensing of applicants by the board are:

1. Application for licensure by examination	<del>\$25</del> \$105
2. Application for licensure by endorsement	<del>\$50</del> \$105
3. <i>Reapplication for licensure by examination</i>	\$25
<del>3- 4. Biennial licensure renewal</del>	<del>\$40</del> \$70
5. <i>Late renewal</i>	\$25
<del>4- 6. Reinstatement of lapsed license</del>	<del>\$50</del> \$120
7. <i>Reinstatement of suspended or revoked license</i>	\$160
<del>5- 8. Duplicate license</del>	<del>\$15</del> \$5
9. <i>Replacement wall certificate</i>	\$15
<del>6- 10. Verification of license</del>	<del>\$20</del> \$25
<del>7- 11. Transcript of all or part of applicant/licensee records</del>	<del>\$20</del> \$25
<del>8- 12. Returned check charge</del>	<del>\$15</del> \$25
<del>9- 13. Application for CNS registration</del>	<del>\$50</del> \$95
<del>10- 14. Biennial renewal of CNS registration</del>	<del>\$30</del> \$60
<del>11- 15. Reinstatement of lapsed CNS registration</del>	<del>\$25</del> \$105
<del>12- 16. Verification of CNS registration to another jurisdiction</del>	<del>\$20</del> \$25
17. <i>Late renewal of CNS registration</i>	\$20

**18 VAC 90-20-190. Licensure by examination.**

A. The board shall authorize the administration of examinations for registered nurse licensure and examinations for practical nurse licensure.

B. A candidate shall be eligible to take the examination (i) upon receipt by the board of the completed application, fee and an official transcript from the nursing education program; and (ii) when a determination has been made that no grounds exist upon which the board may deny licensure pursuant to § 54.1-3007 of the Code of Virginia.

C. To establish eligibility for licensure by examination, an applicant for the licensing examination shall:

1. File the required application, any necessary documentation and fee no later than 60 days prior to the first day of the month in which the applicant expects to take the examination.

2. Arrange for the board to receive an official transcript from the nursing education program which shows either:

- a. That the degree or diploma has been awarded; or
- b. That all requirements for awarding the degree or diploma have been met and specifies the date of conferral.

3. File a new application and *reapplication* fee if:

- a. The examination is not taken within six months of the date that the board determines the applicant to be eligible; or
- b. Eligibility is not established within six months of the original filing date.

D. The minimum passing standard on the examination for registered nurse licensure and practical nurse licensure shall be determined by the board.

E. Any applicant suspected of giving or receiving unauthorized assistance during the examination may be noticed for a hearing pursuant to the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) to determine eligibility for licensure or reexamination.

F. The board shall not release examination results of a candidate to any individual or agency without written authorization from the applicant or licensee.

G. Practice of nursing pending receipt of examination results.

1. An eligible graduate who has filed an application for licensure in Virginia may practice nursing in Virginia for a period not to exceed 90 days between completion of the nursing education program and the receipt of the results of the candidate's first licensing examination.

2. Candidates who practice nursing as provided in subdivision 1 of this subsection shall use the designation "R.N. Applicant" or "L.P.N. Applicant" when signing official records.

3. The designations "R.N. Applicant" and "L.P.N. Applicant" shall not be used by applicants who either do not take the examination within 90 days following completion of the nursing education program or who have failed the examination.

H. Applicants who fail the examination.

1. An applicant who fails the licensing examination shall not be licensed or be authorized to practice nursing in Virginia.

2. An applicant for licensure by reexamination shall file the required application and *reapplication* fee no later than 60 days prior to the first day of the month in which the applicant expects to take the examination in order to establish eligibility.

3. Applicants who have failed the examination for licensure in another U.S. jurisdiction but satisfy the qualifications for licensure in this jurisdiction may apply for licensure by examination in Virginia. Such applicants

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shall submit the required application and fee. Such applicants shall not, however, be permitted to practice nursing in Virginia until the requisite license has been issued.

## 18 VAC 90-20-230. Reinstatement of lapsed licenses.

A. A nurse whose license has lapsed may be reinstated within one renewal period by payment of the current renewal fee and the late renewal fee.

~~A.~~ B. A nurse whose license has lapsed for more than one renewal period shall file a reinstatement application and pay the ~~current renewal fee and the~~ reinstatement fee.

C. A nurse whose license has been suspended or revoked by the board may apply for reinstatement by filing a reinstatement application and paying the fee for reinstatement after suspension or revocation.

~~B.~~ D. The board may request evidence that the nurse is prepared to resume practice in a competent manner.

## 18 VAC 90-20-350. Nurse aide registry.

### A. Initial certification by examination.

1. To be placed on the registry and certified, the nurse aide must:

a. Satisfactorily complete a nurse aide education program approved by the board; or

b. Be enrolled in a nursing education program preparing for registered nurse or practical nurse licensure, have completed at least one nursing course which includes clinical experience involving client care; or

c. Have completed a nursing education program preparing for registered nurse licensure or practical nurse licensure; and

d. Pass the competency evaluation required by the board; and

e. Submit the required application and fee to the board.

2. Initial certification by endorsement.

a. A graduate of a state-approved nurse aide education program who has satisfactorily completed a competency evaluation program and is currently registered in another state may apply for certification in Virginia by endorsement.

b. An applicant for certification by endorsement shall submit the required application and fee and submit the required verification form to the credentialing agency in the state where registered, certified or licensed within the last two years.

3. Initial certification shall be for two years.

### B. Renewal of certification.

1. No less than 30 days prior to the expiration date of the current certification, an application for renewal shall be mailed by the board to the last known address of each currently registered certified nurse aide.

2. The certified nurse aide shall return the completed application with the required fee of ~~\$30~~ \$45 and verification of performance of nursing-related activities for compensation within the preceding two years. The board shall also charge a fee of ~~\$15~~ \$25 for a returned check.

3. Failure to receive the application for renewal shall not relieve the certificate holder of the responsibility for renewing the certification by the expiration date.

4. A certified nurse aide who has not performed nursing-related activities for compensation during the two years preceding the expiration date of the certification shall repeat and pass the nurse aide competency evaluation prior to applying for recertification.

C. Reinstatement of lapsed certification. An individual whose certification has lapsed shall file the required application and renewal fee and:

1. Verification of performance of nursing-related activities for compensation prior to the expiration date of the certificate and within the preceding two years; or

2. When nursing activities have not been performed during the preceding two years, evidence of having repeated and passed the nurse aide competency evaluation.

D. Evidence of change of name. A certificate holder who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order authorizing the change. A duplicate certificate shall be issued by the board upon receipt of such evidence and the required fee.

### E. Requirements for current mailing address.

1. All notices required by law and by this chapter to be mailed by the board to any certificate holder shall be validly given when mailed to the latest address on file with the board.

2. Each certificate holder shall maintain a record of his current mailing address with the board.

3. Any change of address by a certificate holder shall be submitted in writing to the board within 30 days of such change.

**NOTICE:** The forms used in administering 18 VAC 90-20-10 et seq., Regulations Governing the Practice of Nursing, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6606 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

### FORMS

Application for Licensure by Endorsement - Registered Nurse (with Instructions) (rev. ~~7/97~~ 8/99).

Application for Licensure by Endorsement - Licensed Practical Nurse (rev. 8/99).

Instructions for Filing Application for Licensure by Examination for Registered Nurses (8/97).

Application for Licensure by Examination - Registered Nurse (rev. ~~8/97~~ 8/99).

Instructions for Filing Application for Licensure by Examination for Practical Nurses (rev. 11/96).

Application for Licensure by Examination - Licensed Practical Nurses (rev. ~~44/96~~ 8/99).

Instructions for Filing Application for Licensure by Repeat Examination for Registered Nurses (rev. 8/97).

Application for Licensure by Repeat Examination for Registered Nurse (rev. ~~8/97~~ 8/99).

Instructions for Filing Application for Licensure by Repeat Examination for Practical Nurses (rev. 8/97).

Application for Licensure by Repeat Examination for Licensed Practical Nurse (rev. ~~8/97~~ 8/99).

Instructions for Filing Application for Licensure by Examination for Nurses Educated in Other Countries (rev. 8/97).

Application for Licensure by Examination for *Registered* Nurses Educated in Other Countries (rev. ~~8/97~~ 8/99).

Instructions for Filing Application by Practical Nurses from Other Countries (rev. 1/94).

Application for Licensure by Examination for Licensed Practical Nurses Educated in Other Countries (rev. ~~44/95~~ 8/99).

Application for Reinstatement of License as a Registered Nurse (rev. ~~4/98~~ 8/99).

Application for Reinstatement of License as a Licensed Practical Nurse (rev. ~~4/98~~ 8/99).

Verification of Licensure or Registration (rev. 11/95).

Renewal Notice and Application (7/97).

Application for Registration as a Clinical Nurse Specialist (rev. ~~7/97~~ 8/99).

Survey Visit Report.

Annual Report for Registered Nursing Programs.

Annual Report for Practical Nursing Programs.

Certified Nurse Aide Renewal *Notice and Application*, C-45783 (7/97).

Application for Reinstatement of Nurse Aide Certification (rev. 8/99).

Application for Nurse Aide Certification by Endorsement.

Nurse Aide Certification Verification Form.

Application to Establish Nurse Aide Education Program (rev. 5/99).

Program Evaluation Report (rev. 5/99).

On-Site Review Report (rev. 5/99).

Evaluation of On-Site Visitor.

Request for Statistical Information.

VA.R. Doc. No R99-137; Filed November 3, 1999, 11:58 a.m.

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

Title of Regulation: **18 VAC 115-20-10 et seq. Regulations Governing the Practice of Professional Counseling (amending 18 VAC 115-20-20, 18 VAC 115-20-40, 18 VAC 115-20-100, 18 VAC 115-20-110, and 18 VAC 115-20-150).**

**18 VAC 115-30-10 et seq. Regulations Governing the Certification of Substance Abuse Counselors (amending 18 VAC 115-30-30, 18 VAC 115-30-40, 18 VAC 115-30-110, 18 VAC 115-30-120, 18 VAC 115-30-130, and 18 VAC 115-30-160).**

**18 VAC 115-40-10 et seq. Regulations Governing the Certification of Rehabilitation Providers (amending 18 VAC 115-40-20 and 18 VAC 115-40-35; adding 18 VAC 115-40-61).**

**18 VAC 115-50-10 et seq. Regulations Governing the Practice of Marriage and Family Therapists (amending 18 VAC 115-50-20, 18 VAC 115-50-30, 18 VAC 115-50-40, 18 VAC 115-50-90, and 18 VAC 115-50-100; adding 18 VAC 115-50-130).**

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

Public Hearing Date: January 6, 2000 - 9 a.m.

Public comments may be submitted until January 21, 2000.

(See Calendar of Events section for additional information)

Basis: Chapter 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary and the authority to levy and collect fees that are sufficient to cover all expenses for the administration of a regulatory program.

Section 54.1-113 of the Code of Virginia requires all regulatory boards under the Department of Health Professions to revise their fee schedules if after the close of any biennium there is more than a 10% percentage between revenues and expenditures.

Purpose: The purpose of the proposed amendments is to establish fees sufficient to cover the administrative and disciplinary activities of the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals. Without adequate funding, the licensing of professional counselors, marriage and family therapists and substance abuse treatment practitioners, and the certification of substance abuse counselors and rehabilitation providers could be delayed. In addition, sufficient funding is

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essential to carry out the investigative and disciplinary activities of the board in order to protect the public health, safety and welfare.

Substance:

Regulations Governing the Practice of Professional Counseling

18 VAC 115-20-20. Fees required by the board. A renewal fee increase is proposed from the current \$75 biennial renewal to a \$105 annual renewal. The proposed renewal fee reflects the cost of the administrative and disciplinary activities of the board and the allocated costs of the department.

The proposal establishes new initial licensure by examination and initial licensure by endorsement fees of \$65 to cover the licensure fee for half of a renewal period, which is the average initial licensure period for new licensees, and a \$10 fee for a wall certificate.

The cost for producing and sending a duplicate license has been reduced, so the proposed fee decreases from \$15 to \$5 and reflects the actual cost.

An increase in the cost for verification of licensure to another jurisdiction from \$10 to \$25 is proposed to cover the administrative costs of retrieving and copying a file from the microfilm archive, and the mailing costs of the file.

An increase in the late renewal fee from \$10 to \$35 is proposed to establish a fee that is 35% of the renewal fee in accordance with the agency's Principles for Fee Development.

A new fee of \$165 is proposed for reinstatement of a license that has lapsed beyond one full renewal period. This fee is based on the cost of board review of the reinstatement application plus half of the annual renewal fee to cover the average time remaining in a renewal period, plus the penalty fee for late renewal.

The proposed returned check fee of \$25 is estimated to be the actual administrative costs for processing and collecting on a returned check; it is proposed to be the same fee for all boards within the department.

A new fee of \$500 is proposed for reinstatement of a license that has been revoked or suspended following disciplinary action. This fee is based on the cost of the review of the background investigation and reinstatement application, and the cost of holding an informal conference to consider the reinstatement.

A change is proposed for the payment instruction to clarify that some licensure processes are performed by a vendor, requiring payment of the fee to the vendor and not the board, as set forth in the application instructions.

18 VAC 115-20-40. General requirements. Minor changes are proposed to conform the language in this section with that in 18 VAC 115-20-20.

18 VAC 115-20-100. Biennial renewal of licensure. Minor changes are proposed to indicate the new annual renewal period.

18 VAC 115-20-110. Late renewal; reinstatement. Amendments are proposed to change the current term for late renewal without reinstatement from four years to one year. Beyond the one year renewal period, a reinstatement procedure is proposed, requiring application for reinstatement and payment of a reinstatement fee. The reinstatement fee is established based on the administrative and review costs which are the same as that determined for initial licensure, plus a late renewal fee. This is in conformance with the Principles for Fee Development for all boards within the department.

18 VAC 115-20-150. Reinstatement following disciplinary action. A minor change is proposed to apply the same reinstatement procedure and fee to licenses that have been suspended, revoked or denied renewal.

Regulations Governing the Certification of Substance Abuse Counselors

18 VAC 115-30-20. Fees required by the board. A renewal fee increase is proposed from the current \$40 biennial renewal to a \$55 annual renewal. The proposed renewal fee reflects the cost of the administrative and disciplinary activities of the board and the allocated costs of the department.

The proposal establishes new initial licensure by examination and initial licensure by endorsement fees of \$40 to cover the licensure fee for half of a renewal period, which is the average initial licensure period for new licensees, and a \$10 fee for a wall certificate.

The cost for producing and sending a duplicate license has been reduced, so the proposed fee decreases from \$15 to \$5 and reflects the actual cost.

An increase in the late renewal fee from \$10 to \$20 is proposed to establish a fee that is 35% of the renewal fee in accordance with the agency's Principles for Fee Development.

A new fee of \$100 is proposed for reinstatement of a certificate that has lapsed beyond one full renewal period. This fee is based on the cost of board review of a reinstatement application (\$50), plus half of the annual renewal fee, plus the penalty fee for late renewal.

The proposed returned check fee of \$25 is estimated to be the actual administrative cost for processing and collecting on a returned check; it is proposed to be the same fee for all boards within the department.

A new fee of \$500 is proposed for reinstatement of a license that has been revoked or suspended following disciplinary action. This fee is based on the cost of the review of the background investigation and reinstatement application, and the cost of holding an informal conference to consider the reinstatement.

A change is proposed for the payment instruction to clarify that some licensure processes are performed by a vendor, requiring payment of the fee to the vendor and not the board, as set forth in the application instructions.

18 VAC 115-30-40. Certification, general. Minor changes are proposed to conform the language in this section with that in 18 VAC 115-20-30.

18 VAC 115-30-110. Biennial renewal of certificate. Minor changes are proposed to indicate the new annual renewal period.

18 VAC 115-30-120. Reinstatement. Amendments are proposed to change the current term for late renewal without reinstatement from four years to one year. Beyond the one-year renewal period, a reinstatement procedure is proposed, requiring application for reinstatement and payment of a reinstatement fee. The reinstatement fee is established based on the administrative and review costs which are the same as that determined for initial licensure, plus a late renewal fee. This is in conformance with the Principles for Fee Development for all boards within the department.

18 VAC 115-30-130. Legal name change. The reference to the name change fee, which is being rescinded, is deleted from this section.

18 VAC 115-30-160. Reinstatement following disciplinary action. A minor change is proposed to apply the same reinstatement procedure and fee to licenses that have been suspended, revoked or denied renewal.

### Regulations Governing the Certification of Rehabilitation Providers

18 VAC 115-40-20. Fees required by the board. The proposal replaces the application processing fee with new initial certification by examination and initial certification by endorsement fees of \$90 to cover the costs of application processing and review (\$50 per application) plus an initial licensure fee composed of half the cost of the proposed renewal fee and a \$10 fee for a wall certificate.

A renewal fee increase is proposed from the current \$50 annual renewal to a \$55 annual renewal. The proposed renewal fee reflects the cost of the administrative and disciplinary activities of the board and the allocated costs of the department.

The cost for producing and sending a duplicate license has been reduced, so the proposed fee decreases from \$15 to \$5 and reflects the actual cost.

An decrease in the late renewal fee from \$50 to \$20 is proposed to establish a fee that is 35% of the renewal fee in accordance with the agency's Principles for Fee Development.

A new fee of \$100 is proposed for reinstatement of a certificate that has lapsed beyond one full renewal period. This fee is based on the cost of reviewing a reinstatement application, plus half of the annual renewal fee, plus the penalty fee for late renewal.

The proposed fee of \$25 is estimated to be the actual administrative cost for processing and collecting on a returned check; it is proposed to be the same fee for all boards within the department.

A new fee of \$500 is proposed for reinstatement of a license that has been revoked or suspended following disciplinary

action. This fee is based on the cost of the review of the background investigation and reinstatement application, and the cost of holding an informal conference to consider the reinstatement.

A change is proposed for the payment instruction to clarify that some fees are paid directly to the board, and others (not included in the regulation) are established by and paid to the vendor.

18 VAC 115-40-35. Reinstatement. Amendments are proposed to change the current term for late renewal without reinstatement from four years to one year. Beyond the one-year renewal period, a reinstatement procedure is proposed, requiring application for reinstatement and payment of a reinstatement fee. The reinstatement fee is established based on the administrative and review costs which are the same as that determined for initial licensure, plus a late renewal fee. This is in conformance with the Principles for Fee Development for all boards within the department.

18 VAC 115-40-60. Reinstatement following disciplinary action. The board proposes a new section to set forth a process and fee for reinstatement of a license which has been suspended or revoked to recover some of the costs for holding a hearing of the board.

### Regulations Governing the Practice of Marriage and Family Therapy

18 VAC 115-50-20. Fees required by the board. An increase in the fee for registration of supervision from \$20 to \$50 is proposed to cover the actual cost of reviewing a supervision contract and associated documentation.

A new fee for adding or changing a supervisor is included to reflect the reduced cost of reviewing a second supervision contract for an individual whose other registration materials have already been reviewed.

The proposal replaces the application processing fee with new initial licensure by examination and initial licensure by endorsement fees of \$140 to cover the costs of application processing and review (\$75 per application) plus an initial licensure fee composed of half the cost of the proposed renewal fee and a \$10 fee for a wall certificate.

A renewal fee increase is proposed from the current \$75 biennial renewal to a \$105 annual renewal. The proposed renewal fee reflects the cost of the administrative and disciplinary activities of the board and the allocated costs of the department.

An increase in the late renewal fee from \$10 to \$35 is proposed to establish a fee that is 35% of the renewal fee in accordance with the agency's Principles for Fee Development.

A new fee of \$165 is proposed for reinstatement of a license that has lapsed beyond one full renewal period. This fee is based on the cost of reviewing a reinstatement application, plus half of the annual renewal fee, plus the penalty fee for late renewal.

An increase in the cost for verification of licensure to another jurisdiction from \$10 to \$25 is proposed to cover the

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administrative costs of retrieving and copying a file from the microfilm archive, and the mailing costs of the file.

The cost for producing and sending a duplicate license has been reduced, so the proposed fee decreases from \$15 to \$5 and reflects the actual cost.

The proposed fee of \$25 is estimated to be the actual administrative costs for processing and collecting on a returned check; it is proposed to be the same fee for all boards within the department.

A new fee of \$500 is proposed for reinstatement of a license that has been revoked or suspended following disciplinary action. This fee is based on the cost of the review of the background investigation and reinstatement application, and the cost of holding an informal conference to consider the reinstatement.

A change is proposed for the payment instruction to clarify that some licensure processes are performed by a vendor, requiring payment of the fee to the vendor and not the board, as set forth in the application instructions.

18 VAC 115-50-30. Application for licensure by examination. Minor changes are proposed to conform the language in this section with that in 18 VAC 115-50-20.

18 VAC 115-50-40. Application for licensure by endorsement. Minor changes are proposed to conform the language in this section with that in 18 VAC 115-50-20.

18 VAC 115-50-90. Biennial renewal of licensure. Minor changes are proposed to indicate the new annual renewal period.

18 VAC 115-50-100. Late renewal; reinstatement. Amendments are proposed to change the current term for late renewal without reinstatement from four years to one year. Beyond the one-year renewal period, a reinstatement procedure is proposed, requiring application for reinstatement and payment of a reinstatement fee. The reinstatement fee is established based on the administrative and review costs which are the same as that determined for initial licensure, plus a late renewal fee. This is in conformance with the Principles for Fee Development for all boards within the department.

18 VAC 115-50-130. Reinstatement following disciplinary action. The board proposes a new section to set forth a process and fee for reinstatement of a license which has been suspended or revoked to recover some of the costs for holding a hearing of the board.

Issues: An analysis of revenues and expenditures conducted at the end of the 1996-1998 biennium projected that under the current fee structure, the board would face a 46% deficit at the end of the 1998-2000 biennium, an 84% deficit at the close of the 2000-2002 biennium, and a 123% deficit at the close of the 2000-2004 biennium. In order to remain in compliance with § 54.1-113 of the Code of Virginia, the board adopted a proposal for fee increases that will offset the projected deficit through 2004.

In developing the fee proposal, the agency's finance office used a new set of principles by which all boards are guided in

the development of regulations. The Principles for Fee Development are intended to provide structure, consistency, and equity for all professionals regulated within the department. In consideration of various alternatives and issues surrounding the adoption of fees, the principles served to guide the board in the development of appropriate and necessary fees.

ISSUE 1. Uniformity in renewal and application fees across professions.

As is stated in the principles, renewal fees for all occupations regulated by a board should be consistent across occupations unless there is clear evidence to indicate otherwise. Professional counselors and marriage and family therapists are all licensed for the independent delivery of mental health services. As a result, the relative numbers and kinds of disciplinary problems encountered by these professions is similar, and the cost of administering the disciplinary programs is also similar. Therefore, the board is proposing the same renewal fee for all three licensure categories. Likewise, the education and experience requirements for the three licensure categories are similar, resulting in a comparable amount of work to process and review applications. The board is proposing that \$75 of the initial licensure fee be attributed to credentials review for marriage and family therapist and substance abuse treatment practitioner applicants, based on the cost of staff time, reviewer time, mailing and copying costs, data processing and telephone costs for each applicant. Likewise, the board is proposing a \$50 review fee for initial registrations of supervision and a \$25 fee for subsequent registrations for marriage and family therapy applicants, and the same fee for the new licensure category of substance abuse treatment practitioner. Because application and registration of supervision reviews of professional counselor applicants are performed by a vendor, with fees established in contract and paid to the vendor, no review fees are attributed to the initial licensure fee for these applicants.

The same reasoning was applied to the two certification categories. Because certified substance abuse counselors practice under structured settings and do not provide independent services, relatively few disciplinary problems arise compared with the licensure categories. Similarly, few complaints are received regarding certified rehabilitation providers because their work does not involve the risk of boundary violations characteristic of the counseling professions. Therefore, the board proposing the same renewal fee for certified substance abuse counselors and certified rehabilitation providers, established at half of the amount proposed for the three independent licensure categories. Also, the credentials review time for the two certification categories is similar, but less than that for the three licensure categories. The board is proposing that \$50 of the initial licensure fee be attributed to credentials review for rehabilitation provider applicants, based on the cost of staff time, reviewer time, mailing and copying costs, data processing and telephone costs for each applicant. Because application reviews of substance abuse counselor applicants are performed by a vendor, with a fee established in contract and paid to the vendor, no credentials review fee is attributed to the initial licensure fee for these applicants.

Advantages and disadvantages to the licensees. All individuals licensed or certified by the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals will experience increased renewal fees under the proposed regulations. In 1997, the board reduced its renewal fees from \$85 annually to \$75 biennially for professional counselor licensure, and from \$40 annually to \$40 biennially for substance abuse counselor certification in response to a projected revenue surplus. Because of significant drops in renewals for certified rehabilitation providers and in applications for marriage and family therapist licensure, the budget projections now require that the fees be returned to approximately the pre-1997 levels. While that is a disadvantage to the licensees, the alternative of reduced services for the board would be unacceptable to applicants, licensees and the general public. As a specially funded agency, renewal fees pay the vast majority of the expenses of board operations, which include investigation of complaints against licensees and certificate holders, adjudication of disciplinary cases, verification of licensure and education to other jurisdictions and entities, and communications with licensees and certificate holders about current practice and regulation.

### ISSUE 2: Establishment of initial licensure fees.

For all professions governed by the board, the initial licensure fee has historically been considered part of the application fee. This allowed for immediate processing of the license following notification of a passing exam score for an applicant. However, the fee was not developed according to any set formula consistent among boards in the agency. Additionally, recent outsourcing of some credentials review services (for professional counselor licensure and substance abuse counselor certification) to vendors resulted in initial licensure of individuals with no moneys collected by the board to cover the portion of the renewal period remaining. Under the new Principles for Fee Development, the initial application fees should include the cost of credentials review, an appropriate portion of the license fees, and cost of the wall certificate.

For those professions that are not reviewed by the board, the credentials review fee is established in the contract and paid to the vendor, and is, therefore, not included in the proposed regulations.

One method of assessing an initial licensure fee is prorating the fee based on the amount of time remaining in the renewal period. The board is not proposing prorated fees because other boards in the agency have determined that the additional steps involved (assessing fee, notifying applicant, processing check, notifying applicant again check is not mailed until the next fee period begins, etc.) result in delays in licensure processing and can create more burden and lost income for the applicant than any benefit from the prorated fees. In the proposed regulations, all applicants for all categories of licensure and certification will be assessed a fee to cover half of the renewal period, which is the average initial licensure period.

Advantages and disadvantages to the licensees. As is stated above, the advantage of not prorating fees is that initial licensure can occur in a more timely manner. For those who are applying for licensure by examination, the license is

issued as soon as examination results are forwarded to the board, usually within one or two working days. For those applying for licensure by endorsement, a license is typically issued within one or two days of receipt of all verifying documentation.

ISSUE 3. Establishment of application and initial licensure fee for licensure by examination versus licensure by endorsement.

Currently, the board's regulations provide for licensure without examination (endorsement) for marriage and family therapists, substance abuse counselors and rehabilitation providers who are licensed or certified in other jurisdictions. The board has proposed endorsement provisions for professional counselor licensure. However, the regulations do not distinguish the method of application in the application fee. The proposed regulations include fees for application and licensure by examination and by endorsement. These fees are identical in each regulation, because the estimated time spent in processing and reviewing applications for examination or endorsement is the same, whether the review is conducted by the board or the vendor. However, by separating the fees, any future administrative changes that may alter the way the applications are reviewed can be reflected in the fees. For all professions, examinations fees are paid directly to the examination services and are not included as part of the initial licensure fee.

Advantages and disadvantages to the licensees. Setting the fees out separately will prevent confusion for applicants who may be expecting an additional cost for endorsement review. Since the review process will be the same, (vendors will make recommendations to the board regarding endorsement applicants), there is no need for a difference in the fees. However, should the review process change for any reason, the regulations will be formatted to accommodate any differences. There are no disadvantages.

ISSUE 4. Establishment of different fees for renewing an expired license versus reinstating a lapsed license.

Currently, the board's regulations set forth various processes for renewing an expired license, allowing up to four or five years to renew with back fees and penalty fees of \$10 per renewal period, and requiring either reapplication or evidence of continued competency beyond the four-or-five-year period. In conformance with the Principles for Fee Development, the board is proposing a penalty fee assessed at 35% of the renewal fee for licenses which have lapsed one renewal period, and a reinstatement application requirement for individuals whose licenses have lapsed beyond one renewal period. Since a reinstatement application is required for a licensee to reinstate a lapsed license, the proposed reinstatement fee includes the current renewal fee, the late fee, and a credential review fee.

Advantages and disadvantages to the licensees. For all categories of licensure and certification, the penalty fee for late renewal within the first renewal period will increase, which is a disadvantage to licensees. However, the proposal presents an advantage for individuals whose licenses have lapsed more than one renewal period.

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Under the current regulations for rehabilitation providers, professional counselors and marriage and family therapists, individuals who have lapsed more than two renewal cycles must reapply according to the current regulations. If the requirements for licensure or certification change significantly, an individual returning to Virginia after a lengthy absence may find that he is no longer eligible for the category of licensure or certification he once held. The proposed change will allow the board to use discretion as to whether an individual has maintained competency to perform the functions within the scope of practice of the license. For individuals who hold multiple licenses, the proposal establishes a consistent policy for each license held.

Under the current regulations for substance abuse counselor certification, individuals who have lapsed more than two renewal cycles must pay all back fees and penalty fees to be reinstated. This can result in exorbitant fees for individuals who have been absent from Virginia for many years. The proposal establishes a flat fee for reinstatement that will not increase based on years of absence.

## ISSUE 5. Reinstatement after revocation.

Reinstatement of a license which has been suspended or revoked necessitates an additional cost of a hearing before a panel of the board. The estimated cost of a hearing, including board member per diems, staff time and associated expenses is approximately \$500. The board is proposing that individuals whose licenses have been suspended or revoked incur the cost of the reinstatement hearing.

## ISSUE 6. Uniformity among boards for setting miscellaneous fees.

In setting proposed fees for miscellaneous activities of the board, the principles call for uniformity among boards and regulated entities. The board is proposing fees for replacement of a duplicate license, duplicate certificate, and processing and collecting on a bad check based on cost estimates provided by the Deputy Director for Finance of the department that will be standardized among all boards in the agency.

Advantages and disadvantages to the licensees. The advantage of proposed regulations is that all persons licensed or certified by a board under the Department of Health Professions will consistently pay a fee for miscellaneous activities determined by actual costs for that activity. There will not be inconsistent fees for licensees regulated under different boards.

Advantage or disadvantages to the public. Fee increases proposed by the board should have no disadvantage to the consuming public. Although the increase in renewal fees for licensed professional counselors and substance abuse counselors is significant, it represents a return to the fees prior to the fee decrease in 1997. At the time the marriage and family therapist regulations became effective, fees were established as equivalent to the fees for professional counselors based on the similarity of the application process and estimated disciplinary activities equivalency to professional counselor licensure. The board is now proposing increases in fees for marriage and family therapist licensure based on the equivalency to the professional counselor

license in terms of costs to administer the licensure programs. Renewal fees for certified rehabilitation providers fees are increasing only slightly, from \$50 to \$55 per year.

There would be considerable disadvantages to the public if the board took no action to address its deficit and increase fees to cover its expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work and delays in approval or disapproval of education programs. Potentially, the most serious consequence would be a reduction in or reprioritization of the investigation of complaints against regulated individuals. In addition, there may be delays in adjudicating cases of violations of the standards of practice, resulting in potential danger to clients who are often emotionally vulnerable to unscrupulous practitioners.

### Estimated Fiscal Impact:

Number of entities affected by this regulation.

The number of regulated entities (as of June 7, 1999) who would be affected by these regulations is:

Licensed Professional Counselors	2,293
Certified Substance Abuse Counselors	1,124
Certified Rehabilitation Providers	1,035
Licensed Marriage and Family Therapists	916

Projected cost to the agency. The agency will incur some costs (approximately \$1,000) for mailings to the Public Participation Guidelines mailing list, conducting a public hearing, and sending copies of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

Projected costs to the affected entities. For most applicants and regulated entities, the costs of acquiring and maintaining licensure will increase. The fee for the initial registration of supervision for marriage and family therapist licensure will increase from \$20 to \$50. Subsequent registrations remain the same. The increased cost for application review, and the assessment of initial licensure and wall certificate fees will increase the cost of initial licensure from \$85 and \$50 for professional counselors (fee paid to vendor) and marriage and family therapists, respectively, to \$150 and \$140. The fees for initial certification for substance abuse counselors will increase from \$45 (paid to a vendor) to \$95. The fee for initial certification for rehabilitation providers will decrease from \$100 to \$90.

Professional counselors and marriage and family therapists will pay an additional \$67.50 per year to maintain their licenses. Certified substance abuse counselors will pay an additional \$35 per year, and certified rehabilitation providers will pay an additional \$5.00 per year.

For professional counselors and marriage and family therapists who submit their renewal fee late within one renewal period, the late renewal penalty will increase from \$10 to \$35. For certified rehabilitation provider and certified substance abuse counselors, the late renewal penalty will increase from \$10 to \$20. The proposed reinstatement fees for marriage and family therapists and professional counselors whose licenses have lapsed beyond one renewal



period will increase above the simple cost of reapplication by the cost of the penalty fee minus the cost of the wall certificate, which is \$25. Reinstatement for rehabilitation providers will increase by the same formula, which comes to \$10. For certified substance abuse counselors, reinstatement could represent a savings, depending on how many years the license has lapsed.

Miscellaneous costs, such as replacement of a duplicate license or wall certificate, verification of a license or transcript, and returned check charges are uniformly proposed at amounts consistent with the actual costs incurred by the department for those activities.

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 25 (98). 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. The proposed regulations revise the schedule of fees paid by mental health care providers to the Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals. The purpose of these fee changes is to bring the board into compliance with the board's interpretation of § 54.1-113 of the Code of Virginia. Section 54.1-113 requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10% difference between revenues and expenditures. The proposed fee changes are as follows:

#### All Professions Regulated by the Board

The following fees are determined by the actual costs to the board for the particular activity or function and are set identically for each of the regulated professions:

- \$15 for producing a duplicate wall certificate,
- \$5 for producing and sending a duplicate license,
- \$500 for reinstatement of revoked or suspended licenses,
- \$25 for processing and collecting on a returned check, and
- \$25 for verifying a license to another jurisdiction.

#### Professional Counselors

Initial licensure for professional counselors, either by examination or endorsement, will be \$65;<sup>1</sup>

Licensure renewal will change from a biennial \$75 fee to an annual fee \$105;

The penalty for late renewal of a license will increase from \$10 to \$35 (all renewal fees represent approximately 35% of the annual renewal); and

Reinstatement of a lapsed license (a license not renewed within one renewal cycle) will cost \$165.

#### Substance Abuse Counselors

Initial certification for substance abuse counselors, either by examination or endorsement, will be \$40;<sup>2</sup>

Certification renewal will change from a biennial \$40 fee to an annual fee \$55;

The penalty for late renewal of a certificate will increase from \$10 to \$20 (approximately 35% of the annual renewal); and

Reinstatement of a lapsed certificate (a certificate not renewed within one renewal cycle) will cost \$100.

#### Rehabilitation Providers

Application for certification as a rehabilitation is reduced from \$100 to \$90;

Certification renewal will change from a \$50 annual fee to a \$55 annual fee;

The penalty for late renewal of a certificate is reduced from \$15 to \$20 (approximately 35% of the annual renewal); and

Reinstatement of a lapsed certificate (a certificate not renewed within one renewal cycle) will cost \$100.

#### Marriage and Family Therapists

Registration of supervision will increase from \$20 to \$50 and a new fee is added to allow for addition or change of a supervisor for only \$25;

Application by examination or endorsement for licensure as a marriage and family therapist is increased from \$50 to \$140;

Licensure renewal will change from a biennial \$75 fee to an annual fee \$105;

The penalty for late renewal of a license is raised from \$10 to \$35 (approximately 35% of the annual renewal); and

Reinstatement of a lapsed license (a license not renewed within one renewal cycle) will cost \$165.

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<sup>1</sup> Because applicants pay a processing fee directly to the private vendor who reviews applications for professional counselor licensure, this initial licensure fee only covers a portion of the renewal cycle and the cost of a wall certificate.

<sup>2</sup> Because applicants pay a processing fee directly to the private vendor who reviews applications for substance abuse counselor certification, this initial fee only covers a portion of the renewal cycle and the cost of a wall certificate.

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## Substance Abuse Treatment Practitioners

The fee for review of a new or additional supervision contract is reduced from \$35 to \$25;

Application by examination or endorsement for licensure as a substance abuse treatment practitioner is increased from \$100 to \$140;

Licensure renewal will change from a biennial \$90 fee to an annual fee \$105;

The penalty for late renewal of a license is raised from \$25 to \$35 (approximately 35% of the annual renewal); and

Reinstatement of a lapsed license (a license not renewed within one renewal cycle) will cost \$165.

Estimated economic impact. The primary effect of the proposed fee changes will be to increase compliance costs for practitioners under the Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals in Virginia by approximately \$736,2550 biannually.<sup>3</sup> Under the current fee structure, the board projects a biennial deficit of \$511,000 for the 2000-2002 biennium.<sup>4</sup> The proposed fee increases would substantially reduce the projected deficits during the 2000-2002 biennium and thereafter would begin to generate a modest surplus, thereby bringing the board into compliance with the Code.

According to the board, several factors have contributed to the projected deficit. Such factors include increases in the board size, addition of two new licensure programs, increases in data processing costs, staff pay raises and related benefit increases, Y2K compliance, installation of a new computer system, and relocation of the Department of Health Professions (DHP), which have all increased expenditures. On the other side, the board has also experienced lower revenues due to significant declines in renewals for certified rehabilitation providers and applications for marriage and family therapist licensure. These circumstances have increased costs despite other efforts to improve efficiency (i.e., the privatization of certain functions, reductions in staff, etc.) undertaken by the department and the board during the past five years.

According to DHP, the proposed fee increases are necessary so that the Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals can continue to perform its essential functions of licensing, certification, investigations of complaints, and adjudication of disciplinary cases. These functions sustain the supply of mental health care providers in

Virginia and protect the public from continued practice by incompetent or unethical practitioners.

The level of the proposed fee increases, specifically the biennial renewal fees, are based on revenue and expenditure projections prepared by DHP for the Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals. The proposed amounts were selected such that projected revenues would be sufficient to cover projected expenditures but would not result in anything more than a modest surplus.

Since a wide range of occupations are regulated by board, they were grouped into categories so that professionals licensed by the board which have similar rates of discipline and administrative expenditures would also have similar fees set in the proposed regulations. Professional counselors, marriage and family therapists, and substance abuse treatment practitioners all provide independent mental health services and have similar educational and experience requirements, and therefore are grouped into one occupational category. Likewise, members of the two certification categories (substance abuse counselors and rehabilitation providers) are grouped separately since they require less credentials review and have fewer disciplinary problems. The changes in fee structures are largely based on DHP's Principles for Fee Development and are discussed below.<sup>5</sup>

## Application Fees

The proposed regulations amend the application fees for all professions regulated by the Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals. The new fees will be consistent across professions except where there is clear evidence that the costs are not similar. The existing fees vary widely across professions and do not accurately represent the true costs of initial application. For instance, applicants in many professions receive their first biennial license and their wall certificate at no cost. These costs are currently covered by renewal fees. The new application fees will cover the costs of application processing and credential review, approximately half of a biennial renewal cycle, and a wall certificate. The two exceptions are professional counselor licensure and substance abuse counselor certification, where application review is conducted by a private vendor. Applicants for these two credentials pay a processing fee directly to the vendor, therefore the application fee in the proposed regulations are lower than for the other occupations in their same category.

By charging individuals for the full costs of their application, the proposed fees are more efficient and equitable. They also will provide consistency across professions regulated by the board. Though the proposed application fees are higher than the existing fees in most cases, they represent a very small portion of the total cost of entry into the mental health care profession, which includes all education and training

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<sup>3</sup> This figure reflects the difference between projected revenue for the Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals under the current fee structure and estimated revenue under the proposed fee schedule (\$647,655 and \$1,383,905).

<sup>4</sup> This figure reflects the difference of the projected budget through 6/30/2002 (\$1,159,010) and the projected revenue under the current fee structure (\$647,655).

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<sup>5</sup> This document, dated May 20, 1999, outlines the principles by which DHP sets its licensing fees. The principles are intended to provide structure, consistency, and equity for all the professionals regulated within the department.

expenses. Therefore, this fee increase is unlikely to have a significant effect on the decision of individuals to enter this profession and consequently, should not affect the number of applicants or the supply of mental health care professionals in Virginia.

## Reinstatement and Late Renewal Fees

The proposed regulations establish late fees, equal to approximately 35% of the renewal fee for each profession, for licensees renewing within one renewal cycle of the expiration date and require reinstatement for the renewal of any licenses or certificates (now lapsed) beyond that time. The proposed reinstatement fees cover the costs of application processing and document review, and a portion of the license renewal fee.

Currently, some professions regulated by the board charge cumulative penalty fees for as long as the license has been lapsed while other have flat reinstatement fees. The late fees and reinstatement fees in the proposed regulation establish a policy that differentiates between persons who are merely a day late in renewing their license from persons who have chosen to let their license lapse for a lengthy period of time (e.g., someone who had left the state, obtained a license in another jurisdiction, and then has returned to Virginia). According to DHP, the proposed late renewal fee more accurately reflects the costs incurred by the department for processing late renewals, which cannot be processed through the automated system but must be manually entered.

The application fee for reinstatement of a revoked license will be \$500. The level of the proposed fee is based on the board's determination of the actual costs involved, including a pre-hearing investigation, preparation of legal documents, and a hearing before the board (including per diem for members, travel expenses, and Attorney General office time). DHP estimates that one to two individuals will request reinstatement of revoked or suspended licenses each year. Compliance costs for these individuals would increase by a total of \$1,000 under the proposal. However, it is the board's opinion that these costs should be paid by the applicant and not supported by renewal fees from other licensees.

In addition to charging individuals for the full costs incurred on their behalf, which is both more efficient and equitable, the proposed reinstatement and late fees will provide consistency across professions regulated by the board, and should have a positive net economic benefit.

## Miscellaneous Fees

Almost all of the other proposed fee changes are intended to represent more accurately the actual cost of service. For example, the fee charged for a duplicate license is set at \$5 (a reduction in most cases), the returned check charge is set at \$25, and the fee for a transcript of an application or license record will be \$25. These fees are set uniformly across all professions under the Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals and will provide consistency and equity for members.

Summary of analysis. While the proposed regulations reduce fees for certain services, the net effect of the new fee

schedule will be an increase in application and licensure costs for all licensed or certified mental health care professionals in Virginia. According to DHP, the proposed fee increases are necessary to prevent a delay in the performance of or the elimination of investigations and disciplinary proceedings, application processing, and license renewals, a delay which could negatively affect public health and safety and reduce the supply of mental health care in Virginia.

Although the total increase in compliance costs is substantial, from an individual perspective, these fees represent a very small portion of the total cost of entry into the mental health care profession (e.g., the total cost of entry includes all education and training expenses). The proposed fee changes, therefore, are unlikely to have a significant effect on the decision of individuals to enter or exit this profession. For this reason, the proposed regulatory changes should have no economic consequences beyond the anticipated increase in licensing costs.

Businesses and entities affected. There are approximately 5,368 mental health care professionals currently licensed by the Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals in Virginia that will be affected by the proposed fee changes.<sup>6</sup> An estimated 90 persons will register a supervisor with the board each year with another 50 adding or changing a supervisor. The licensure program for substance abuse treatment practitioners is not in effect yet. Approximately 750 applicants are expected to apply for this license within the first year of the effective date of the regulations. In addition to those individuals already licensed, any changes to these regulations will affect future applicants, estimated by DHP to be about 400 per year.

Localities particularly affected. The proposed fee changes will not have a disproportionate affect on any particular localities since they apply statewide.

Projected impact on employment. Since the application and licensure renewal fees represent a very small portion of the total cost of entry into the mental health care profession, no significant impact on employment in Virginia is expected.

Effects on the use and value of private property. The proposed fee changes are not expected to have any significant effects on the use and value of private property in Virginia.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the analysis of the department.

## Summary:

*The Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals proposes amendments to increase certain fees pursuant to its statutory mandate to levy fees as necessary to cover expenses of the board. Fees sufficient to fund the operations of the board are*

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<sup>6</sup> 2,293 licensed professional counselors; 1,124 certified substance abuse counselors; 1,035 certified rehabilitation providers; and 916 licensed marriage and family therapists.

# Proposed Regulations

essential for activities such as licensing, investigation of complaints, and adjudication of disciplinary cases.

## 18 VAC 115-20-20. Fees required by the board.

A. The board has established the following fees applicable to licensure as a professional counselor:

<del>Biennial</del> Annual license renewal	<del>\$75</del> \$105
Initial licensure by examination	\$65
Initial licensure by endorsement	\$65
Duplicate license	<del>\$45</del> \$5
<del>Endorsement</del> Verification of licensure to another jurisdiction	<del>\$40</del> \$25
Late renewal	<del>\$40</del> \$35
Reinstatement of a lapsed license	\$165
Replacement of or additional wall certificate	\$15
Returned check	<del>\$15</del> \$25
Reinstatement following revocation or suspension	\$500

~~B. Application, registration of supervision and examination Fees shall be paid directly to the board's contracting agents according to their requirements to the board or its contractor or both in appropriate amounts as specified in the application instructions. All fees are nonrefundable.~~

~~C. All fees are nonrefundable Examination fees shall be determined and made payable as determined by the board.~~

## 18 VAC 115-20-40. General requirements.

A. No person shall practice as a professional counselor in the Commonwealth except as provided in this chapter and when licensed by this board.

B. Licensure by the board shall be by written examination.

C. Every applicant for licensure examination by the board shall:

1. Meet the education and experience requirements prescribed in 18 VAC 115-20-50 ~~of this chapter~~; and
2. Submit the following to the *board or its* contracting agent within the time frame established by *the board or* that agent:
  - a. A completed application;
  - b. Official transcripts documenting the applicant's completion of the education requirements prescribed in 18 VAC 115-20-50 A;
  - c. Documented evidence of having fulfilled the experience requirements of 18 VAC 115-20-50 B;
  - d. Reference letters from three health or mental health care practitioners attesting to the applicant's character and professional integrity; and
  - e. The ~~licensure~~ application *processing and initial licensing fee*.

D. The board may license by endorsement an individual who is currently licensed in another state as a professional counselor and who has been licensed in another state through a similar process with equivalent requirements as described in subsections B and C of this section.

## 18 VAC 115-20-100. Biennial Annual renewal of licensure.

A. All licensees shall renew licenses on or before June 30 of each ~~odd-numbered~~ year.

B. Every license holder who intends to continue to practice shall submit to the board on or before June 30 of each ~~odd-numbered~~ year:

1. A completed application for renewal of the license; and
2. The renewal fee prescribed in 18 VAC 115-20-20.

C. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.

## 18 VAC 115-20-110. Late renewal; reinstatement.

A. A person whose license has expired may renew it within ~~four years~~ *one year* after its expiration date by paying the late fee prescribed in 18 VAC 115-20-20 as well as the license renewal fee prescribed for ~~each biennium~~ *the year* the license was not renewed.

B. A person who fails to renew a license ~~for four years after one year~~ or more and wishes to resume practice shall ~~reapply and pay the application fee prescribed by the board's contracting agent and take the written examination~~ *apply for reinstatement, pay the reinstatement fee for a lapsed license and submit evidence regarding the continued ability to perform the functions within the scope of practice of the license.*

~~C. Upon approval for reinstatement, the applicant shall pay the late fee prescribed in 18 VAC 115-20-20 and the license renewal fee prescribed for each biennium the license was not renewed.~~

## 18 VAC 115-20-150. Reinstatement following disciplinary action.

A. Any person whose license has been revoked, *suspended* or denied renewal by the board under the provisions of 18 VAC 115-20-140 may, two years subsequent to such board action, submit a new application for *reinstatement* of licensure.

B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.

C. The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate ~~fees~~ *fee* applicable at the time of reinstatement.

**NOTICE:** The form used in administering 18 VAC 115-20-10 et seq., Regulations Governing the Practice of Professional Counseling, is listed below. The form is available for public inspection at the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

### FORMS

Renewal Notice and Application, C-45128 (rev. 8/97).

**18 VAC 115-30-30. Fees required by the board.**

A. The board has established the following fees applicable to the certification of substance abuse counselors:

<del>Biennial</del> Annual certification renewal	<del>\$40</del> \$55
Initial certification by examination	\$40
Initial certification by endorsement	\$40
Duplicate certificate	\$15 \$5
Late renewal	\$10 \$20
Reinstatement of a lapsed certificate	\$100
Replacement of or additional wall certificate	\$15
Name change	\$10
Returned check	\$15 \$25
Reinstatement following revocation or suspension	\$500

B. Application, registration of supervision and examination Fees shall be paid directly to the board's contracting agents according to their requirements to the board or its contractor or both in appropriate amounts as specified in the application instructions. All fees are nonrefundable.

C. ~~All fees are nonrefundable~~ Examination fees shall be determined and made payable as determined by the board.

**18 VAC 115-30-40. Certification, general.**

A. No person shall use the title of "certified substance abuse counselor" in the Commonwealth of Virginia except as provided in this chapter.

B. A certified substance abuse counselor is employed to deliver substance abuse counseling in a state-approved public or private facility.

C. In every instance there shall be an identifiable appropriately credentialed individual or authority to provide supervision.

D. A candidate for certification as a substance abuse counselor shall meet all the requirements of this chapter, including passing the examination prescribed in 18 VAC 115-30-90.

E. Every prospective applicant for examination for certification by the board shall:

1. Meet the educational requirements prescribed in 18 VAC 115-30-50 ~~of this chapter~~;
2. Register supervision at least one year before applying. The board, in its discretion, may waive this one-year period for an applicant who has met the work experience requirements prescribed in 18 VAC 115-30-60;
3. Meet the experience requirements prescribed in 18 VAC 115-30-60;
4. Meet the requirements of character and professional integrity prescribed in 18 VAC 115-30-80; and
5. Submit the following to the *board or its* contracting agent within the time frame established by *the board or* that agent:
  - a. A completed application form;
  - b. Documented evidence of having fulfilled the education, supervision, experience, and references

required in subdivisions 1, 2, 3, and 4 of this subsection;

c. Reference letters from three health or mental health care professionals attesting to the applicant's character and professional integrity; and

d. ~~Any applicable fees~~ *The application processing and initial licensure fee.*

F. The board may certify by endorsement an individual who is currently certified in another state as a substance abuse counselor and who has been certified in another state through a similar process with equivalent requirements as described in this section.

**18 VAC 115-30-110. ~~Biennial~~ Annual renewal of certificate.**

Every certificate issued by the board shall expire on June 30 of each ~~odd-numbered~~ year.

1. Along with the renewal application, the certified substance abuse counselor shall submit the renewal fee prescribed in 18 VAC 115-30-30.
2. Failure to receive a renewal notice and application forms shall not excuse the certified substance abuse counselor from the renewal requirement.

**18 VAC 115-30-120. Reinstatement.**

A. A person whose certificate has expired may renew it within ~~four years~~ *one year* after its expiration date by paying the ~~penalty late renewal~~ fee prescribed in 18 VAC 115-30-30 and the certification fee prescribed for ~~each biennium~~ *the year* the certificate was not renewed.

B. A person who fails to renew a certificate ~~for four years~~ *after one year* or more shall:

1. Pay the ~~late renewal~~ *reinstatement* fee prescribed in 18 VAC 115-30-30 ~~and the certification fee prescribed for each biennium the certificate was not renewed~~;
2. Provide evidence satisfactory to the board of current ability to practice as evidenced by:
  - a. Continuous practice of substance abuse counseling during the preceding two years and completion of 20 hours of continuing education in substance abuse counseling per year for the preceding two years; or
  - b. Completing at least 40 hours of substance abuse education in the preceding 12 months.

**18 VAC 115-30-130. Legal name change.**

A certified substance abuse counselor whose name is changed by marriage or court order may:

1. Notify the board of such change and provide a copy of the legal paper documenting the change; *and*
- ~~2. Pay the "name change" fee prescribed in 18 VAC 115-30-30; and~~
- ~~3.~~ 2. Request and obtain from the board a new certificate bearing the individual's new legal name and pay the *duplicate certificate* fee prescribed in 18 VAC 115-30-30.

# Proposed Regulations

## 18 VAC 115-30-160. Reinstatement following disciplinary action.

A. Any person whose certificate has been revoked, suspended or denied renewal by the board under the provisions of 18 VAC 115-30-150 of this chapter must submit a new application for *reinstatement* of certification.

B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.

C. The applicant for such reinstatement, if approved, shall be certified upon payment of the appropriate fees applicable at the time of reinstatement.

**NOTICE:** The form used in administering 18 VAC 115-30-10 et seq., Regulations Governing the Certification of Substance Abuse Counselors, is listed below. The form is available for public inspection at the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

### FORMS

Renewal Notice and Application, C-45128 (rev. 8/97).

## 18 VAC 115-40-20. Fees required by the board.

A. The board has established the following fees applicable to the certification of rehabilitation providers:

Application processing	\$400
Initial certification by examination: Processing and initial certification	\$90
Initial certification by endorsement: Processing and initial certification	\$90
Certification renewal	\$50 \$55
Duplicate certificate	\$15 \$5
Late renewal	\$50 \$20
Reinstatement of a lapsed certificate	\$100
Replacement of or additional wall certificate	\$15
Returned check	\$15 \$25
Reinstatement following revocation or suspension	\$500

B. Fees shall be made by check or money order payable to the Treasurer of Virginia and forwarded paid to the board or its contractor or both in appropriate amounts as specified in the application instructions. All fees are nonrefundable.

Examination fees shall be determined and made payable to the examination service and mailed directly to the examination service as determined by the board.

## 18 VAC 115-40-35. Reinstatement.

A. A person whose certificate has expired may renew it within ~~four years~~ one year after its expiration date by paying the renewal fee and the ~~penalty~~ late renewal fee prescribed in 18 VAC 115-40-20.

B. A person who fails to renew a certificate for ~~four years~~ one year or more shall reapply according to the requirements of the regulations in effect at that time apply for reinstatement, pay the reinstatement fee and submit evidence regarding the

continued ability to perform the functions within the scope of practice of the certification.

## 18 VAC 115-40-61. Reinstatement following disciplinary action.

A. Any person whose certificate has been revoked, suspended or denied renewal by the board under the provisions of 18 VAC 115-40-50 must submit a new application for *reinstatement* of certification.

B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.

C. The applicant for such reinstatement, if approved, shall be certified upon payment of the appropriate fee applicable at the time of reinstatement.

**NOTICE:** The forms used in administering 18 VAC 115-40-10 et seq., Regulations Governing the Certification of Rehabilitation Providers, are listed below. The forms are available for public inspection at the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

### FORMS

Application for Certification as a Rehabilitation Provider, CRPAPP 1 (rev. 10/99).

General Information for Certification as a Rehabilitation Provider; (eff. 3/98).

~~Application for Certification as a Rehabilitation Provider, Form 1, 3/98.~~

Verification of Experience for Rehabilitation Provider Certification, Form 2; (eff. 3/98).

Rehabilitation Provider Verification of Licensure/Certification, Form 3; (eff. 3/98).

Licensure/Certification Verification of Out-of-State Supervisor, Form 4; (eff. 3/98).

Renewal Notice and Application, ~~C-46454~~ C-45128 (rev. ~~7/97~~ 8/97).

## 18 VAC 115-50-20. Fees.

A. The board has established fees for the following:

1- Registration of supervision	\$20 \$50
<del>2- Application processing</del>	\$50
Add or change supervisor	\$25
Initial licensure by examination: Processing and initial licensure	\$140
Initial licensure by endorsement: Processing and initial licensure	\$140
<del>3- Biennial Annual license renewal</del>	\$75 \$105
4- Penalty for late renewal	\$40 \$35
Reinstatement of a lapsed license	\$165
<del>5- Verification of license to another jurisdiction</del>	\$40 \$25
<del>6- Additional or replacement licenses</del>	\$45 \$5
<del>7- Additional or replacement wall certificates</del>	\$15

~~8.~~ Returned check \$15 \$25  
 Reinstatement following revocation or suspension \$500

B. Fees shall be paid ~~by check or money order made payable to the Treasurer of Virginia and forwarded to the board or its contractor or both in appropriate amounts as specified in the application instructions.~~ All fees are nonrefundable.

C. Examination fees shall be ~~paid directly to the examination service according to its requirements determined and made payable as determined by the board.~~

**18 VAC 115-50-30. Application for licensure by examination.**

Every applicant for examination for licensure by the board shall:

1. Meet the education and experience requirements prescribed in 18 VAC 115-50-50 and 18 VAC 115-50-60.
2. Submit to the board office in one package, the following items, not less than 90 days prior to the date of the examination:
  - a. A completed application;
  - b. The application *processing and initial licensure* fee prescribed in 18 VAC 115-50-20;
  - c. Documentation, on the appropriate forms, of the successful completion of the supervised experience requirements of 18 VAC 115-50-60 along with documentation of the supervisor's out-of-state license where applicable;
  - d. Official transcript or transcripts in the original sealed envelope with the registrar's signature across the sealed envelope flap submitted from the appropriate institutions of higher education directly to the applicant, verifying satisfactory completion of the education requirements set forth in 18 VAC 115-50-50. Previously submitted transcripts for registration of supervision do not have to be resubmitted; and
  - e. Verification on a board-approved form that any out-of-state license, certification or registration is in good standing.

**18 VAC 115-50-40. Application for licensure by endorsement.**

Every applicant for licensure by endorsement shall submit in one package:

1. A completed application;
2. The application *processing and initial licensure* fee prescribed in 18 VAC 115-50-20; and
3. Documentation of licensure as follows:
  - a. Documentation of a current marriage and family therapy license in good standing obtained by standards substantially equivalent to those outlined in 18 VAC 115-50-50, 18 VAC 115-50-60 and 18 VAC 115-50-70 as verified by the out-of-state licensing agency on a board-approved form;

b. If currently holding an unrestricted license as a professional counselor in Virginia, documentation of successful completion of the requirements set forth in 18 VAC 115-50-50 and 18 VAC 115-50-60; or

c. Prior to July 9, 1998, documentation of having met the requirements set forth in 18 VAC 115-50-80.

**18 VAC 115-50-90. Biennial Annual renewal of license.**

A. All licensees who intend to continue to practice shall on or before ~~the expiration date of the license June 30 of each year~~ submit to the board:

1. A license renewal application supplied by the board; and
2. The renewal fee prescribed in 18 VAC 115-50-20.

B. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.

C. Licensees shall provide the board with official documentation of a legal name change and written notification of address changes within 90 days of such change.

**18 VAC 115-50-100. Late renewal, reinstatement.**

A. An individual whose license has expired may renew it within ~~five years~~ *one year* after its expiration date by paying the penalty fee prescribed in 18 VAC 115-50-20 as well as the license fee prescribed for ~~each renewal~~ *the period* the license was not renewed.

B. An individual seeking reinstatement of a license ~~five years~~ *one year* or more after its expiration date must ~~reapply according to the requirements of the regulations in effect at that time~~ *apply for reinstatement, pay the reinstatement fee and submit evidence regarding the continued ability to perform the functions within the scope of practice of the license.*

**18 VAC 115-50-130. Reinstatement following disciplinary action.**

A. *Any person whose license has been revoked, suspended or denied renewal by the board under the provisions of 18 VAC 115-20-140 may, two years subsequent to such board action, submit a new application for reinstatement of licensure.*

B. *The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.*

C. *The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fee applicable at the time of reinstatement.*

**NOTICE:** The forms used in administering 18 VAC 115-50-10 et seq., Regulations Governing the Practice of Marriage and Family Therapists, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals, 6606 W. Broad Street, 4th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

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# Proposed Regulations

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## FORMS

Marriage and Family Therapist Licensure Application, *MFTAPP1 (rev. 10/99)*.

~~Board of Professional Counselors and Marriage and Family Therapists~~ Courses Outline Form for Marriage and Family Therapist Licensure, *MFTAPP5 (eff. 7/97)*.

Verification of Supervision for Marriage and Family Therapist Licensure, *MFTAPP3 (rev. 8/99)*.

Licensure Verification of Out-of-State Supervisor, *MFTAPP4 (rev. 8/99)*.

Licensure Verification of Applicant, *MFTAPP2 (rev. 8/99)*.

Registration of Supervision for Marriage and Family Therapist Licensure, *MFTREG1 (rev. 10/99)*.

~~Supervisor's Experience and Education-~~

*Quarterly Evaluation Form, MFTAPP 3B (eff. 8/99)*.

*Verification of Internship, MFTAPP 6 (eff. 8/99)*.

*Verification of Internship Hours Toward the Residency, MFTAPP 7 (eff. 8/99)*.

Renewal Notice and Application, *C-45128 (rev. 8/97)*.

~~Courses Outline Form-~~

~~Renewal Notice and Application~~

VA.R. Doc. Nos. R99-140 through R99-143; Filed November 3, 1999, 11:53 a.m.

## BOARD OF PSYCHOLOGY

**Title of Regulation:** 18 VAC 125-20-10 et seq. **Regulations Governing the Practice of Psychology (amending 18 VAC 125-20-30 and 18 VAC 125-20-130).**

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

**Public Hearing Date:** January 11, 2000 - 9 a.m.

Public comments may be submitted until January 21, 2000.

(See Calendar of Events section for additional information)

**Basis:** Chapter 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary and the authority to levy and collect fees that are sufficient to cover all expenses for the administration of a regulatory program.

Section 54.1-113 of the Code of Virginia requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of the biennium, there is more than a 10% difference between revenues and expenditures.

**Purpose:** The purpose of the proposed amendments is to establish fees sufficient to cover the administrative and disciplinary activities of the Board of Psychology. Without

adequate funding, the licensing of clinical, applied and school psychologists could be delayed. In addition, sufficient funding is essential to carry out the investigative and disciplinary activities of the board in order to protect the public health, safety and welfare.

### Substance:

18 VAC 125-20-30. Fees required by the board. A decrease is proposed in the fee for registering of residency from the current \$100 to \$50. This is based on the administrative cost of processing the paperwork and having the board review the documentation.

Because there is less administrative work involved to process and review a request to add change a residency supervisor, the board proposes a \$25 fee for this process, which is half the cost of the original registration.

The proposal establishes a new application processing and initial licensure fee of \$200 to cover the licensure fee for half of a renewal period, which is the average initial licensure period for new licensees, and a \$10 fee for a wall certificate.

A renewal fee increase is proposed from the current \$200 biennial renewal to a \$225 renewal. The proposed renewal fee reflects the cost of the administrative and disciplinary activities of the board and the allocated costs of the department.

An increase in the late renewal fee from \$10 to \$80 is proposed to establish a fee that is 35% of the renewal fee in accordance with the agency's Principles for Fee Development.

An increase in the cost for verification of licensure to another jurisdiction from \$10 to \$25 is proposed to cover the administrative costs of retrieving and copying a file from the microfilm archive, and the mailing costs of the file.

The current regulation establishes the same fee for a replacement license or wall certificate. Since the cost for producing and sending a duplicate license has been reduced, the proposal establishes a separate fee of \$5 to reflect the actual cost of processing a duplicate license.

The proposed returned check fee of \$25 is estimated to be the actual administrative costs for processing and collecting a returned check; it is proposed to be the same fee for all boards within the department.

A new fee of \$270 is proposed for reinstatement of a license that has lapsed beyond one full renewal period. This fee is based on the cost of board review of the reinstatement application plus half of the annual renewal fee to cover the average time remaining in a renewal period, plus the penalty fee for late renewal.

A new fee of \$500 is proposed for reinstatement of a license that has been revoked or suspended following disciplinary action. This fee is based on the cost of the review of the background investigation and reinstatement application, and the cost of holding an informal conference to consider the reinstatement.

A change is proposed for the payment instruction to clarify that some licensure processes are performed by a vendor,



requiring payment of the fee to the vendor and not the board, as set forth in the application instructions.

18 VAC 125-20-130. Late renewal; reinstatement. Amendments are proposed to reference the reinstatement application process and the reinstatement fee, which replaces the rereview fee in the current regulations. The reinstatement fee is established based on the administrative and review costs which are the same as that determined for initial licensure, plus a late renewal fee. This is in conformance with the Principles for Fee Development for all boards within the department.

Issues: An analysis of revenues and expenditures conducted at the end of the 1996-1998 biennium projected that under the current fee structure, the board would face a 13% deficit at the end of the 1998-2000 biennium, a 12% deficit at the close of the 2000-2002 biennium, and a 16% deficit at the close of the 2000-2004 biennium. In order to remain in compliance with § 54.1-113 of the Code of Virginia, the board adopted a proposal for fee increases that will offset the projected deficit through 2004.

In developing the fee proposal, the agency's finance office used a new set of principles by which all boards are guided in the development of regulations. The Principles for Fee Development are intended to provide structure, consistency, and equity for all professionals regulated within the department. In consideration of various alternatives and issues surrounding the adoption of fees, the principles served to guide the board in the development of appropriate and necessary fees.

**ISSUE 1. Uniformity in renewal and application fees across professions.**

As is stated in the principles, renewal fees for all occupations regulated by a board should be consistent across occupations unless there is clear evidence to indicate otherwise. Therefore, the board is proposing the same renewal fee for all three licensure categories based on the cost of administering the disciplinary program for practitioners licensed to practice independently. The increase in the renewal fee is slight, representing a \$25 increase over a biennium. The proposed fee is comparable with the renewal fees recently adopted by the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals for its three independent practice licensure categories. Likewise, the education and experience requirements for the three licensure categories are similar, resulting in a comparable amount of work to process and review applications. The board is proposing that \$75 of the initial licensure fee be attributed to credentials review based on the cost of staff time, reviewer time, mailing and copying costs, data processing and telephone costs for each applicant. Likewise, the board is proposing a \$50 review fee for initial registrations of residency supervisors and a \$25 fee for subsequent registrations. The same fees have been proposed by the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals based on similar costs for application review.

Advantages and disadvantages to the licensees. All individuals licensed or certified by the Board of Psychology

will experience increased renewal fees under the proposed regulations. In 1996, in spite of a slight deficit, the board reduced its renewal fees from \$95 annually to \$125 biennially to accomplish the transition of clinical psychologists from the Board of Medicine to the Board of Psychology with minimal disruption (\$125 was the biennial renewal fee assessed by the Board of Medicine). Included with this change was an extension of the renewal deadline without charge for psychologists who were licensed under the Board of Psychology to bring them into the biennial renewal cycle. These changes resulted in deepening the already existing deficit. To offset the deficit, the board raised the renewal fee to \$200 effective April 1, 1998. Although the projections at the time indicated that the deficit would be corrected through June 30, 2000, current projections indicate that the deficit will be slightly over 10% for the upcoming biennia (13% at the end of the 1998-2000 biennium and 12% at the end of the 2000-2002 biennium) increasing to 16% at the end of the 2002-2004 biennium. Contributing factors to this change include an increase in board size from seven to nine members in 1996, increases in staff salaries and fringes due to position reallocations and upcoming pay increases, increases in the agency's data processing costs due to implementation of a new database system, increased regulatory activity for the board and a lower number of applicants for the sex offender treatment provider certification than originally projected (10 per year actual vs. 50 per year originally anticipated). The budget projections now require that the renewal fees be increased by \$25 per biennium. This in turn increases the application processing fee because under the new principles, a portion of the fee is allocated for half of a renewal period to cover the initial licensure period on average. While that is a disadvantage to the licensees, the alternative of reduced services for the board would be unacceptable to applicants, licensees and the general public. As a specially funded agency, renewal fees pay the vast majority of the expenses of board operations, which include investigation of complaints against licensees and certificate holders, adjudication of disciplinary cases, verification of licensure, education and experience to other jurisdictions and entities, and communications with licensees and certificate holders about current practice and regulation.

**ISSUE 2: Establishment of initial licensure fees.**

For all professions governed by the board, the initial licensure fee has historically been considered part of the application fee. This allowed for immediate processing of the license following notification of completion of the licensure requirements for an applicant. However, the fee was not developed according to any set formula consistent among boards in the agency. Under the new Principles for Fee Development, the initial application fees should include the cost of credentials review, an appropriate portion of the license fees, and cost of the wall certificate.

One method of assessing an initial licensure fee is prorating the fee based on the amount of time remaining in the renewal period. The board is not proposing prorated fees because other boards in the agency have determined that the additional steps involved (assessing fee, notifying applicant, processing check, notifying applicant again if check is not mailed until the next fee period begins, etc.) result in delays in

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# Proposed Regulations

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licensure processing and can create more burden and lost income for the applicant than any benefit from the prorated fees. In the proposed regulations, all applicants for all categories of licensure will be assessed a fee to cover half of the renewal period, which is the average initial licensure period.

Advantages and disadvantages to the licensees. As stated above, the advantage of not prorating fees is that the initial license can be issued as soon as the board has determined that the requirements for licensure are satisfied without having to contact the applicant with the amount due and then waiting for the fee to arrive

ISSUE 3. Establishment of different fees for renewing an expired license versus reinstating a lapsed license.

Currently, the board's regulations require back fees and penalty fees for each lapsed renewal period. Under this rule, some individuals have paid close to \$2,000 to return to Virginia practice. In conformance with the Principles for Fee Development, the board is proposing a penalty fee assessed at 35% of the renewal fee for licenses which have lapsed one renewal period, and a reinstatement application requirement for individuals whose licenses have lapsed beyond one renewal period. Since a reinstatement application is required for a licensee to reinstate a lapsed license, the proposed reinstatement fee includes half of the current renewal fee (for the average time remaining within the renewal period) the late fee, and a credential review fee.

Advantages and disadvantages to the licensees. For all categories of licensure, the penalty fee for late renewal within the first renewal period will increase, which is a disadvantage to licensees. However, the proposal presents an advantage for individuals whose licenses have lapsed more than one renewal period.

Under the current regulations, individuals who have lapsed more than two renewal cycles must pay all back fees and penalty fees to be reinstated. This can result in exorbitant fees for individuals who have been absent from Virginia for many years. The proposal establishes a flat fee for reinstatement that will not increase based on years of absence.

ISSUE 4. Reinstatement after revocation.

Reinstatement of a license which has been suspended or revoked necessitates an additional cost of a hearing before a panel of the board. The estimated cost of a hearing, including board member per diems, staff time and associated expenses is approximately \$500. The board is proposing that individuals whose licenses have been suspended or revoked incur the cost of the reinstatement hearing.

ISSUE 5. Uniformity among boards for setting miscellaneous fees.

In setting proposed fees for miscellaneous activities of the board, the principles call for uniformity among boards and regulated entities. The board is proposing fees for replacement of a duplicate license, duplicate certificate, and processing and collecting on a bad check based on cost estimates provided by the Deputy Director for Finance of the

department that will be standardized among all boards in the agency.

Advantages and disadvantages to the licensees. The advantage of proposed regulations is that all persons licensed or certified by a board under the Department of Health Professions will consistently pay a fee for miscellaneous activities determined by actual costs for that activity. There will not be inconsistent fees for licensees regulated under different boards.

Advantage or disadvantages to the public. Fee increases proposed by the board should have no disadvantage to the consuming public. There would be considerable disadvantages to the public if the board took no action to address its deficit and increase fees to cover its expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work and delays in approval or disapproval of education programs. Potentially, the most serious consequence would be a reduction in or reprioritization of the investigation of complaints against regulated individuals. In addition, there may be delays in adjudicating cases of violations of the standards of practice, resulting in potential danger to clients who are often emotionally vulnerable to unscrupulous practitioners.

Advantage or disadvantage to the agency. Fee increases will bring the board into compliance with § 54.1-113 which requires that a deficit of more than 10% be corrected by an increase in fees. The increases will ensure that the agency can cover the costs for staff, data processing, board meetings, mailing materials and correspondence to applicants and other expenses incurred in the operation of the regulatory program. The proposed increases present are no disadvantages to the agency.

### Estimated Fiscal Impact:

Number of entities affected by this regulation. The number of regulated entities (as of June 7, 1999) who would be affected by these regulations is:

Clinical Psychologists	1,770
Applied Psychologists	106
School Psychologists	57

Projected cost to the agency.

The agency will incur some costs (approximately \$1,000) for mailings to the Public Participation Guidelines mailing list, conducting a public hearing, and sending copies of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

Projected costs to the affected entities. For most applicants and regulated entities, the costs of acquiring licensure will remain the same. Although the cost for initial licensure will increase by \$50, the cost of registering a supervisor will decrease by \$50. The majority of applicants are new graduates, who must register a supervisor to complete the residency requirement. The proposed fee for subsequent registrations is reduced further, because the processing and review is less time consuming than for the initial registration.

All licensees will pay an additional \$25 per biennium to maintain their licenses.

Licensees who submit their renewal fee late within one renewal period will pay \$70 more in penalty fees than under the current regulations. The proposed reinstatement fee of \$270 can represent a savings of \$235 to \$2,000 or more, depending on the amount of time the license has lapsed.

Miscellaneous costs, such as replacement of a duplicate license or wall certificate, verification of a license or transcript, and returned check charges are uniformly proposed at amounts consistent with the actual costs incurred by the department for those activities.

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 25 (98). 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. The proposed regulations revise the schedule of fees paid by psychologists to the Board of Psychology. The purpose of these fee changes is to bring the board into compliance with the board's interpretation of § 54.1-113 of the Code of Virginia. Section 54.1-113 requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10% difference between revenues and expenditures. The proposed fee changes are as follows:

The fee for registration of residency will decrease from \$100 to \$50 and a new fee is added to allow for addition or change of a residency supervisor for only \$25;

Application costs will change from an application processing fee of \$150 to an application processing and initial licensure fee of \$200;

Licensure renewal will increase from a \$200 biennial fee to \$225;

The penalty for late renewal of a license will increase from \$10 to \$85 (approximately 35% of the renewal);

Reinstatement of a lapsed license (a license not renewed within one renewal cycle) will cost \$270;

Requests for reinstatement of revoked or suspended licenses will cost \$500;

Fee for a duplicate wall certificate is \$15;

Fee for producing and sending a duplicate license is reduced from \$15 to \$5;

Returned check fee is raised from \$15 to \$25; and

Verification of licensure to another jurisdiction is increased from \$10 to \$25.

Estimated Economic Impact. The primary effect of the proposed fee changes will be to increase compliance costs for practitioners under the Board of Psychology in Virginia by approximately \$79,000 biannually.<sup>1</sup> Under the current fee structure, the board projects a biennial operating deficit of \$38,240 for the 2000-2002 biennium.<sup>2</sup> The proposed fee increases would substantially reduce the projected deficits during the 2000-2002 biennium and thereafter would begin to generate a modest surplus, thereby bringing the board into compliance with the Code.

According to the board, several factors have contributed to the projected deficit. Such factors include implementation of the Health Practitioner Intervention Program, increases in the board size, increases in data processing costs, staff pay raises and related benefit increases, Y2K compliance, installation of a new computer system, and relocation of the Department of Health Professions (DHP), which have all increased expenditures. On the other side, the board has also experienced lower revenues due to lower than expected applications for sex offender treatment provider certification. These circumstances have increased costs despite other efforts to improve efficiency (i.e., the privatization of certain functions, reductions in staff, etc...) undertaken by the department and the board during the past five years.

According to DHP, the proposed fee increases are necessary so that the Board of Psychology can continue to perform its essential functions of licensing, certification, investigations of complaints, adjudication of disciplinary cases, and approval of education programs. These functions sustain the supply of psychologists in Virginia and protect the public from continued practice by incompetent or unethical practitioners.

The level of the proposed fee increases, specifically the biennial renewal fees, are based on revenue and expenditure projections prepared by DHP for the Board of Psychology. The proposed amounts were selected such that projected revenues would be sufficient to cover projected expenditures but would not result in anything more than a modest surplus. The changes in fee structures are largely based on DHP's Principles for Fee Development and are discussed below.<sup>3</sup>

Application Fees. Under the existing regulation, newly licensed psychologists pay only the costs of application processing and document review. They receive their first biennial license and their wall certificate at no direct cost. These costs are currently covered by renewal fees. The new application fees will cover the costs of application processing

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<sup>1</sup> This figure reflects the difference between projected revenue for the Board of Psychology under the current fee structure and estimated revenue under the proposed fee schedule (\$610,760 and \$689,710).

<sup>2</sup> This figure reflects the difference of the projected 00-02 budget (\$649,000) and the projected 00-02 revenue under the current fee structure (\$610,760).

<sup>3</sup> This document, dated May 20, 1999, outlines the principles by which DHP sets its licensing fees. The principles are intended to provide structure, consistency, and equity for all the professionals regulated within the department.

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and credential review, approximately half of a biennial renewal cycle, and a wall certificate. By charging individuals for the full costs of their application, the proposed fees are more efficient and equitable.

Though the proposed application fee is higher than the existing fee, the fee for registration of residency is reduced by \$50. According to the board, the majority of applicants are new graduates, who must register a supervisor to complete the residency requirement. These fee changes therefore, on average, may cancel each other out and have no economic effect for the majority of applicants.

Reinstatement and Late Renewal Fees. The proposed regulations establish a late fee, equal to approximately 35% of the renewal fee for each profession, for licensees renewing within one renewal cycle of the expiration date and require reinstatement for the renewal of any licenses or certificates (now lapsed) beyond that time. The proposed reinstatement fee cover the costs of application processing and document review, and a portion of the license renewal fee. Currently, the board's regulations require that individuals who have lapsed more than two renewal cycles must pay all back fees and penalty fees to be reinstated. Under this rule, some individuals have paid close to \$2,000 to return to Virginia to practice. The late fees and reinstatement fees in the proposed regulation establish a policy that differentiates between persons who are merely a day late in renewing their license from persons who have chosen to let their license lapse for a lengthy period of time (e.g., someone who had left the state, obtained a license in another jurisdiction, and then has returned to Virginia).

The application fee for reinstatement of a revoked license will be \$500. The level of the proposed fee is based on the board's determination of the actual costs involved, including a pre-hearing investigation, preparation of legal documents, and a hearing before the board (including per diem for members, travel expenses, and Attorney General office time). DHP estimates that one person may request reinstatement of revoked or suspended licenses each year. Compliance costs for these individuals would increase by a total of \$500 under the proposal. However, it is the board's opinion that these costs should be paid by the applicant and not supported by renewal fees from other licensees.

In addition to charging individuals for the full costs incurred on their behalf, which is both more efficient and equitable, the proposed reinstatement and late fees will provide structure and consistency across professions regulated by the Board of Psychology, and should have a positive net economic benefit.

Miscellaneous Fees. Almost all of the other proposed fee changes are intended to represent more accurately the actual cost of service. For example, the fee charged for a duplicate license is set at \$5.00 (a reduction in most cases), the returned check charge is set at \$25, and the fee for a transcript of an application or license record will be \$25. These fees are set uniformly across all boards in the department and will provide consistency and equity for members.

Summary of analysis. While the proposed regulations reduce fees for some services, the net effect of the new fee schedule

will be an increase in application and licensure costs for all clinical, applied, or school psychologists in Virginia. According to DHP, the proposed fee increases are necessary to prevent a delay in the performance of or the elimination of investigations and disciplinary proceedings, application processing, and license renewals, a delay which could negatively affect public health and safety and reduce the supply of psychological care in Virginia.

Although the total increase in compliance costs is substantial, from an individual perspective, these fees represent a very small portion of the total cost of entry into the psychology profession (e.g., the *total* cost of entry includes all education and training expenses). The proposed fee changes, therefore, are unlikely to have a significant effect on the decision of individuals to enter or exit this profession. For this reason, the proposed regulatory changes should have no economic consequences beyond the anticipated increase in licensing costs.

Businesses and entities affected. There are approximately 1,933 psychologists currently licensed by the Board of Psychology in Virginia that will be affected by the proposed fee changes.<sup>4</sup> In addition to those individuals already licensed, any changes to these regulations will affect future applicants, estimated by DHP to be about 150 per year. Approximately 85% of those applicants will register a residency at savings of \$50 to \$75 per residency contract submitted.

Localities particularly affected. The proposed fee changes will not have a disproportionate affect on any particular localities since they apply statewide.

Projected impact on employment. Since the application and licensure renewal fees represent a very small portion of the total cost of entry into the psychology profession, no significant impact on employment in Virginia is expected.

Effects on the use and value of private property. The proposed fee changes are not expected to have any significant effects on the use and value of private property in Virginia.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the analysis of the Department of Planning and Budget.

## Summary:

*The board is proposing a new fee structure to comply with a statutory requirement that fees be sufficient to cover board expenditures. The fee structure has been determined in accordance with new Principles for Fee Development which are being used to develop fee structures for all boards in the Department of Health Professions. Overall, this will result in an increase in fees for services provided by the board. For example, the renewal fee will increase from \$200 to \$225 per biennium.*

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<sup>4</sup> 1,770 clinical psychologists; 106 applied psychologists; and 57 school psychologists.

**18 VAC 125-20-30. Fees required by the board.**

- A. The board has established fees for the following:
  - 1. Registration of residency (per residency request)      ~~\$400~~ \$50
  - 2. *Add or change supervisor*      \$25
  - ~~2.~~ 3. Application processing *and initial licensure*      ~~\$150~~ \$200
  - ~~3.~~ 4. Biennial renewal of license      ~~\$200~~ \$225
  - 4. 5. Late renewal      \$40 \$80
  - ~~5.~~ 6. Verification of license to another jurisdiction      \$10 \$25
  - 7. *Duplicate license*      \$5
  - ~~6.~~ 8. Additional or replacement license or wall certificate      \$15
  - ~~7.~~ 9. Returned check      \$15 \$25
  - ~~8.~~ ~~Review fee~~ 10. *Reinstatement of a lapsed license*      ~~\$25~~ \$270
  - 11. *Reinstatement following revocation or suspension*      \$500

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board. All fees are nonrefundable.

C. Examination fees shall be ~~paid directly to the examination service according to its requirements established and made payable as determined by the board.~~

**18 VAC 125-20-130. Late renewal; reinstatement.**

A. A person whose license has expired may renew it within two years after its expiration date by paying the penalty fee prescribed in 18 VAC 125-20-30 and the license renewal fee for the biennium the license was not renewed.

B. A person whose license has not been renewed for two years or more and who wishes to resume practice shall:

- 1. Present evidence satisfactory to the board regarding continued competency to perform the duties regulated by the board;
- 2. Upon approval for reinstatement, pay the ~~penalty fee and the license fee for the renewal period the license was not renewed, as prescribed by the board and pay a review reinstatement fee as prescribed in 18 VAC 125-20-30;~~ and
- 3. Submit verification of any professional certification or licensure obtained in any other jurisdiction subsequent to the initial application for licensure.

**NOTICE:** The forms used in administering 18 VAC 125-20-10 et seq., Regulations Governing the Practice of Psychology, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6606 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

FORMS

Psychologist Application for Licensure by Examination PSYEX1 (rev. ~~6/99~~ 10/99).

Registration of Residency – Post-Graduate Degree Supervised Experience, PSY2 (rev. ~~6/99~~ 10/99).

Psychologist Application for Licensure by Endorsement, PSYEN1 (eff. ~~6/99~~ rev. 10/99).

Verification of Post-Degree Supervision, PSY3, (rev. 6/99).

Internship Verification, PSY4 (rev. 6/99).

Licensure/Certification Verification, PSY 5 (rev. 6/99).

Areas of Graduate Study, PSY6 (rev. 6/99).

Renewal Notice and Application, C-45128 (rev. 8/97).

VA.R. Doc. No. R99-144; Filed November 3, 1999, 11:49 a.m.



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# FINAL REGULATIONS

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For information concerning Final Regulations, see Information Page.

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## Symbol Key

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

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### MARINE RESOURCES COMMISSION

**REGISTRAR'S NOTICE:** The following regulation filed by the Marine Resources Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 F of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

**Title of Regulation:** 4 VAC 20-620-10 et seq. Pertaining to Summer Flounder (amending 4 VAC 20-620-30 and 4 VAC 20-620-40).

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

**Effective Date:** November 1, 1999.

**Summary:**

*The amendments change the starting date of the fourth quarter commercial offshore flounder season from November 15 to November 1.*

**Agency Contact:** Copies of the regulation may be obtained from Deborah R. Cawthon, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

#### 4 VAC 20-620-30. Commercial harvest quotas.

A. During each calendar year, commercial landings of Summer Flounder shall be limited to the total pounds calculated pursuant to the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Summer Flounder Fishery Management Plan, as approved by the National Marine Fisheries Service on August 6, 1992 (50 CFR Part 625); and shall be distributed as described in subsections B through H of this section:

B. The commercial harvest of Summer Flounder from Virginia tidal waters for each calendar year shall be limited to 300,000 pounds.

C. During the period of January 4 through March 31 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 64.3% of the total specified in subsection A of this section after deducting the amount specified in subsection B of this section.

D. During the period of April 1 through June 30 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 6.4% of the total specified in subsection A of this section after deducting the amount specified in subsection B.

E. During the period of November 1 through December 31 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 29.3% of the total specified in subsection A of this section after deducting the amount specified in subsection B of this section and as may be further modified by subsection F.

F. During the periods set forth in subsections C and D of this section, should landings exceed or fall short of the quota specified for that period any such excess shall be deducted from, and any such shortage shall be added to, the quota for the period set forth in subsection E of this section. During the period specified in subsection B of this section, should landings be projected to fall short of the quota specified for that period, any such shortage shall be added to the quota for the period set forth in subsection E of this section. A projection of harvest under this subsection will be made on or about November 1.

G. For each of the time periods and quotas set forth in subsections C, D, and E of this section, the Marine Resources Commission will give timely notice to the industry of the calculated poundages and any adjustments thereto. It shall be unlawful for any person to harvest or to land Summer Flounder for commercial purposes after the commercial harvest or landing quota as described in this section has been attained and announced as such.

H. It shall be unlawful for any buyer of seafood to receive any Summer Flounder after any commercial harvest or landing quota as described in this section has been attained and announced as such.

#### 4 VAC 20-620-40. Commercial vessel possession limitations.

A. During the period of January 4 through March 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 5,000 pounds except that when it is projected and announced that 85% of the quota for this period has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 10% by weight of all other landed species on board the vessel.

B. During the period of April 1 through June 30 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 2,500 pounds, except that when it is projected and announced that 85% of the quota for this period has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer

Flounder in excess of 10% by weight of all other landed species on board the vessel.

C. During the period of July 1 through ~~November 14~~ October 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 10% by weight of all other landed species on board the vessel.

D. During the period ~~November 1~~ through December 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 5,000 pounds, except that when it is projected and announced that 85% of the quota for this period has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 10% by weight of all other landed species on board the vessel.

E. For each of the time periods set forth in subsections A, B and D of this section, the Marine Resources Commission will give timely notice of any changes in possession limits.

F. Each possession limit described in subsections A, B and D of this section shall be determined by the net weight of Summer Flounder as customarily packed, boxed and weighed by the seafood buyer or processor. The net weight of any Summer Flounder found in excess of this possession limit described in subsections A, B and D of this section shall be prima facie evidence of violation of this chapter. Persons in possession of Summer Flounder, aboard any vessel, in excess of the possession limit shall be in violation of this chapter. Any buyer or processor offloading or accepting any quantity of Summer Flounder from any vessel in excess of the possession limit shall be in violation of this chapter.

G. If a person violates the possession limits described in this section, the entire amount of Summer Flounder in that person's possession shall be confiscated. Any confiscated Summer Flounder shall be considered as a removal from the appropriate commercial harvest or landings quota. Upon confiscation, the marine patrol officer shall inventory the confiscated Summer Flounder and, at a minimum, secure two bids for purchase of the confiscated Summer Flounder from approved and licensed seafood buyers. The confiscated fish will be sold to the highest bidder and all funds derived from such sale shall be deposited for the Commonwealth pending court resolution of the charge of violating the possession limits established by this chapter. All of the collected funds will be returned to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilty.

H. It shall be unlawful for any person to offload from a boat or vessel for commercial purposes any Summer Flounder during the period of 10 p.m. to 7 a.m.

I. Any boat or vessel possessing more than the lawful limit of Summer Flounder which has entered Virginia waters for safe harbor shall not offload any Summer Flounder.

J. After any commercial harvest or landing quota as described in 4 VAC 20-620-30 has been attained and

announced as such, any boat or vessel possessing Summer Flounder on board may enter Virginia waters for safe harbor but shall contact the Marine Resources Commission Operation Center in advance of such entry into Virginia waters.

VA.R. Doc. No. R00-42; Filed November 1, 1999, 4:02 p.m.



**TITLE 14. INSURANCE**

**STATE CORPORATION COMMISSION**

**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

**Title of Regulation:** 14 VAC 5-270-10 et seq. **Rules Governing Annual Audited Financial Reports (amending 14 VAC 5-270-30, 14 VAC 5-270-40, 14 VAC 5-270-60, 14 VAC 5-270-70, and 14 VAC 5-270-80; repealing 14 VAC 5-270-160).**

**Statutory Authority:** §§ 12.1-13 and 38.2-223 of the Code of Virginia.

**Effective Date:** January 1, 2000.

**Summary:**

*The amendments require the auditor's report to contain the disclosures required in the National Association of Insurance Commissioners' (NAIC) accounting practices and procedures manual. The remaining revisions provide technical and grammatical clarity. The repealed section is obsolete.*

**Agency Contact:** Copies of the regulation may be obtained from Raquel Pino-Moreno, Bureau of Insurance, State Corporation Commission, 1300 East Main Street, Richmond, VA 23219, telephone (804) 371-9499 or e-mail [rpino-moreno@scc.state.va.us](mailto:rpino-moreno@scc.state.va.us).

AT RICHMOND, NOVEMBER 2, 1999

COMMONWEALTH OF VIRGINIA, ex rel.

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS990202

**Ex Parte:** In the matter of Adopting Revisions to the Rules Governing Annual Audited Financial Reports

**ORDER ADOPTING REGULATION**

WHEREAS, by order entered herein August 24, 1999, all interested persons were ordered to take notice that the

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# Final Regulations

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Commission would enter an order subsequent to October 22, 1999, adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Annual Audited Financial Reports unless on or before October 22, 1999, any person objecting to the adoption of the proposed revisions filed a request for a hearing with the Clerk of the Commission; and

WHEREAS, as of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission;

THEREFORE, IT IS ORDERED THAT:

(1) The revisions to Chapter 270 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Annual Audited Financial Reports," which amend 14 VAC 5-270-30, 14 VAC 5-270-40, 14 VAC 5-270-60 through 14 VAC 5-270-80 and 14 VAC 5-270-160, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective January 1, 2000;

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, including a copy of the attached revised rules, to all insurers, burial societies, fraternal benefit societies, health services plans, health maintenance organizations, legal services plans, and dental or optometric services plans licensed by the Commission; and

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

## 14 VAC 5-270-30. Scope.

This chapter (14 VAC 5-270-10 et seq.) shall apply to all organizations listed in 14 VAC 5-270-20, hereinafter referred to as "insurers." Insurers having direct premiums written of less than ~~\$1,000,000~~ \$1 million in any calendar year and having less than 1,000 policyholders or certificate holders of directly written policies at the end of such calendar year are exempt from the requirements of this chapter for such year unless the commission deems that compliance with the reporting requirements of this chapter is necessary to establish the financial condition of an insurer. Insurers having assumed premiums of ~~\$1,000,000~~ \$1 million or more pursuant to contracts and/or treaties of reinsurance will not be so exempt.

Foreign or alien insurers filing Audited Financial Reports in another state, pursuant to that state's requirements for filing of Audited Financial Reports and where such requirements have been found by the commission to be substantially similar to the requirements herein, are exempt from this chapter if:

1. Copies of the Audited Financial Report, the Report on Significant Deficiencies in Internal Controls, and the Accountant's Letter of Qualifications which are filed with such other state are filed with the commission in accordance with the filing dates specified in 14 VAC 5-270-50, 14 VAC 5-270-120, and 14 VAC 5-270-130, respectively, (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion

~~Department of Insurance~~ Office of the Superintendent of Financial Institutions); and

2. A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the commission within the time specified in 14 VAC 5-270-110.

This provision shall not prohibit, preclude or in any way limit the commission's rights with respect to workpapers described in 14 VAC 5-270-140 of this chapter or its rights concerning the ordering and/or conducting and/or performing of examinations of insurers under Title 38.2 of the Virginia Code of Virginia.

## 14 VAC 5-270-40. Definitions.

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

~~"Audited Financial Report" means and includes those items specified in 14 VAC 5-270-60 of this chapter.~~

"Accountant" and "independent Certified Public Accountant" ~~means mean~~ an independent, certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants ("AICPA") and in all states in which such accountant or firm is licensed to practice; for Canadian and British companies, ~~it means they mean~~ a Canadian-chartered or British-chartered accountant.

"Audited Financial Report" means and includes those items specified in 14 VAC 5-270-60.

"Commission" means the State Corporation Commission when acting pursuant to or in accordance with Title 38.2 of the Code of Virginia.

"Due date" means (i) June 1 for all domestic insurers, and (ii) June 30 for all foreign or alien companies domiciled or entered through a state in which similar law, regulation or administrative practice provides for a June 30 filing date, or (iii), for all other insurers, the earlier of June 30 or the date established by the insurer's state of domicile or entry for filing similar audited financial reports.

"Workpapers" means the records kept by the accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the accountant's examination of the financial statements of an insurer. Workpapers, accordingly, may include work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents, and schedules or commentaries prepared or obtained by the accountant in the course of the examination of the financial statements of an insurer and which support the accountant's opinion thereof.

## 14 VAC 5-270-60. Contents of annual Audited Financial Report.

The annual Audited Financial Report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows, and changes in capital and surplus for the year then



ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the insurer's state of domicile. The annual Audited Financial Report shall include the following:

1. Report of independent Certified Public Accountant.
2. Balance sheet reporting admitted assets, liabilities, capital, and surplus.
3. Statement of operations.
4. Statement of cash flows.
5. Statement of changes in capital and surplus.
6. Notes to financial statements. These notes shall be those required by the *appropriate* annual statement ~~and/or generally accepted accounting principles and shall also include:~~ *a. and NAIC accounting practices and procedures manual. The notes shall include a reconciliation of differences, if any, between the audited statutory financial statements contained in the Audited Financial Report and the annual statement filed pursuant to §§ 38.2-1300, 38.2-4126 or 38.2-4307 of the Code of Virginia Insurance Code with a written description of the nature of these differences.*

~~b. A summary of ownership and relationships of the insurer and all affiliated companies.~~

7. The financial statements included in the Audited Financial Report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement the insurer filed with the commission and the financial ~~statement~~ *statements* shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an Audited Financial Report, the comparative data may be omitted.)

#### **14 VAC 5-270-70. Designation of Independent Certified Public Accountant.**

Each insurer required by this chapter to file an annual Audited Financial Report must within 60 days after becoming subject to such requirement, register with the commission in writing the name and address of the accountant retained to conduct the annual audit set forth in this chapter. ~~Insurers not retaining an Accountant on September 1, 1991 shall register the name and address of a retained Accountant within six months after September 1, 1991.~~

As part of this registration, the insurer shall obtain a letter from the accountant and file a copy with the commission stating that the accountant is aware of the provisions of the insurance code and the rules and regulations of the insurance department of the state of domicile that relate to accounting and financial matters, and affirming that he will express his opinion on the financial statements in the terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that department, specifying such exceptions as he may believe appropriate.

If the accountant who was the accountant for the immediately preceding filed Audited Financial Report is dismissed or resigns, the insurer shall ~~within five business days~~ *notify the commission within five business days* of this event. The insurer ~~also~~ *also* shall ~~also~~ furnish the commission with a separate letter within 10 business days of the above notification stating whether in the 24 months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him to make reference to the subject matter of the disagreement in his opinion. The disagreements required to be reported in response to this section include those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, i.e., between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer ~~shall~~ *shall* also in writing *shall* request such former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for disagreement; and the insurer shall furnish such responsive letter from the former accountant to the commission together with its own letter.

#### **14 VAC 5-270-80. Qualifications of accountant.**

A. The commission shall not recognize any person or firm as a qualified accountant that is not in good standing with the AICPA and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant.

B. Except as otherwise provided herein, an independent Certified Public Accountant shall be recognized as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Conduct of the AICPA and the Rules and Regulations, including the ~~Standard~~ *Standards* of Practice, of the Virginia Board ~~for~~ of Accountancy, or similar code.

C. No partner or other person responsible for rendering a report may act in that capacity for more than seven consecutive years. Following any period of service, such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two years. An insurer may make application to the commission for relief from the above rotation requirement on the basis of unusual circumstances. The commission may consider the following factors in determining if the relief should be granted:

1. Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
2. Premium volume of the insurer; or
3. Number of jurisdictions in which the insurer transacts business.

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~~The requirements of this subsection shall become effective two years after the promulgation of this chapter.~~

D. The commission shall not recognize as a qualified accountant, nor accept any annual Audited Financial Report, prepared in whole or in part by, any person who:

1. Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act (18 USC §§ 1961-1968) or any dishonest conduct or practices under federal or state law;
2. Has violated the insurance laws of this Commonwealth with respect to any previous reports submitted under this chapter; or
3. Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this chapter.

E. The commission may (i) make a determination as to whether an accountant is qualified and may, based upon the facts considered, determine that such accountant is not qualified for purposes of expressing an opinion on the financial statements in the annual Audited Financial Report made pursuant to this chapter and (ii) require the insurer to replace such accountant with another whose relationship with the insurer is qualified within the meaning of this chapter.

## **14 VAC 5-270-160. Effective dates. (Repealed.)**

~~All insurers retaining a certified public accountant on September 1, 1991 who qualifies as an Accountant shall comply with all provisions of this chapter for the year ending December 31, 1991, and each year thereafter unless the Commission permits otherwise.~~

~~Insurers not retaining a certified public accountant on September 1, 1991 who qualifies as independent may meet the following schedule for compliance unless the Commission permits otherwise:~~

1. ~~For the year ending December 31, 1991, file with the Commission:~~
  - a. ~~Report of Independent Certified Public Accountant;~~
  - b. ~~Audited balance sheet; and~~
  - c. ~~Notes to audited balance sheet.~~
2. ~~For the year ending December 31, 1992, and each year thereafter, such insurers shall file with the Commission all reports required by this chapter.~~

VA.R. Doc. No. R99-270; Filed November 3, 1999, 8:05 a.m.

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**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

**Title of Regulation:** 14 VAC 5-319-10 et seq. Life Insurance Reserves.

**Statutory Authority:** §§ 12.1-13 and 38.2-223 of the Code of Virginia.

**Effective Date:** January 1, 2000.

### Summary:

*The regulations concern reserves held by life insurance companies. The regulation establishes the rules concerning (i) the valuation of plans with nonlevel premiums or benefits and (ii) the valuation of universal life products with secondary guarantees. Also, new tables of select mortality factors and rules for their use are introduced. The regulation is modeled after the National Association of Insurance Commissioners' "Valuation of Life Insurance Policies Model Regulation," as adopted in March 1999.*

**Agency Contact:** Copies of the regulation may be obtained from Raquel Pino-Moreno, Bureau of Insurance, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9499 or e-mail rpinomoreno@scc.state.va.us.

AT RICHMOND, NOVEMBER 2, 1999

COMMONWEALTH OF VIRGINIA, ex rel.

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS990205

**Ex Parte:** In the matter of  
Adopting Rules Establishing  
Minimum Valuation and Reserve  
Standards for Life Insurance  
Policies (14 VAC 5-319-10 et seq.)

### ORDER ADOPTING REGULATION

WHEREAS, by order entered herein August 24, 1999, all interested persons were ordered to take notice that the Commission would enter an order subsequent to October 22, 1999, adopting a regulation proposed by the Bureau of Insurance to the Commission concerning minimum valuation and reserve standards for life insurance policies, unless on or before October 22, 1999, any person objecting to the adoption of the proposed regulation filed a request for a hearing with the Clerk of the Commission; and

WHEREAS, as of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission;

THEREFORE, IT IS ORDERED THAT:

(1) The regulation entitled "Rules Establishing Minimum Valuation and Reserve Standards for Life Insurance Policies," which is to be published in Chapter 319 of Title 14 of the Virginia Administrative Code as rules at 14 VAC 5-319-10 through 14 VAC 5-319-80, and which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED to be effective January 1, 2000;

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the adoption of the regulation by mailing a copy of this Order, including a copy of the attached regulation to all insurers licensed by the Commission to write life insurance in the Commonwealth of Virginia and all burial societies and fraternal benefit societies licensed by the Commission under Chapters 40 and 41, respectively, of Title 38.2 of the Code of Virginia; and

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

CHAPTER 319.  
[ ~~RULES ESTABLISHING MINIMUM VALUATION AND  
RESERVE STANDARDS FOR~~ ] LIFE INSURANCE  
[ ~~POLICIES RESERVES~~ ].

**14 VAC 5-319-10. Definitions.**

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

“1980 CSO valuation tables” means the Commissioners’ 1980 Standard Ordinary Mortality Table (1980 CSO Table) without 10-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.

“Basic reserves” means reserves calculated in accordance with § 38.2-3137 of the Code of Virginia.

“Commission” means the State Corporation Commission when acting pursuant to or in accordance with Title 38.2 of the Code of Virginia.

“Contract segmentation method” means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in this section (or any other valuation mortality table adopted by the NAIC after [ ~~the effective date of this regulation~~ January 1, 2000, ] and promulgated by regulation by the commission for this purpose) and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in 14 VAC 5-319-40 B.

The length of a particular contract segment shall be set equal to the minimum of the value  $t$  for which  $G_t$  is greater than  $R_t$  (if  $G_t$  never exceeds  $R_t$ , the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where  $G_t$  and  $R_t$  are defined as follows:

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

$x$  = original issue age;

$k$  = the number of years from the date of issue to the beginning of the segment;

$t = 1, 2, \dots$ ;  $t$  is reset to 1 at the beginning of each segment; and

$GP_{x+k+t-1}$  = Guaranteed gross premium per \$1,000 of face amount for year  $t$  of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}}$$

where:

$R_t$  may be increased or decreased by 1.0 % in any policy year, at the company’s option, but  $R_t$  shall not be less than one; and

$x$ ,  $k$  and  $t$  are as defined above; and

$q_{x+k+t-1}$  = valuation mortality rate for deficiency reserves in policy year  $k+t$  but using the mortality of 14 VAC 5-319-40 B 2 if 14 VAC 5-319-40 B 3 is elected for deficiency reserves. However, if  $GP_{x+k+t}$  is greater than 0 and  $GP_{x+k+t-1}$  is equal to 0,  $G_t$  shall be deemed to be 1,000. If  $GP_{x+k+t}$  and  $GP_{x+k+t-1}$  are both equal to 0,  $G_t$  shall be deemed to be 0.

“Deficiency reserves” means the excess, if greater than 0, of (i) minimum reserves calculated in accordance with § 38.2-3141 of the Code of Virginia over (ii) basic reserves.

“Guaranteed gross premiums” means the premiums under a policy of life insurance that are guaranteed and determined at issue.

“Maximum valuation interest rates” means the interest rates defined in § 38.2-3130 of the Code of Virginia that are to be used in determining the minimum standard for the valuation of life insurance policies.

“NAIC” means the National Association of Insurance Commissioners.

[ ~~“Regulation” or~~ ] “This regulation” means Chapter 319 of Title 14 of the Virginia Administrative Code (14 VAC 5-319-10 et seq.) which also shall be known as the commission’s Rules Establishing Minimum Valuation and Reserve Standards for Life Insurance Policies.

“Scheduled gross premium” means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in 14 VAC 5-319-60 A 3 or, if none is so described, the minimum premium described in 14 VAC 5-319-60 A 4.

“Segmented reserves” means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums

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within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:

1. The present value of the death benefits within the segment, plus
2. The present value of any unusual guaranteed cash value (see 14 VAC 5-319-50 D) occurring at the end of the segment, less
3. Any unusual guaranteed cash value occurring at the start of the segment, plus
4. For the first segment only, the excess of subdivision 4 a over subdivision 4 b of this definition, as follows:
  - a. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.
  - b. A net one-year term premium for the benefits provided for in the first policy year.

The length of each segment is determined by the "contract segmentation method," as defined in this section.

The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy.

For both basic reserves and deficiency reserves computed by the segmented method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.

"Tabular cost of insurance" means the net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.

"Ten-year select mortality factors" means the select factors adopted by the NAIC with the 1980 amendments to the NAIC Standard Valuation Law.

"Twenty-year select mortality factors" means the select factors adopted by the NAIC as part of the Valuation of Life Insurance Policies Model Regulation and shown in the tables in 14 VAC 5-319-70.

"Unitary reserves" means the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:

1. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and
2. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of subdivision a over subdivision b, as follows:
  - a. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.
  - b. A net one-year term premium for the benefits provided for in the first policy year.

The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

"Universal life insurance policy" means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds or other supplementary accounts) and mortality or expense charges are made to the policy.

"YRT" means yearly renewable term.

## **14 VAC 5-319-20. Purpose.**

- A. The purpose of this regulation is to provide:
  1. Tables of select mortality factors and rules for their use;
  2. Rules establishing minimum valuation and reserve standards for plans with nonlevel premiums or benefits; and
  3. Rules establishing minimum valuation and reserve standards for plans with secondary guarantees.

B. The method for calculating basic reserves defined in this regulation will constitute the Commissioners' Reserve Valuation Method for policies to which this regulation is applicable.

## **14 VAC 5-319-30. Applicability.**

- A. This regulation shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after January 1, 2000, subject to the exceptions and conditions in subsections B and C of this section.
- B. Exceptions to this regulation.

1. This regulation shall not apply to any individual life insurance policy issued on or after January 1, 2000, if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before January 1, 2000, that guarantees the premium rates of the new policy. This regulation also shall not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy.

2. This regulation shall not apply to any universal life policy that meets all the following requirements:

- a. Secondary guarantee period, if any, is five years or less;
- b. Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the 1980 CSO valuation tables as defined in 14 VAC 5-319-10 and the applicable valuation interest rate; and
- c. The initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period.

3. This regulation shall not apply to any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

4. This regulation shall not apply to any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

5. This regulation shall not apply to a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

**C. Conditions to be met:**

1. Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with the provisions of 14 VAC 5-319-50.

2. Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with the provisions of 14 VAC 5-319-60.

**14 VAC 5-319-40. General calculation requirements for basic reserves and premium deficiency reserves.**

A. At the election of the company for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980

CSO valuation tables with select mortality factors, or any other valuation mortality table adopted by the NAIC on or after January 1, 2000, and promulgated by regulation by the commission for this purpose. If select mortality factors are elected, they may be:

1. The 10-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;
2. The 20-year select mortality factors in 14 VAC 5-319-70; or
3. Any other table of select mortality factors adopted by the NAIC on or after January 1, 2000, and promulgated by regulation by the commission for the purpose of calculating basic reserves.

B. Deficiency reserves, if any, are calculated for each policy as the excess, if greater than 0, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors, or any other valuation mortality table adopted by the NAIC on or after January 1, 2000 [ , ] and promulgated by regulation by the commission.

1. If select mortality factors are elected, they may be:
  - a. The 10-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;
  - b. The 20-year select mortality factors in 14 VAC 5-319-70;
  - c. For durations in the first segment, X percent of the 20-year select mortality factors in 14 VAC 5-319-70, subject to the conditions set forth in subdivisions B 2 and B 3 of this section; or
  - d. Any other table of select mortality factors adopted by the NAIC after January 1, 2000, and promulgated by regulation by the commission for the purpose of calculating deficiency reserves.

2. When calculating X as provided by this section, the following shall apply:

- a. X may vary by policy year, policy form, underwriting classification, issue age or any other policy factor expected to affect mortality experience;
- b. X shall not be less than 20%;
- c. X shall not decrease in any successive policy years;
- d. X is such that, when using the valuation interest rate used for basic reserves, subdivision (1) is greater than or equal to subdivision (2), as follows:

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(1) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

(2) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

e. X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five years after the valuation date;

f. The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of [ ~~subdivision~~ subdivisions B2 and ] B 3 of this section;

g. The appointed actuary may decrease X at any valuation date as long as X does not decrease in any successive policy years and as long as it continues to meet all the requirements of subdivisions B 2 and B 3 of this section; and

h. The appointed actuary specifically shall take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums.

3. If X is less than 100% at any duration for any policy, the following requirements shall be met:

a. The appointed actuary annually shall prepare an actuarial opinion and memorandum for the company in conformance with the requirements of 14 VAC 5-310-90; and

b. The appointed actuary annually shall opine for all policies subject to this regulation as to whether the mortality rates resulting from the application of X meet the requirements of [ ~~subdivision~~ subdivisions B2 and ] B 3 of this section. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

C. This subsection applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than 10 years, the appropriate 10-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue.

D. In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be

included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves.

E. Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges or guaranteed credits that are unilaterally made by the company after issue and that are effective for more than one year after the date of the change shall be the greatest of the following: (i) reserves calculated ignoring the guarantee, (ii) reserves assuming the guarantee was made at issue, and (iii) reserves assuming that the policy was issued on the date of the guarantee.

F. The commission may require that the company document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued prior to January 1, 2000. This documentation may include a demonstration of the extent to which aggregation with other nonspecified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of 14 VAC 5-310-90.

## **14 VAC 5-319-50. Calculation of minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies).**

A. Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same valuation mortality table and selection factors. At the option of the company, in calculating segmented reserves and net premiums, either of the adjustments described in subdivision 1 or 2 of this subsection may be made:

1. Treat the unitary reserve, if greater than 0, applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than 0, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

2. Treat the guaranteed cash surrender value, if greater than 0, applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than 0, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

B. Deficiency reserves are subject to the following:

1. The deficiency reserve at any duration shall be calculated:

a. On a unitary basis if the corresponding basic reserve determined by subsection A of this section is unitary;

b. On a segmented basis if the corresponding basic reserve determined by subsection A of this section is segmented; or

c. On the segmented basis if the corresponding basic reserve determined by subsection A of this section is

equal to both the segmented reserve and the unitary reserve.

2. This subsection shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the rate of interest and minimum valuation standards of mortality (specified in 14 VAC 5-319-40 B).

3. Deficiency reserves, if any, shall be calculated for each policy as the excess if greater than 0, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in 14 VAC 5-319-40 B.

4. For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

C. Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as used for the calculation of the segmented reserves. However, if select mortality factors are used, they shall be the 10-year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law. In no case shall total reserves (including basic reserves, deficiency reserves, and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy.

D. Unusual pattern of guaranteed cash surrender values follow:

1. For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n-year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

2. The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n-year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where

a. n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of:

(1) The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or

(2) The mandatory expiration date of the policy;

b. The net premium for a given year during the n-year period is equal to the product of the net to gross ratio and the respective gross premium; and

c. The net to gross ratio is equal to subdivision (1) divided by subdivision (2), as follows:

(1) The present value, at the beginning of the n-year period, of death benefits payable during the n-year period plus the present value, at the beginning of the n-year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n-year period.

(2) The present value, at the beginning of the n-year period, of the scheduled gross premiums payable during the n-year period.

3. For purposes of this subsection, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:

a. 110% of the scheduled gross premium for that year;

b. 110% of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and

c. 5.0% of the first policy year surrender charge, if any.

E. There is an optional exemption for yearly renewable term reinsurance. At the option of the company, the following approach for reserves on YRT reinsurance may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subsection C of this section.

3. Deficiency reserves are subject to the following:

a. For each policy year, calculate the excess, if greater than 0, of the valuation net premium over the respective maximum guaranteed gross premium.

b. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with subdivision 3 a of this subsection.

4. For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without 10-year select mortality

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factors, or any other table adopted on or after January 1, 2000, by the NAIC and promulgated by regulation by the commission for this purpose.

5. A reinsurance agreement shall be considered YRT reinsurance for purposes of this subsection if only the mortality risk is reinsured.

6. If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies.

F. There is an optional exemption for attained-age-based yearly renewable term (YRT) life insurance policies. At the option of the company, the following approach for reserves for attained-age-based YRT life insurance policies may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subsection C of this section.

3. Deficiency reserves.

a. For each policy year, calculate the excess, if greater than 0, of the valuation net premium over the respective maximum guaranteed gross premium.

b. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with subdivision 3 a of this subsection.

4. For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10-year select mortality factors, or any other table adopted on or after January 1, 2000, by the NAIC and promulgated by regulation by the commission for this purpose.

5. A policy shall be considered an attained-age-based YRT life insurance policy for purposes of this subsection if:

a. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based upon the attained age of the insured, such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and

b. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance, and attained age.

6. For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of this subsection may be used after the initial period if:

a. The initial period is constant for all insureds of the same sex, risk class, and plan of insurance; or

b. The initial period runs to a common attained age for all insureds of the same sex, risk class, and plan of insurance; and

c. After the initial period of coverage, the policy meets the conditions of subdivision F 5 of this section.

7. If this election is made, this approach shall be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after [ ~~the effective date of this regulation~~ January 1, 2000 ].

G. There is an exemption from unitary reserves for certain n-year renewable term life insurance policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met:

1. The policy consists of a series of n-year periods, including the first period and all renewal periods, where n is the same for each period, except that for the final renewal period, n may be truncated or extended to reach the expiry age, provided that this final renewal period is less than 10 years and less than twice the size of the earlier n-year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;

2. The guaranteed gross premiums in all n-year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the 10-year select mortality factors; and

3. There are no cash surrender values in any policy year.

H. There is an exemption from unitary reserves for certain juvenile policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue:

1. At issue, the insured is age 24 or younger;

2. Until the insured reaches the end of the juvenile period, which shall occur at or before age 25, the gross premiums and death benefits are level, and there are no cash surrender values; and

3. After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy.

**14 VAC 5-319-60. Calculation of minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyowner to keep a policy in force over a secondary guarantee period.**

A. General provisions are:

1. Policies with a secondary guarantee include, but are not limited to, the following:

a. A policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums;



b. A policy in which the minimum premium at any duration is less than the corresponding one-year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10-year select mortality factors, or any other table adopted on or after January 1, 2000, by the NAIC and promulgated by regulation by the commission for this purpose; or

c. A policy with any combination of subdivisions 1 a and 1 b of this subsection.

2. A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the company after issue shall be considered to have been made at issue. Reserves described in subsections B and C of this section shall be recalculated from issue to reflect these changes.

3. Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

4. For purposes of this section, the minimum premium for any policy year is the premium that, when paid into a policy with a 0 account value at the beginning of the policy year, produces a 0 account value at the end of the policy year. The minimum premium calculation shall use the policy cost factors (including mortality charges, loads, and expense charges) and the interest crediting rate, which are all guaranteed at issue.

5. The one-year valuation premium means the net one-year premium based upon the original schedule of benefits for a given policy year. The one-year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in 14 VAC 5-319-40 B 1 b,

c, and d may not be used to calculate the one-year valuation premiums.

6. The one-year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

B. Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the contract segmentation method as defined in 14 VAC 5-319-10.

C. Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in 14 VAC 5-319-50 B with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

D. The minimum reserves during the secondary guarantee period are the greater of:

1. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or

2. The minimum reserves required by other rules or regulations governing universal life plans.

**14 VAC 5-319-70. Twenty-year select mortality factors.**

The six tables of select mortality factors in this section include: (i) male aggregate, (ii) male nonsmoker, (iii) male smoker, (iv) female aggregate, (v) female nonsmoker, and (vi) female smoker.

These tables apply to both age last birthday and age nearest birthday mortality tables.

For sex-blended mortality tables, compute select mortality factors in the same proportion as the underlying mortality. For example, for the 1980 CSO-B Table, the calculated select mortality factors are 80% of the appropriate male table in this list, plus 20% of the appropriate female table in this list.

**TWENTY-YEAR SELECT MORTALITY FACTORS.**

Issue Age	Male, Aggregate Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	96	98	98	99	99	100	100	90	92	92	92	92	93	93	96	97	98	98	99	100
19	83	84	84	87	87	87	79	79	79	81	81	82	82	82	85	88	91	94	97	100
20	69	71	71	74	74	69	69	67	69	70	71	71	71	71	74	79	84	90	95	100
21	66	68	69	71	66	66	67	66	67	70	70	70	71	71	71	77	83	88	94	100
22	65	66	66	63	63	64	64	64	65	68	68	68	68	69	71	77	83	88	94	100
23	62	63	59	60	62	62	63	63	64	65	65	67	67	69	70	76	82	88	94	100
24	60	56	56	59	59	60	61	61	61	64	64	64	66	67	70	76	82	88	94	100

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25	52	53	55	56	58	58	60	60	60	63	62	63	64	67	69	75	81	88	94	100	
26	51	52	55	56	58	58	57	61	61	62	63	64	66	69	66	73	80	86	93	100	
27	51	52	55	57	58	60	61	61	60	63	63	64	67	66	67	74	80	87	93	100	
28	49	51	56	58	60	60	61	62	62	63	64	66	65	66	68	74	81	87	94	100	
29	49	51	56	58	60	61	62	62	62	64	64	62	66	67	70	76	82	88	94	100	
30	49	50	56	58	60	60	62	63	63	64	62	63	67	68	71	77	83	88	94	100	
31	47	50	56	58	60	62	63	64	64	62	63	66	68	70	72	78	83	89	94	100	
32	46	49	56	59	60	62	63	66	62	63	66	67	70	72	73	78	84	89	95	100	
33	43	49	56	59	62	63	64	62	65	66	67	70	72	73	75	80	85	90	95	100	
34	42	47	56	60	62	63	61	63	63	66	67	70	71	73	75	76	81	86	90	95	100
35	40	47	56	60	63	61	62	65	67	68	71	73	74	76	76	81	86	90	95	100	
36	38	42	56	60	59	61	63	65	67	68	70	72	74	76	77	82	86	91	95	100	
37	38	45	56	57	61	62	63	65	67	68	70	72	74	76	76	81	86	90	95	100	
38	37	44	53	58	61	62	65	66	67	69	69	73	75	76	77	82	86	91	95	100	
39	37	41	53	58	62	63	65	65	66	68	69	72	74	76	76	81	86	90	95	100	
40	34	40	53	58	62	63	65	65	66	68	68	71	75	76	77	82	86	91	95	100	
41	34	41	53	58	62	63	65	64	64	66	68	70	74	76	77	82	86	91	95	100	
42	34	43	53	58	61	62	63	63	63	64	66	69	72	75	77	82	86	91	95	100	
43	34	43	54	59	60	61	63	62	62	64	66	67	72	74	77	82	86	91	95	100	
44	34	44	54	58	59	60	61	60	61	62	64	67	71	74	77	82	86	91	95	100	
45	34	45	53	58	59	60	60	60	59	60	63	66	71	74	77	82	86	91	95	100	
46	31	43	52	56	57	58	59	59	59	60	63	67	71	74	75	80	85	90	95	100	
47	32	42	50	53	55	56	57	58	59	60	65	68	71	74	75	80	85	90	95	100	
48	32	41	47	52	54	56	57	57	57	61	65	68	72	73	74	79	84	90	95	100	
49	30	40	46	49	52	54	55	56	57	61	66	69	72	73	74	79	84	90	95	100	
50	30	38	44	47	51	53	54	56	57	61	66	71	72	73	75	80	85	90	95	100	
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52	28	35	41	45	49	51	54	56	57	61	66	71	72	74	75	80	85	90	100	100	
53	27	35	39	44	48	51	53	55	57	61	67	71	74	75	76	81	86	100	100	100	
54	27	33	38	44	48	50	53	55	57	61	67	72	74	75	76	81	100	100	100	100	
55	25	32	37	43	47	50	53	55	57	61	68	72	74	75	78	100	100	100	100	100	
56	25	32	37	43	47	49	51	54	56	61	67	70	73	74	100	100	100	100	100	100	
57	24	31	38	43	47	49	51	54	56	59	66	69	72	100	100	100	100	100	100	100	
58	24	31	38	43	48	48	50	53	56	59	64	67	100	100	100	100	100	100	100	100	
59	23	30	39	43	48	48	51	53	55	58	63	100	100	100	100	100	100	100	100	100	
60	23	30	39	43	48	47	50	52	53	57	100	100	100	100	100	100	100	100	100	100	
61	23	30	39	43	49	49	50	52	53	75	100	100	100	100	100	100	100	100	100	100	
62	23	30	39	44	49	49	51	52	75	75	100	100	100	100	100	100	100	100	100	100	
63	22	30	39	45	50	50	52	75	75	75	100	100	100	100	100	100	100	100	100	100	
64	22	30	39	45	50	51	75	75	75	75	100	100	100	100	100	100	100	100	100	100	
65	22	30	39	45	50	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	
66	22	30	39	45	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	
67	22	30	39	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	
68	23	32	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	
69	23	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	
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78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100	
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
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81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	

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Issue	Male, Nonsmoker																			
	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	93	95	96	98	99	100	100	90	92	92	92	92	95	95	96	97	98	98	99	100
19	80	81	83	86	87	87	79	79	79	81	81	82	83	83	86	89	92	94	97	100
20	65	68	69	72	74	69	69	67	69	70	71	71	72	72	75	80	85	90	95	100
21	63	66	68	71	66	66	67	66	67	70	70	70	71	71	73	78	84	89	95	100
22	62	65	66	62	63	64	64	64	67	68	68	68	70	70	73	78	84	89	95	100
23	60	62	58	60	62	62	63	63	64	67	68	68	67	69	71	77	83	88	94	100
24	59	55	56	58	59	60	61	61	63	65	67	66	66	69	71	77	83	88	94	100
25	52	53	55	56	58	58	60	60	61	64	64	64	64	67	70	76	82	88	94	100
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29	49	51	57	60	61	61	62	62	63	64	66	63	65	67	68	74	81	87	94	100
30	49	51	57	60	61	62	63	63	63	64	62	63	66	68	70	76	82	88	94	100
31	47	50	57	60	60	62	63	64	64	62	63	65	67	70	71	77	83	88	94	100
32	46	50	57	60	62	63	64	64	62	63	65	66	68	71	72	78	83	89	94	100
33	45	49	56	60	62	63	64	62	63	65	66	68	71	73	74	79	84	90	95	100
34	43	48	56	62	63	64	62	62	65	66	67	70	72	74	74	79	84	90	95	100
35	41	47	56	62	63	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100
36	40	47	56	62	59	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100
37	38	45	56	58	59	61	62	63	66	67	67	69	71	73	74	79	84	90	95	100
38	38	45	53	58	61	62	63	65	65	67	68	70	72	74	73	78	84	89	95	100
39	37	41	53	58	61	62	63	64	65	67	68	70	71	73	73	78	84	89	95	100
40	34	41	53	58	61	62	63	64	64	66	67	69	71	73	72	78	83	89	94	100
41	34	41	53	58	61	61	62	62	63	65	65	67	69	71	71	77	83	88	94	100
42	34	43	53	58	60	61	62	61	61	63	64	66	67	69	71	77	83	88	94	100
43	32	43	53	58	60	61	60	60	60	60	62	64	66	68	69	75	81	88	94	100
44	32	44	52	57	59	60	60	59	59	58	60	62	65	67	69	75	81	88	94	100
45	32	44	52	57	59	60	59	57	57	57	59	61	63	66	68	74	81	87	94	100
46	32	42	50	54	56	57	57	56	55	56	59	61	63	65	67	74	80	87	93	100
47	30	40	48	52	54	55	55	54	54	55	59	61	62	63	66	73	80	86	93	100
48	30	40	46	49	51	52	53	53	54	55	57	61	62	63	63	70	78	85	93	100
49	29	39	43	48	50	51	50	51	53	54	57	61	61	62	62	70	77	85	92	100
50	29	37	42	45	47	48	49	50	51	54	57	61	61	61	61	69	77	84	92	100
51	27	35	40	43	45	47	48	50	51	53	57	60	61	61	62	70	77	85	92	100
52	27	34	39	42	44	45	48	49	50	53	56	60	60	62	62	70	77	85	100	100
53	25	31	37	41	44	45	47	49	50	51	56	59	61	61	62	70	77	100	100	100
54	25	30	36	39	43	44	47	48	49	51	55	59	59	61	62	70	100	100	100	100
55	24	29	35	38	42	43	45	48	49	50	56	58	59	61	62	100	100	100	100	100
56	23	29	35	38	42	42	44	47	48	50	55	57	58	59	100	100	100	100	100	100
57	23	28	35	38	42	42	43	45	47	49	53	55	56	100	100	100	100	100	100	100
58	22	28	33	37	41	41	43	45	45	47	51	53	100	100	100	100	100	100	100	100
59	22	26	33	37	41	41	42	44	44	46	50	100	100	100	100	100	100	100	100	100
60	20	26	33	37	41	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
61	20	26	33	37	41	40	41	42	42	75	100	100	100	100	100	100	100	100	100	100
62	19	25	32	38	40	40	41	42	75	75	100	100	100	100	100	100	100	100	100	100
63	19	25	33	36	40	40	41	75	75	75	100	100	100	100	100	100	100	100	100	100
64	18	24	32	36	39	40	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	18	24	32	36	39	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	18	24	32	36	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	18	24	32	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	18	24	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	18	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

# Final Regulations

71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

## Male, Smoker Duration

Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
19	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
20	98	100	100	100	100	100	100	99	99	99	100	99	99	99	99	100	100	100	100	100
21	95	98	99	100	95	96	96	95	96	97	97	96	96	96	96	97	98	98	99	100
22	92	95	96	90	90	93	93	92	93	95	95	93	93	92	93	94	96	97	99	100
23	90	92	85	88	88	89	89	89	90	90	90	90	89	90	92	94	95	97	98	100
24	87	81	82	85	84	86	88	86	86	88	88	86	86	88	89	91	93	96	98	100
25	77	78	79	82	81	83	83	82	83	85	84	84	84	85	86	89	92	94	97	100
26	75	77	79	82	82	83	83	82	83	84	84	84	84	85	81	85	89	92	96	100
27	73	75	78	82	82	83	83	82	82	82	82	84	84	80	81	85	89	92	96	100
28	71	73	79	82	81	82	83	81	81	82	82	82	80	80	81	85	89	92	96	100
29	69	72	78	81	81	82	82	81	81	81	81	77	80	80	81	85	89	92	96	100
30	68	71	78	81	81	81	82	81	81	81	76	77	80	80	81	85	89	92	96	100
31	65	70	77	81	79	81	82	81	81	76	77	79	81	81	83	86	90	93	97	100
32	63	67	77	78	79	81	81	81	76	77	77	80	83	83	85	88	91	94	97	100
33	60	65	74	78	79	79	81	76	77	77	79	80	83	85	85	88	91	94	97	100
34	57	62	74	77	79	79	75	76	77	79	79	81	83	85	87	90	92	95	97	100
35	53	60	73	77	79	75	75	76	77	79	80	82	84	86	88	90	93	95	98	100
36	52	59	71	75	74	75	75	76	77	79	79	81	83	85	87	90	92	95	97	100
37	49	58	70	71	74	74	75	76	77	78	79	81	84	86	86	89	92	94	97	100
38	48	55	66	70	72	74	74	75	76	78	79	81	83	85	87	90	92	95	97	100
39	45	50	65	70	72	72	74	74	75	77	79	81	84	86	86	89	92	94	97	100
40	41	49	63	68	71	72	73	74	74	76	78	80	83	85	86	89	92	94	97	100
41	40	49	63	68	71	72	72	72	73	75	76	78	81	84	85	88	91	94	97	100
42	40	49	62	68	70	71	71	71	71	73	75	76	81	83	85	88	91	94	97	100
43	39	50	62	67	69	69	70	70	70	71	73	76	79	83	85	88	91	94	97	100
44	39	50	60	66	68	69	68	69	69	69	71	74	79	81	85	88	91	94	97	100
45	37	50	60	66	68	68	68	67	67	67	69	73	78	81	85	88	91	94	97	100
46	37	48	58	63	65	67	66	66	66	67	71	74	78	81	84	87	90	94	97	100
47	36	47	55	61	63	64	64	64	65	67	71	75	79	81	84	87	90	94	97	100
48	35	46	53	58	60	62	63	63	65	67	72	75	79	81	83	86	90	93	97	100
49	34	45	51	56	58	59	61	62	63	67	72	77	80	81	83	86	90	93	97	100
50	34	43	49	53	55	57	60	61	63	67	73	78	80	81	81	85	89	92	96	100
51	32	42	47	52	55	57	60	61	63	67	73	78	80	83	84	87	90	94	97	100
52	32	40	46	50	54	56	60	61	63	67	73	78	81	84	85	88	91	94	100	100
53	30	37	44	49	54	56	59	61	65	67	74	79	83	85	87	90	92	100	100	100
54	30	36	43	48	53	55	59	61	65	67	74	80	84	85	89	91	100	100	100	100
55	29	35	42	47	53	55	59	61	65	67	75	80	84	86	90	100	100	100	100	100
56	28	35	42	47	53	55	57	60	63	68	74	79	83	85	100	100	100	100	100	100

# Final Regulations

57	28	35	42	47	53	54	57	60	64	67	74	78	81	100	100	100	100	100	100
58	26	33	43	48	54	54	56	59	63	67	73	78	100	100	100	100	100	100	100
59	26	33	43	48	54	53	57	59	63	66	73	100	100	100	100	100	100	100	100
60	25	33	43	48	54	53	56	58	62	66	100	100	100	100	100	100	100	100	100
61	25	33	43	49	55	55	57	59	63	75	100	100	100	100	100	100	100	100	100
62	25	33	43	50	56	56	58	61	75	75	100	100	100	100	100	100	100	100	100
63	24	33	45	51	56	56	59	75	75	75	100	100	100	100	100	100	100	100	100
64	24	34	45	51	57	57	75	75	75	75	100	100	100	100	100	100	100	100	100
65	24	34	45	52	57	65	70	70	70	70	100	100	100	100	100	100	100	100	100
66	24	35	45	53	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100
67	25	35	45	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100
68	25	36	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100
69	27	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

## Female, Aggregate Duration

Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	99	100	100	100	100	100	100	100	93	95	96	97	97	100	100	100	100	100	100	100
18	83	83	84	84	84	84	86	78	78	79	82	84	85	88	88	90	93	95	98	100
19	65	66	68	68	68	68	63	63	64	66	69	71	72	74	75	80	85	90	95	100
20	48	50	51	51	51	47	48	48	49	51	56	57	58	61	63	70	78	85	93	100
21	47	48	50	51	47	47	48	49	51	53	57	60	61	64	64	71	78	86	93	100
22	44	47	48	45	47	47	48	49	53	54	60	61	63	64	66	73	80	86	93	100
23	42	45	44	45	47	47	49	51	53	54	61	64	64	67	69	75	81	88	94	100
24	39	40	42	44	47	47	50	51	54	56	64	64	66	69	70	76	82	88	94	100
25	34	38	41	44	47	47	50	53	56	57	64	67	69	71	73	78	84	89	95	100
26	34	38	41	45	49	49	51	56	58	59	66	69	70	73	70	76	82	88	94	100
27	34	38	41	47	50	51	54	57	59	60	69	70	73	70	71	77	83	88	94	100
28	34	37	43	47	53	53	56	59	62	63	70	73	70	72	74	79	84	90	95	100
29	34	38	43	49	54	56	58	60	63	64	73	70	72	74	75	80	85	90	95	100
30	35	38	43	50	56	56	59	63	66	67	70	71	74	75	76	81	86	90	95	100
31	35	38	43	51	56	58	60	64	67	65	71	72	74	75	76	81	86	90	95	100
32	35	39	45	51	56	59	63	66	65	66	72	72	75	76	76	81	86	90	95	100
33	36	39	44	52	58	62	64	65	66	67	72	74	75	76	76	81	86	90	95	100
34	36	40	45	52	58	63	63	66	67	68	74	74	76	76	76	81	86	90	95	100
35	36	40	45	53	59	61	65	67	68	70	75	74	75	76	75	80	85	90	95	100
36	36	40	45	53	55	62	65	67	68	70	74	74	74	75	75	80	85	90	95	100
37	36	41	47	52	57	62	65	67	68	69	72	72	73	75	74	79	84	90	95	100
38	34	41	44	52	57	63	66	68	69	70	72	71	72	74	75	80	85	90	95	100
39	34	40	45	53	58	63	66	68	69	69	70	70	70	73	74	79	84	90	95	100
40	32	40	45	53	58	65	65	67	68	69	70	69	70	73	73	78	84	89	95	100
41	32	40	45	53	57	63	64	67	68	68	69	69	69	73	74	79	84	90	95	100
42	32	40	45	52	56	61	63	65	66	68	69	68	70	74	75	80	85	90	95	100

# Final Regulations

43	31	39	45	51	55	59	61	65	65	66	68	69	69	74	77	82	86	91	95	100
44	31	39	45	50	54	58	61	63	64	66	67	68	71	75	78	82	87	91	96	100
45	31	38	44	49	53	56	59	62	63	65	67	68	71	77	79	83	87	92	96	100
46	29	37	43	48	51	54	59	62	63	65	67	69	71	77	78	82	87	91	96	100
47	28	35	41	46	49	54	57	61	62	66	68	69	71	77	77	82	86	91	95	100
48	28	35	41	44	49	52	57	61	63	66	68	71	72	75	77	82	86	91	95	100
49	26	34	39	43	47	52	55	61	63	67	69	71	72	75	75	80	85	90	95	100
50	25	32	38	41	46	50	55	61	63	67	69	72	72	75	74	79	84	90	95	100
51	25	32	38	41	45	50	55	61	63	66	68	69	71	74	74	79	84	90	95	100
52	23	30	36	41	45	51	56	61	62	65	66	68	68	73	73	78	84	89	100	100
53	23	30	36	41	47	51	56	61	62	63	65	66	68	72	72	78	83	100	100	100
54	22	29	35	41	47	53	57	61	61	62	62	66	66	69	70	76	100	100	100	100
55	22	29	35	41	47	53	57	61	61	61	62	63	64	68	69	100	100	100	100	100
56	22	29	35	41	45	51	56	59	60	61	62	63	64	67	100	100	100	100	100	100
57	22	29	35	41	45	50	54	56	58	59	61	62	63	100	100	100	100	100	100	100
58	22	30	36	41	44	49	53	56	57	57	61	62	100	100	100	100	100	100	100	100
59	22	30	36	41	44	48	51	53	55	56	59	100	100	100	100	100	100	100	100	100
60	22	30	36	41	43	47	50	51	53	55	100	100	100	100	100	100	100	100	100	100
61	22	29	35	39	42	46	49	50	52	80	100	100	100	100	100	100	100	100	100	100
62	20	28	33	39	41	45	47	49	80	80	100	100	100	100	100	100	100	100	100	100
63	20	28	33	38	41	44	46	80	80	80	100	100	100	100	100	100	100	100	100	100
64	19	27	32	36	40	42	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	19	25	30	35	39	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	19	25	30	35	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	19	25	30	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	19	25	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	19	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

## Female, Nonsmoker

Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	96	98	98	98	98	99	99	99	92	92	93	95	95	97	99	99	99	100	100	100
18	78	80	80	80	80	81	81	74	75	75	78	79	82	83	85	88	91	94	97	100
19	60	62	63	63	63	65	59	59	60	60	64	67	67	70	72	78	83	89	94	100
20	42	44	45	45	45	42	42	42	45	45	50	51	53	56	58	66	75	83	92	100
21	41	42	44	45	41	42	42	44	47	47	51	53	54	57	59	67	75	84	92	100
22	39	41	44	41	41	42	44	45	49	49	54	56	57	58	60	68	76	84	92	100
23	38	41	38	40	41	42	44	46	49	50	56	57	58	60	62	70	77	85	92	100
24	36	36	38	40	41	42	46	47	50	51	58	59	60	62	63	70	78	85	93	100
25	32	34	37	40	41	43	46	49	51	53	59	60	62	63	64	71	78	86	93	100
26	32	34	37	41	43	45	47	50	53	53	60	62	63	64	62	70	77	85	92	100
27	32	34	38	43	46	47	49	51	53	55	62	63	64	62	62	70	77	85	92	100
28	30	34	39	43	47	49	51	53	56	58	63	63	61	62	63	70	78	85	93	100

# Final Regulations

29	30	35	40	45	50	51	52	55	58	59	64	61	62	63	63	70	78	85	93	100
30	31	35	40	46	51	52	53	56	59	60	62	62	63	65	65	72	79	86	93	100
31	31	35	40	46	51	53	55	58	60	58	62	62	63	65	65	72	79	86	93	100
32	32	35	40	45	51	53	56	59	57	58	62	63	63	65	64	71	78	86	93	100
33	32	36	41	47	52	55	58	55	58	59	63	63	65	65	65	72	79	86	93	100
34	33	36	41	47	52	55	55	57	58	59	63	65	64	65	64	71	78	86	93	100
35	33	36	41	47	52	53	57	58	59	61	63	64	64	64	64	71	78	86	93	100
36	33	36	41	47	49	53	57	58	59	61	63	64	63	64	63	70	78	85	93	100
37	32	36	41	44	49	53	57	58	59	60	62	62	61	62	63	70	78	85	93	100
38	32	37	39	45	50	54	57	58	60	60	61	61	61	62	61	69	77	84	92	100
39	30	35	39	45	50	54	57	58	60	59	60	60	59	60	61	69	77	84	92	100
40	28	35	39	45	50	54	56	57	59	59	60	59	59	59	60	68	76	84	92	100
41	28	35	39	45	49	52	55	55	58	57	58	59	58	59	60	68	76	84	92	100
42	27	35	39	44	49	52	54	55	56	57	57	57	58	60	61	69	77	84	92	100
43	27	34	39	44	47	50	53	53	55	55	56	57	56	60	61	69	77	84	92	100
44	26	34	38	42	47	50	52	53	54	55	55	55	56	61	62	70	77	85	92	100
45	26	33	38	42	45	48	51	51	52	53	54	55	56	61	62	70	77	85	92	100
46	24	32	37	40	43	47	49	51	52	53	54	55	56	60	61	69	77	84	92	100
47	24	30	35	39	42	45	47	49	51	53	54	55	56	59	60	68	76	84	92	100
48	23	30	35	37	40	44	47	49	50	53	54	55	55	59	57	66	74	83	91	100
49	23	29	33	35	39	42	45	48	50	53	54	55	55	57	56	65	74	82	91	100
50	21	27	32	34	37	41	44	48	50	53	54	55	55	56	55	64	73	82	91	100
51	21	26	30	34	37	41	44	48	49	51	53	53	54	55	55	64	73	82	91	100
52	20	25	30	33	37	41	44	47	48	50	50	51	51	55	53	62	72	81	100	100
53	19	24	29	32	37	41	43	47	48	48	49	49	51	52	52	62	71	100	100	100
54	18	24	29	32	37	41	43	45	47	47	47	49	49	51	51	61	100	100	100	100
55	18	23	28	32	37	41	43	45	45	45	46	46	47	50	50	100	100	100	100	100
56	18	23	28	32	36	39	42	44	44	45	46	46	46	49	100	100	100	100	100	100
57	18	23	28	31	35	38	41	42	44	44	45	45	46	100	100	100	100	100	100	100
58	17	23	26	31	35	36	38	41	41	42	45	45	100	100	100	100	100	100	100	100
59	17	23	26	30	33	35	38	39	40	41	44	100	100	100	100	100	100	100	100	100
60	17	23	26	30	32	34	36	38	39	40	100	100	100	100	100	100	100	100	100	100
61	17	22	25	29	32	33	35	36	38	80	100	100	100	100	100	100	100	100	100	100
62	16	22	25	28	30	32	34	35	80	80	100	100	100	100	100	100	100	100	100	100
63	16	20	24	28	30	32	34	80	80	80	100	100	100	100	100	100	100	100	100	100
64	14	21	24	27	29	30	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	15	19	23	25	28	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	15	19	23	25	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	15	19	22	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	13	18	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	13	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
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72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Female, Smoker

Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+

# Final Regulations

0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	99	100	100	100	100	100	100	95	96	97	100	100	100	100	100	100	100	100	100
19	87	89	92	92	92	92	84	84	86	86	92	93	95	96	99	99	99	100	100
20	74	77	80	80	80	73	73	73	75	77	83	83	86	88	90	92	94	96	98
21	71	74	78	78	71	71	73	74	77	79	85	86	88	89	90	92	94	96	98
22	68	71	75	70	71	71	73	74	78	79	88	90	89	89	92	94	95	97	98
23	65	69	67	70	70	70	73	77	79	81	89	90	90	92	92	94	95	97	98
24	62	60	64	69	70	70	74	77	79	81	92	90	92	93	93	94	96	97	99
25	53	58	63	67	69	70	74	78	81	82	92	93	93	95	95	96	97	98	99
26	53	58	63	69	71	72	75	79	82	82	93	93	95	96	90	92	94	96	98
27	52	56	63	70	74	74	78	81	82	84	93	95	95	90	90	92	94	96	98
28	52	56	64	71	75	77	79	82	85	86	95	95	90	92	92	94	95	97	98
29	51	56	64	71	78	78	81	84	86	88	95	90	90	92	92	94	95	97	98
30	51	56	64	72	79	79	82	85	88	89	90	90	92	93	93	94	96	97	99
31	51	56	64	72	78	81	84	84	88	84	90	90	92	93	93	94	96	97	99
32	51	56	64	71	78	81	85	86	84	85	90	90	92	94	93	94	96	97	99
33	51	57	62	71	78	82	85	83	84	85	90	92	93	93	93	94	96	97	99
34	51	56	62	71	78	82	81	83	85	86	90	92	92	94	93	94	96	97	99
35	51	56	62	71	78	79	83	84	85	86	90	91	91	93	93	94	96	97	99
36	49	56	62	71	74	79	83	84	85	86	90	90	91	93	92	94	95	97	98
37	48	55	62	67	74	79	83	84	85	86	89	90	89	92	91	93	95	96	98
38	47	55	57	66	72	77	81	84	86	86	87	88	88	90	91	93	95	96	98
39	45	50	57	66	72	77	81	83	85	86	86	87	86	89	90	92	94	96	98
40	41	50	57	66	72	77	81	83	84	85	86	86	86	86	89	91	93	96	98
41	40	50	57	65	71	76	79	81	83	84	85	86	85	89	90	92	94	96	98
42	40	49	57	65	69	74	77	80	82	83	84	85	86	90	92	94	95	97	98
43	39	49	55	63	69	73	76	78	80	82	83	84	85	92	93	94	96	97	99
44	39	48	55	62	67	71	75	78	80	80	82	84	86	93	96	97	98	98	99
45	37	47	55	61	65	70	73	76	78	80	81	84	86	94	97	98	98	99	99
46	36	46	53	59	63	68	71	75	77	79	83	85	86	93	96	97	98	98	99
47	34	44	51	57	62	66	70	75	77	80	83	85	86	93	94	95	96	98	99
48	34	44	50	54	60	64	69	74	77	80	84	86	87	92	92	94	95	97	98
49	33	42	48	53	58	63	68	74	77	81	84	86	87	92	91	93	95	96	98
50	31	41	46	51	57	61	67	74	77	81	85	87	87	91	90	92	94	96	98
51	30	39	45	51	56	61	67	74	75	80	83	85	85	90	90	92	94	96	98
52	29	38	45	50	56	62	68	74	75	79	81	83	84	90	90	92	94	96	100
53	28	37	43	49	57	62	68	73	74	77	79	81	83	89	89	91	93	100	100
54	28	36	43	49	57	63	69	73	74	75	78	80	81	87	89	91	100	100	100
55	26	35	42	49	57	63	69	73	73	74	76	78	79	86	87	100	100	100	100
56	26	35	42	49	56	62	67	71	72	74	76	78	79	85	100	100	100	100	100
57	26	35	42	49	55	61	66	69	72	73	76	78	79	100	100	100	100	100	100
58	28	36	43	49	55	59	63	68	69	72	76	78	100	100	100	100	100	100	100
59	28	36	43	49	54	57	63	67	68	70	76	100	100	100	100	100	100	100	100
60	28	36	43	49	53	57	61	64	67	69	100	100	100	100	100	100	100	100	100
61	26	35	42	48	52	56	59	63	66	80	100	100	100	100	100	100	100	100	100
62	26	33	41	47	51	55	58	62	80	80	100	100	100	100	100	100	100	100	100
63	25	33	41	46	51	55	57	80	80	80	100	100	100	100	100	100	100	100	100
64	25	33	40	45	50	53	80	80	80	80	100	100	100	100	100	100	100	100	100
65	24	32	39	44	49	72	75	75	80	80	100	100	100	100	100	100	100	100	100
66	24	32	39	44	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100
67	24	32	39	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100
68	24	32	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100
69	24	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100



75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

**14 VAC 5-319-80. Severability.**

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

VA.R. Doc. No. R99-271; Filed November 3, 1999, 8:04 a.m.



**TITLE 22. SOCIAL SERVICES**

**STATE BOARD OF SOCIAL SERVICES**

**Title of Regulation:** 22 VAC 40-820-10 et seq. Policy Regarding Purchased Services (REPEALED).

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

**Effective Date:** December 22, 1999.

**Summary:**

*The original intent of this regulation was to establish uniform policies and procedures for the purchase of services within local departments of social services. Since the implementation of the regulation, programs have come under many and varied funding sources so that one uniform regulation for purchase of services is no longer feasible. The State Board of Social Services has repealed this chapter so that duplicative regulations regarding purchase of services by local departments of social services will be eliminated. By this action, local departments of social services will follow existing regulations, including state contract and procurement regulations, and policies as set forth in the Social Services Policy Manual, Volume VII, for each program area in purchasing services for their customers.*

**Summary of Public Comment and Agency's Response:** No public comment was received by the promulgating agency.

**Agency Contact:** Marjorie Marker, Department of Social Services, 730 E. Broad St., 2nd Floor, Richmond, VA 23219, telephone (804) 692-1262.

VA.R. Doc. No. R99-21; Filed October 22, 1999, 10:45 a.m.



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# FORMS

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD FOR COSMETOLOGY

**NOTICE:** The forms used in administering the Board for Cosmetology Regulations, 18 VAC 55-22-10 et seq., are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, 2nd Floor, Richmond, Virginia.

Title of Regulation: **18 VAC 55-22-10 et seq. Board for Cosmetology Regulations.**

#### FORMS

*Cosmetology and Nail Technician Examination Application, 12LIC (eff. 8/99).*

*Training and Experience Verification Form, 12CTSTE (eff. 8/99).*

*Temporary Permit Application, 12CTSTP (eff. 8/99).*

*Endorsement Application, 12END (rev. 8/99).*

*Salon License Application, 12SAL (rev. 8/99).*

*Instructor Certificate Application, 12INSTR (rev. 8/99).*

*School License Application, 12SCHL (rev. 8/99).*

*Student Teacher Temporary Permit Application.*

*Reinstatement Application, 12REI (eff. 11/99).*



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# GOVERNOR

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## EXECUTIVE ORDER NUMBER 58 (99)

### **REVIEW OF THE IMPACT OF REGULATIONS AND EXECUTIVE POLICIES ON THE FAMILIES OF VIRGINIA**

By virtue of the authority vested in me as Governor under Article V of the Constitution of the Commonwealth of Virginia and under the laws of the Commonwealth, including but not limited to Sections 9-6.14:9.1 and 2.1-7.2 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for review of all new or revised regulations proposed by all agencies and institutions of the Commonwealth, as well as periodic review of all existing regulations.

#### **Preamble**

Over the last three decades, we have witnessed a gradual breakdown of the social institution of the family. There have been alarming increases in out-of-wedlock births, divorce rates, child abuse, abandoned children, teenage crimes and drug use, and a host of social pathologies that tear the social fabric. These phenomena have occurred despite unprecedented expenditures by taxpayers on social programs. Many analyses and data document how unintended consequences of government policies enacted in the 1960s and 1970s caused or contributed to the breakdown of the family.

As we move forward into a new century and a new way of thinking about government, policy makers and policy implementers need to heed the lessons of the past. We need to understand the relationship between government actions and families. We need to analyze how and why the family has been weakened, as well as how family bonds may be strengthened. We need to contemplate fully the intended as well as unintended consequences of our actions for the family institution before taking action. And we need to monitor closely the impact of the policies we adopt on the family after putting them into effect.

Several core principles should inform these determinations by policy makers. Government policy should encourage self-sufficiency, self-pride, and the ethic of responsibility through savings, employment, family formation, and family stability. Government policy should encourage the expansion of positive social institutions in our neighborhoods - institutions such as families, churches, safe schools and community-based associations. At the very least, government policy should not be implemented in ways that undermine these social institutions and their positive effects on quality of life.

#### **Policy and Procedures for New Regulations**

Consistent with these principles, all executive agencies and institutions shall follow the following policies and procedures prior to promulgating any new regulation or revision to an existing regulation:

A. Before issuing a Notice of Intended Regulatory Action, the agency or institution shall assess the regulation's impact on the institution of the family and family stability. The analysis shall be contained in a memorandum signed by the head of the agency or institution, approved by the responsible

Secretary, and forwarded to the Director of the Department of Planning and Budget and the Office of the Governor with the proposed regulation.

B. The agency's review shall specifically analyze, among other things, whether the proposed regulation will:

1. Strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children;
2. Encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents;
3. Strengthen or erode the marital commitment; and
4. Increase or decrease disposable family income.

C. Furthermore, each agency and institution shall periodically review its existing regulations according to these guidelines upon the direction of the Governor or the responsible Secretary and issue a memorandum signed by the agency head to the requesting party. The memorandum shall state the results of the review.

#### **Applicability and Effective Date**

This Executive Order shall apply to all regulations issued by all executive branch agencies, departments and institutions, without regard to whether they are exempt from the Administrative Process Act. This Executive Order shall be effective upon its signing and shall remain in full force and effect until amended or rescinded by further Executive Order or statute. Any failure to comply with the requirement set forth herein shall in no way effect the validity of a regulation, or create any cause of action or provide standing for any person under Section 9-6.14:15 et seq. of the Code of Virginia or otherwise challenge the actions of a government entity for adopting or reviewing regulations.

Given under my hand and under the Seal of the Commonwealth of Virginia this 19th day of October, 1999.

/s/ James S. Gilmore, III  
Governor

## EXECUTIVE ORDER NUMBER 59 (99)

### **DECLARATION OF A STATE OF EMERGENCY THROUGHOUT PORTIONS OF THE COMMONWEALTH ARISING FROM TROPICAL STORM DENNIS**

On September 4, 1999, I verbally declared a state of emergency to exist due to Tropical Storm Dennis, which intensified before making landfall in North Carolina late that evening. The storm spawned tornadoes in the city of Hampton damaging several hundred apartments. National Weather Service forecasts indicated that the remnants of Tropical Storm Dennis would track across southeastern and central Virginia during the next 24 hours resulting in the potential for additional significant rainfall causing flash flooding, river flooding, and wind damage in affected areas. This declaration of a state of emergency covers the period

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# Governor

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beginning August 27, 1999, when I directed the implementation of the Commonwealth of Virginia Emergency Operations Plan due to then Hurricane Dennis.

The health and general welfare of the citizens of the localities that may be affected required that state action be taken to help prepare for and alleviate the conditions that may result from this situation. The potential effects of Tropical Storm Dennis constituted a natural disaster wherein human life and public and private property were imperiled, as described in Section 44-146.16 of the Code of Virginia.

Therefore, by virtue of the authority vested in me by Section 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by Section 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby confirm, ratify, and memorialize in writing my verbal orders issued September 4, 1999, wherein I proclaimed that a state of emergency existed in the Commonwealth and directed that appropriate assistance be rendered by agencies of both state and local governments to prepare for and alleviate any conditions resulting from Tropical Storm Dennis, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions insofar as possible. Pursuant to Sections 44-75.1.A.3 and A.4 of the Code of Virginia, I also directed that the Virginia National Guard and the Virginia Defense Force be called forth to state duty to assist in providing such aid. This shall include Virginia National Guard assistance to the Virginia State Police to direct traffic, prevent looting, and perform such other law enforcement functions as the Superintendent of State Police, in consultation with the State Coordinator of Emergency Services and the Adjutant General, and with the approval of the Secretary of Public Safety, may find necessary.

In order to marshal all public resources and appropriate preparedness, response and recovery measures to meet this potential threat and recovery from its effects, and in accordance with my authority contained in Section 44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following protective and restoration measures:

A. The full implementation by agencies of the state and local governments of Volume II, Virginia Emergency Operations Plan (COVEOP) for Peacetime Disasters, July 1997, as amended, along with its attendant Annex I-FF (Volume V), Virginia Hurricane Emergency Response Plan, and other appropriate state agency plans.

B. Full activation of the Virginia Emergency Operations Center (VEOC) and State Emergency Response Team (SERT). Furthermore, I am directing that the VEOC and SERT coordinate state operations in support of affected localities and the Commonwealth, to include issuing mission assignments to agencies designated in the COVEOP and others that may be identified by the State Coordinator of Emergency Services, in consultation with the Secretary of Public Safety, which are needed to provide for the

preservation of life, protection of property and implementation of recovery activities.

C. The authorization to assume control over the Commonwealth's state-operated telecommunications systems, as required by the State Coordinator of Emergency Services, in coordination with the Department of Information Technology, and with the prior consent of the Secretary of Public Safety, making all systems assets available for use in providing adequate communications, intelligence and warning capabilities for the impending event, pursuant to Section 44-146.18 of the Code of Virginia.

D. I hereby direct preparation for the evacuation of areas threatened or stricken by this storm. Following a declaration of a local emergency pursuant to Section 44-146.21 of the Code of Virginia, if a local governing body determines that evacuation is deemed necessary for the preservation of life or other emergency mitigation, response or recovery, pursuant to Section 44-146.17 (1) of the Code of Virginia, I direct the evacuation of all or part of the populace therein from such areas and upon such timetable as the local governing body, in coordination with the Virginia Emergency Operations Center, on behalf of the State Coordinator of Emergency Services, shall determine. Notwithstanding the foregoing, I reserve the right to direct and compel evacuation from the same and different areas and determine a different timetable both where local governing bodies have made such a determination and where local governing bodies have not made such a determination.

E. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact, and the authorization of the State Coordinator of Emergency Services to enter into any other supplemental agreements, pursuant to Sections 44-146.17 (5) and 44-146.28:1. of the Code of Virginia, to provide for the evacuation and reception of injured and other persons and the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Services is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, Section 44-146.28:1, of the Code of Virginia.

F. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight/overwidth/registration/license exemptions to carriers transporting essential emergency relief supplies into and through the Commonwealth in order to support the disaster response and recovery.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Any One Axle -- 24,000 Pounds  
Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers) -- 44,000 Pounds  
Single Unit (2 Axles) -- 44,000 Pounds  
Single Unit (3 Axles) -- 54,500 Pounds  
Tractor-Semitrailer (4 Axles) -- 64,500 Pounds

Tractor-Semitrailer (5 or more Axles) -- 90,000 Pounds  
 Tractor-Twin Trailers (5 or more Axles) -- 90,000 Pounds  
 Other Combinations (5 or more Axles) -- 90,000 Pounds  
 Per Inch of Tire Width in Contact with Road Surface --  
 850 Pounds

In addition to described overweight transportation privileges, carriers are also exempt from registration with DMV. This includes the vehicles en route and returning to their home base. The above cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This authorization shall apply to hours worked by any carrier when transporting passengers, property, equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing relief or assistance as a result of this disaster, pursuant to Section 52-8.4 of the Code of Virginia.

The foregoing overweight transportation privileges and the regulatory exemption provided by Section 52.8.4.A of the Code of Virginia, and implemented in Section 19 VAC 30-20-40.B of the "Motor Carrier Safety Regulations," shall remain in effect for sixty (60) days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

G. The discontinuance of provisions authorized in paragraph F above may be implemented and disseminated by publication of administrative notice to all affected and interested parties by the authority I hereby delegate to the Secretary of Public Safety, after consultation with other affected Cabinet-level Secretaries.

H. The designation of a State Recovery Task Force under the leadership of the Secretary of Commerce and Trade to promote public, private and industrial redevelopment projects and help sustain long-term community economic vitality in the aftermath of the disaster. This task force will also assist in the restoration of critical public health and safety systems and will do so in close coordination with the State Coordinator of Emergency Services as the individual responsible for ensuring implementation of short-term recovery programs.

I. The authorization of appropriate oversight boards, commissions and agencies to ease building code restrictions, and to permit emergency demolition, hazardous waste disposal, debris removal, emergency landfill siting and operations and other activities necessary to address immediate health and safety needs without regard to time-consuming procedures or formalities and without regard to application or permit fees or royalties. This state of emergency constitutes a major medical emergency under the Rules and Regulations of the Board of Health Governing Emergency Medical Services, pursuant to Article 3.01 (Section 32.1-111.1 et seq.) of Chapter 4 of Title 32.1, of the Code of Virginia, Statewide Emergency Medical Services System and Services, and exemptions specified in the Rules and Regulations regarding patient transport and provider certification in disasters apply.

J. Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through

the VEOC of the Commonwealth as defined herein and in Section 44-146.28. of the Code of Virginia, other than costs defined in paragraph O below, in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 43 of Chapter 935, 1999 Virginia Acts of Assembly.

K. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in Section 44-146.28 (b) of the Code of Virginia. Section 44-146.24 of the Code of Virginia also applies to the disaster activities of state agencies.

L. Members and personnel of volunteer, auxiliary and reserve groups including search and rescue (SAR), Virginia Associations of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters and other identified and tasked by the State Coordinator of Emergency Services for specific disaster-related mission assignments are, in the performance of those assignments, designated as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of Section 44-146.23 (a) of the Code of Virginia.

M. The following conditions apply to the deployment of the Virginia National Guard and the Virginia Defense Force:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Services, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be necessary or desirable to assist in pre-storm preparations and in alleviating the human suffering and damage to property as a result of this tropical storm.

2. Pursuant to Section 52-6 of the Code of Virginia, I authorize and direct the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers. These police officers shall have the same powers and perform the same duties as the regular State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by Section 52-7 of the Code of Virginia shall be provided for them at the expense of the Commonwealth.

3. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject to military command as prescribed by Section 44-78.1 of the Code of Virginia and not subject to the civilian authorities of county or municipal governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of

State Police or Emergency Services or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.

4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the Code of Virginia, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

N. The following conditions apply to service by the Virginia Defense Force:

1. Compensation shall be at a daily rate that is equivalent of base pay only for a National Guard Unit Training Assembly, commensurate with the grade and years of service of the member, not to exceed 20 years of service;

2. Lodging and meals shall be provided by the Adjutant General or reimbursed at standard state per diem rates;

3. All privately owned equipment, including, but not limited to, vehicles, boats, and aircraft, will be reimbursed for expense of fuel. Damage or loss of said equipment will be reimbursed, minus reimbursement from personal insurance, if said equipment was authorized for use by the Adjutant General in accordance with Section 44-54.12 of the Code of Virginia; and

4. In the event of death or injury, benefits shall be provided in accordance with the Virginia Workers'

Compensation Act, subject to the requirements and limitations thereof.

O. The costs incurred by the Department of Military Affairs and Virginia Defense Force in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 511 of Chapter 935, 1999 Virginia Acts of Assembly.

This Executive Order shall be retroactive to September 4, 1999 and shall remain in full force and effect until June 30, 2000, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any Federal-type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 7th day of October, 1999.

/s/ James S. Gilmore, III  
Governor

## EXECUTIVE ORDER NUMBER 60 (99)

### **DECLARATION OF A STATE OF EMERGENCY FOR THE ENTIRE COMMONWEALTH DUE TO HURRICANE FLOYD**

On September 14, 1999, I verbally declared a state of emergency to exist for the entire Commonwealth of Virginia based on recent forecasts that predicted that Hurricane Floyd could cause damaging high winds, flash flooding, and possible tornadoes throughout the state. National Weather Service forecasts indicated that Hurricane Floyd would follow a track leading from south central to northeastern Virginia during the next 72 hours, resulting in the potential for significant rainfall causing river flooding and high wind damage in affected areas. In addition, Hurricane Floyd was expected to result in tidal flooding in southeastern Virginia and Central Chesapeake Bay and coastal areas.

The health and general welfare of the citizens of the localities that may be affected required that state action be taken to help prepare for and alleviate the conditions which may result from this situation. I also found that the potential effects of Hurricane Floyd constituted a natural disaster wherein human life and public and private property were imperiled, as described in Section 44-146.16 of the Code of Virginia.

Therefore, by virtue of the authority vested in me by Section 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by Section 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby confirm, ratify, and memorialize in writing my verbal orders issued September 14, 1999, wherein I proclaimed that a state of emergency existed throughout the Commonwealth and directed that appropriate assistance be rendered by agencies of both state and local governments to prepare for and alleviate any conditions resulting from

Hurricane Floyd, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions insofar as possible. Pursuant to Sections 44-75.1.A.3. and A.4. of the Code of Virginia, I also directed that the Virginia National Guard and the Virginia Defense Force be called forth to state duty to assist in providing such aid. This shall include Virginia National Guard assistance to the Virginia State Police to direct traffic, prevent looting, and perform such other law enforcement functions as the Superintendent of State Police, in consultation with the State Coordinator of Emergency Services and the Adjutant General, and with the approval of the Secretary of Public Safety, may find necessary.

In order to marshal all public resources and appropriate preparedness, response and recovery measures to meet this potential threat and recovery from its effects, and in accordance with my authority contained in Section 44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following protective and restoration measures:

A. The full implementation by agencies of the state and local governments of Volume II, Virginia Emergency Operations Plan (COVEOP) for Peacetime Disasters, July 1997, as amended, along with its attendant Annex I-FF (Volume V), Virginia Hurricane Emergency Response Plan, and other appropriate state agency plans.

B. Full activation of the Virginia Emergency Operations Center (VEOC) and State Emergency Response Team (SERT). Furthermore, I am directing that the VEOC and SERT coordinate state operations in support of affected localities and the Commonwealth, to include issuing mission assignments to agencies designated in the COVEOP and others that may be identified by the State Coordinator of Emergency Services, in consultation with the Secretary of Public Safety, which are needed to provide for the preservation of life, protection of property and implementation of recovery activities.

C. The authorization to assume control over the Commonwealth's state-operated telecommunications systems, as required by the State Coordinator of Emergency Services, in coordination with the Department of Information Technology, and with the prior consent of the Secretary of Public Safety, making all systems assets available for use in providing adequate communications, intelligence and warning capabilities for the impending event, pursuant to Section 44-146.18 of the Code of Virginia.

D. I hereby direct preparation for the evacuation of areas threatened or stricken by this storm. Following a declaration of a local emergency pursuant to Section 44-146.21 of the Code of Virginia, if a local governing body determines that evacuation is deemed necessary for the preservation of life or other emergency mitigation, response or recovery, pursuant to Section 44-146.17 (1) of the Code of Virginia, I direct the evacuation of all or part of the populace therein from such areas and upon such timetable as the local governing body, in coordination with the Virginia Emergency Operations Center (VEOC), acting on behalf of the State Coordinator of Emergency Services, shall determine. Notwithstanding the foregoing, I reserve the right to direct and compel evacuation from the same and different areas and determine a different

timetable both where local governing bodies have made such a determination and where local governing bodies have not made such a determination. Violations of any order to citizens to evacuate shall constitute a violation of this Executive Order and are punishable as a Class 1 misdemeanor.

E. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact, and the authorization of the State Coordinator of Emergency Services to enter into any other supplemental agreements, pursuant to Sections 44-146.17 (5) and 44-146.28:1. of the Code of Virginia, to provide for the evacuation and reception of injured and other persons and the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Services is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, Section 44-146.28:1 of the Code of Virginia.

F. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight/overwidth/registration/license exemptions to carriers transporting essential emergency relief supplies into and through the Commonwealth in order to support the disaster response and recovery.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Any One Axle -- 24,000 Pounds  
 Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers) -- 44,000 Pounds  
 Single Unit (2 Axles) -- 44,000 Pounds  
 Single Unit (3 Axles) -- 54,500 Pounds  
 Tractor-Semitrailer (4 Axles) -- 64,500 Pounds  
 Tractor-Semitrailer (5 or more Axles) -- 90,000 Pounds  
 Tractor-Twin Trailers (5 or more Axles) -- 90,000 Pounds  
 Other Combinations (5 or more Axles) -- 90,000 Pounds  
 Per Inch of Tire Width in Contact with Road Surface -- 850 Pounds

In addition to described overweight transportation privileges, carriers are also exempt from registration with Department of Motor Vehicles. This includes the vehicles en route and returning to their home base. The above cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement. This authorization shall apply to hours worked by any carrier when transporting passengers, property, equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing relief or assistance as a result of this disaster, pursuant to Section 52-8.4 of the Code of Virginia.

The foregoing overweight transportation privileges and the regulatory exemption provided by Section 52.8.4.A of the Code of Virginia, and implemented in Section 19 VAC 30-20-40.B of the "Motor Carrier Safety Regulations," shall remain in effect for sixty (60) days from the onset of the disaster, or until

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# Governor

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emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

G. The discontinuance of provisions authorized in paragraph F above may be implemented and disseminated by publication of administrative notice to all affected and interested parties by the authority I hereby delegate to the Secretary of Public Safety, after consultation with other affected Cabinet-level Secretaries.

H. The designation of a State Recovery Task Force under the leadership of the Secretary of Commerce and Trade to promote public, private and industrial redevelopment projects and help sustain long-term community economic vitality in the aftermath of the disaster. This task force will also assist in the restoration of critical public health and safety systems and will do so in close coordination with the State Coordinator of Emergency Services as the individual responsible for ensuring implementation of short-term recovery programs.

I. The authorization of appropriate oversight boards, commissions and agencies to ease building code restrictions, and to permit emergency demolition, hazardous waste disposal, debris removal, emergency landfill siting and operations and other activities necessary to address immediate health and safety needs without regard to time-consuming procedures or formalities and without regard to application or permit fees or royalties. This state of emergency constitutes a major medical emergency under the Rules and Regulations of the Board of Health Governing Emergency Medical Services, pursuant to Article 3.01 (Section 32.1-111.1 et seq.) of Chapter 4 of Title 32.1, of the Code of Virginia, Statewide Emergency Medical Services System and Services, and exemptions specified in the Rules and Regulations regarding patient transport and provider certification in disasters apply.

J. Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in Section 44-146.28. of the Code of Virginia, other than costs defined in paragraph O below, in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 43 of Chapter 935, 1999 Virginia Acts of Assembly.

K. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in Section 44-146.28 (b) of the Code of Virginia. Section 44-146.24 of the Code of Virginia also applies to the disaster activities of state agencies.

L. Members and personnel of volunteer, auxiliary and reserve groups including search and rescue (SAR), Virginia Associations of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters and other identified and tasked by the State Coordinator of

Emergency Services for specific disaster-related mission assignments are, in the performance of those assignments, designated as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of Section 44-146.23 (a) of the Code of Virginia.

M. The following conditions apply to the deployment of the Virginia National Guard and the Virginia Defense Force:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Services, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be necessary or desirable to assist in pre-storm preparations and in alleviating the human suffering and damage to property as a result of Hurricane Floyd.

2. Pursuant to Section 52-6 of the Code of Virginia, I authorize and direct the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers. These police officers shall have the same powers and perform the same duties as the regular State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by Section 52-7 of the Code of Virginia shall be provided for them at the expense of the Commonwealth.

3. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject to military command as prescribed by Section 44-78.1 of the Code of Virginia and not subject to the civilian authorities of county or municipal governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of State Police or Emergency Services or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.

4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

- (a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,

- (b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the



member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the Code of Virginia, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

N. The following conditions apply to service by the Virginia Defense Force:

1. Compensation shall be at a daily rate that is equivalent of base pay only for a National Guard Unit Training Assembly, commensurate with the grade and years of service of the member, not to exceed 20 years of service;
2. Lodging and meals shall be provided by the Adjutant General or reimbursed at standard state per diem rates;
3. All privately owned equipment, including, but not limited to, vehicles, boats, and aircraft, will be reimbursed for expense of fuel. Damage or loss of said equipment will be reimbursed, minus reimbursement from personal insurance, if said equipment was authorized for use by the Adjutant General in accordance with Section 44-54.12 of the Code of Virginia; and
4. In the event of death or injury, benefits shall be provided in accordance with the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof.

O. The costs incurred by the Department of Military Affairs and Virginia Defense Force in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 511 of Chapter 935, 1999 Virginia Acts of Assembly.

This Executive Order shall be effective retroactive to September 14, 1999, and shall remain in full force and effect until June 30, 2000, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any Federal-type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 7th day of October, 1999.

/s/ James S. Gilmore, III  
Governor

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# GENERAL NOTICES/ERRATA

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## STATE CORPORATION COMMISSION

### Bureau of Insurance

October 19, 1999

Administrative Letter 1999-12

**TO: All insurers and other insurance enterprises licensed in accordance with provisions of Chapter 10 of Title 38.2 of the Code of Virginia to transact the business of insurance in Virginia or filing annual statements and financial reports of insurance enterprises subject to regulation and the reporting of financial condition pursuant to Chapters 10, 13, 41, 42, 43, 44, 45, 48, 49 or 51 of Title 38.2.**

**RE: NAIC Accounting Practices and Procedures Manual, 2001**

Recently, the currently effective NAIC accounting practices and procedures manuals were revised with substantial restructuring that has resulted in a "new" Accounting Practices and Procedures Manual that will become effective January 1, 2001. The purpose of this letter is to answer questions concerning the new manual, particularly what these recent revisions and restructuring mean for the insurance enterprises licensed through the State Corporation Commission's Bureau of Insurance.

The revision process is the culmination of an effort by regulators, accountants, and industry representatives to identify a hierarchy of statutory accounting practices that will provide a comprehensive basis of accounting that can be applied consistently to all insurance enterprises. Its goal is to make the financial and related analysis techniques of state insurance regulators more meaningful and effective. It is intended to establish a comprehensive basis of accounting that will be recognized and adhered to in the absence of conflict with, or silence of, state statutes and regulations.

The roots of the revision process can be traced to the late 1980's when the National Association of Insurance Commissioners (NAIC) adopted a "solvency agenda" designed to enhance the ability of state regulators to protect insurance consumers from the financial trauma of insurer insolvency. The recognition of enhancement of solvency regulation as an ongoing process led the NAIC to undertake the evaluation of existing statutory accounting principles for purposes of further development, expansion, and documentation. After years of study, close interaction with the American Institute of Certified Public Accountants, and hours of public hearings, a task force of regulators produced 72 new statements of statutory accounting principles (SSAPs). In March, 1998, the membership of the NAIC voted to adopt the SSAPs and related documents as its accounting practices and procedures manual and as the recognized basis of statutory accounting principles applicable for the insurance industry.

Seventy-three SSAPs have now been compiled in one manual, along with supporting appendices and background issue papers, and published by the NAIC as its "Accounting

Practices and Procedures Manual, effective January 1, 2001, version 1999." The guidance of the 1999 version will be expanded to include new SSAPs as appropriate as well as interpretative guidance developed by regulators through the NAIC's Emerging Accounting Issues Working Group. These ongoing efforts are designed to keep the accounting practices and procedures manual current and relevant. An updated version is planned to be published each year.

The Bureau of Insurance has followed closely and participated actively in the development of the individual SSAPs and their transformation into a comprehensive system of accounting for those engaging in the business of insurance. We believe the 1999 version of the NAIC's accounting practices and procedures manual provides valuable and comprehensive guidance that is consistent with and supportive of Title 38.2. The concepts of conservatism, recognition, and consistency in the preparation and disclosure of financial and operational information summarize the framework of the SSAPs and other materials that comprise the new manual. These concepts are central also to the provisions of the Code of Virginia pertaining to the financial monitoring and solvency oversight of the insurance industry in Virginia. Recognition focuses solvency determinations primarily on the analysis of the balance sheet with secondary focus on the income statement. Conservatism in valuation procedures provides protection to policyholders against adverse fluctuations in financial condition or operating results. Consistency in the application of accounting principles produces financial information that is meaningful and comparable.

#### Impact in Virginia of the NAIC's New Manual

Section 38.2-1300 of Title 38.2 of the Code of Virginia requires each insurer licensed in Virginia to file an annual statement showing its financial condition and to prepare such statement in accordance with the appropriate annual statement instructions and the accounting practices and procedures manuals adopted by the NAIC. The 1998 versions of the NAIC's accounting practices and procedures manuals will be maintained and published until December 31, 2000. Effective January 1, 2001, the NAIC will replace those volumes with its "Accounting Practices and Procedures Manual, version effective January 1, 2001." Accordingly on that same date, pursuant to § 38.2-1300 of the Code of Virginia, this revised and restructured manual will become effective in Virginia as the primary guidance for valuing, admitting, recognizing, recording, and reporting the assets, liabilities and operations of an insurance enterprise. All insurance entities subject to § 38.2-1300, and also those health maintenance organizations and services plans subject to similarly worded provisions in Chapter 42, 43, 44 or 45, shall be required to adhere to the guidance set forth in the NAIC's accounting practices and procedures manual, version effective January 1, 2001, when preparing and filing the annual statements for year ended December 31, 2001, and also all quarterly statements filed in 2001. Except as otherwise specified by statute or the Commission, the guidance provided by this new manual and in subsequently issued versions shall be applicable also for all other reports of financial condition required to be filed with the Commission, or

requested by the Bureau, on or after January 1, 2001, pursuant to provisions in Title 38.2 of the Code of Virginia. The primacy of state laws is not questioned, and specific state prescribed or permitted practices founded in law will supercede guidance founded in the SSAPs and other materials comprising the NAIC accounting practices and procedures manual.<sup>1</sup>

A question has been raised whether the investment statutes in Chapter 14 of Title 38.2, through the application of § 38.2-1403 or § 38.2-1407, may conflict with guidance set forth in either the "Accounting Practices and Procedures Manual, effective January 1, 2001, version 1999," or the projected "version effective January 1, 2001." We see no conflict. An insurer may acquire, hold or invest in investments or engage in investment practices as set forth in the laws of its domiciliary state. "Appendix A-001" was developed for the 1999 version to recognize that an insurer's investment practices and state investment laws may differ and also that the difference may impact the value of admitted assets as reported in the annual statement.

#### Contact Persons and Availability of Manuals

The revised and restructured accounting practices and procedures manual most recently adopted by the NAIC is available through the NAIC's website at [www.naic.org](http://www.naic.org). A hardcopy of the NAIC Accounting Practices and Procedures Manual, version 1999, may be ordered directly from the NAIC. All NAIC publications will be consistent as of January 1, 2001, with the principles set forth in the SSAPs and other materials comprising the NAIC's accounting practices and procedures manuals.

Questions regarding this letter may be directed to Douglas C. Stolte, Deputy Commissioner, Financial Regulation Division of the Bureau of Insurance at (804) 371-9869.

/s/ Alfred W. Gross  
Commissioner of Insurance

<sup>1</sup> "Appendix A-205" was developed for the 1999 version to illustrate the disclosure of any differences between NAIC statutory accounting procedures and accounting practices prescribed or permitted by regulators in an insurer's state of domicile.

Agency Contact: Douglas C. Stolte, State Corporation Commission, Bureau of Insurance, Tyler Building, 1300 East Main Street, 6th Floor, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9869 or e-mail [dstolte@scc.state.va.us](mailto:dstolte@scc.state.va.us).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Notice of Public Meeting and Public Comment Dry Creek, Mill Creek and Pleasant Run TMDL

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for fecal coliform bacteria on segments of Dry River, Mill Creek, and Pleasant Run. The three streams are tributaries of the North River and are located in Rockingham County. These three segments are identified in Virginia's 1998 § 303(d) TMDL

Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria.

Section 303(d) of the federal Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report.

The first public meeting on the development of the North River tributaries coliform TMDL will be held on Thursday, December 9, 1999, at 7 p.m. at the Pence Middle School Auditorium on Bowman Road in Dayton, Virginia.

The public comment period will end on January 21, 2000. A fact sheet on the development of the TMDL for fecal coliform bacteria on the North River tributaries is available upon request. Questions or information requests should be addressed to Rod Bodkin. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Rod Bodkin, Department of Environmental Quality, 4411 Early Road, Harrisonburg, Virginia 22801, telephone (540) 574-7801, Fax (540) 540-7878, or e-mail [rvbodkin@deq.state.va.us](mailto:rvbodkin@deq.state.va.us).

### Notice of Public Meeting and Public Comment Muddy Creek MTDL

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for Nitrates on Muddy Creek. The stream is a tributary of the North River and is located in Rockingham County. The segment is identified in Virginia's 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for Nitrate levels.

Section 303(d) of the federal Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report.

The first public meeting on the development of the Nitrate TMDL will be held on Wednesday, December 8, 1999, at 7 p.m. at the Pence Middle School Auditorium on Bowman Road in Dayton, Virginia.

The public comment period will end on January 21, 2000. A fact sheet on the development of the TMDL for Nitrates on Muddy Creek is available upon request. Questions or information requests should be addressed to David Lazarus. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to David Lazarus, Department of Environmental Quality, 629 East Main Street, P.O. Box 10009, Richmond, Virginia 23240, telephone (804) 698-4299, Fax (804) 698-4136, or e-mail [dslazarus@deq.state.va.us](mailto:dslazarus@deq.state.va.us).

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## General Notices/Errata

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### **Proposed Consent Special Order Eden Beverages, Inc.**

The State Water Control Board proposes to enter into a consent special order with Eden Beverages, Inc. to address violations of the State Water Control Law and regulations at the company's facility in Buffalo Gap. The company accidentally spilled a barrel of sodium hydroxide in 1997 causing a fish kill in an unnamed tributary of Buffalo Branch. Upon investigation, DEQ also found violations of solid waste management laws and regulations and air pollution control laws and regulations. The proposed order settles the outstanding violations, and requires Eden Beverages to pay a civil charge, fish replacement costs, and staff investigative costs. The order further requires Eden Beverages to complete the clean up and disposal of all solid waste on the site.

The board will receive written comments relating to the proposed consent special order until December 22, 1999. Comments should be addressed to Elizabeth V. Scott, Department of Environmental Quality, Post Office Box 1129, Harrisonburg, Virginia 22801 and should refer to the consent special order.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia 22801. A copy of the order may be obtained in person or by mail from this office.

## **VIRGINIA CODE COMMISSION**

### **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 for Publication in *The Virginia Register of Regulations***

All agencies are required to use the appropriate forms when furnishing material 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/register/regindex.htm>

#### **FORMS:**



NOTICE of INTENDED REGULATORY ACTION - RR01  
NOTICE of COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE of MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS  
- RR08

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# CALENDAR OF EVENTS


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## Symbol Key

-  Location accessible to handicapped
-  Teletype (TTY)/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/TTY , 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


**Contact:** Marsha Mucha, Administrative Staff Assistant, Commonwealth Council on Aging, 1600 Forest Avenue, Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

### BOARD OF ACCOUNTANCY


**December 13, 1999 - 10 a.m.** -- Open Meeting  
**December 20, 1999 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. 

A meeting to review comments received from the Notices of Intended Regulatory Action, adopt proposed regulations for public comment, and consider and decide any issues pertinent to the implementation of the emergency regulations which were effective on October 4, 1999.


**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY 

**January 24, 2000 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. 

The board will conduct routine business. A public comment period will be held at the beginning of the meeting.


**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY 

### COMMONWEALTH COUNCIL ON AGING

**December 9, 1999 - 10 a.m.** -- Open Meeting  
Virginia Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting.

### BOARD OF AGRICULTURE AND CONSUMER SERVICES


**December 9, 1999 - 9 a.m.** -- Open Meeting  
Department of Agriculture and Consumer Services, 1100 Bank Street, Washington Building, 2nd Floor Board Room, Richmond, Virginia. 

The board will meet in its regular session to discuss issues related to Virginia agriculture and consumer services. 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 Roy Seward at least five days before the meeting date, so that suitable arrangements can be made for any appropriate accommodation.

**Contact:** Roy E. Seward, Board Secretary, Department of Agriculture and Consumer Services, 1100 Bank Street, Room 211, Richmond, VA 23219, telephone (804) 786-3539, FAX (804) 371-7679.

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia Corn Board

**December 16, 1999 - 9 a.m.** -- Open Meeting  
Wallace Manor, 3821 North Courthouse Road, Providence Forge, Virginia. 

A meeting to (i) hear and approve previous meeting minutes; (ii) discuss checkoff revenues and the financial status resulting from sales of the 1999 corn crop; (iii) receive reports from the chairman, U.S. Grains Council, National Corn Growers Association, and other committee representatives; and (iv) nominate and elect 2000 officers. The board will entertain public comment at the

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# Calendar of Events

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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 Corn Board, 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

## Virginia Seed Potato Board

**November 30, 1999 - 7:30 p.m.** -- Open Meeting  
Eastern Shore Agricultural Research and Extension Center,  
Research Drive, Painter, Virginia. ☎

A meeting to (i) review regulations, (ii) plan for the 2000 seed season, and (iii) discuss other business. 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 J. William Mapp least five days before the meeting date so that suitable arrangements can be made.

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

## STATE AIR POLLUTION CONTROL BOARD

**December 10, 1999** - 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 Air Pollution Control Board intends to amend regulations entitled: **Regulations for the Control and Abatement of Air Pollution; Special Provisions for Existing Sources, New and Modified Sources, and Hazardous Air Pollutant Sources (Rev. D97): 9 VAC 5-10-10 et seq. General Definitions; 9 VAC 5-20-10 et seq. General Provisions; 9 VAC 5-40-10 et seq. Existing Stationary Sources; 9 VAC 5-50-10 et seq. New and Modified Stationary Sources; and 9 VAC 5-60-10 et seq. Hazardous Air Pollutant Sources.** Special Provisions for Existing Stationary Sources, New and Modified Stationary Sources, and Hazardous Air Pollutant Sources which are in Chapters 40, 50 and 60 of the board's regulations address issues such as: applicability, compliance, emission testing, monitoring, notification, records and reporting. The proposed amendments update certain requirements in the provisions to be consistent with new federal requirements and EPA policy and address concerns identified pursuant to the review of existing regulations mandated by Executive Order 15 (94) as well as changes made to federal regulations since that review.

**Request for Comments:** The purpose of this notice is to provide the public with the opportunity to comment on the

proposed regulation and the costs and benefits of the proposal.

**Localities Affected:** There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

**Location of Proposal:** The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the Department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
806 Westwood Office Park  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m. December 10, 1999, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Mary E. Major, Environmental Program Manager, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TTY ☎

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**January 4, 2000 - 9 a.m.** -- Public Hearing  
Main Street Centre, 600 East Main Street, Lower Level Conference Room, Richmond, Virginia.

**January 24, 2000** - 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 Air Pollution Control Board intends to amend regulations entitled: **Regulations for the Control and Abatement of Air Pollution (Rev. S97): 9 VAC 5-20-10 et seq. General Provisions and 9 VAC 5-40-10 et seq. Existing Stationary Sources.** The proposed regulation applies to hospital/medical/infectious waste incinerators (HMIWIs), and includes emission limits for particulate matter, carbon monoxide, dioxins/furans, hydrogen chloride, sulfur dioxide, nitrogen oxides, lead, cadmium, and mercury. Special HMIWI operator training and qualification requirements are included in order to assure proper facility operation and compliance with the emissions limitations; sources are also required to prepare overall waste management plans. Compliance, emissions testing, and monitoring requirements are delineated, as well as recordkeeping and reporting of such test results. Finally, specific compliance schedules are provided.

**Request for Comments:** The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

**Localities Affected:** There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

**Location of Proposal:** The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of

alternative approaches) and any other supporting documents may be examined by the public at the Department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the Department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
806 Westwood Office Park  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., January 24, 2000, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone

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# Calendar of Events

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(804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

## ALCOHOLIC BEVERAGE CONTROL BOARD

**November 29, 1999 - 9:30 a.m.** -- Open Meeting

**December 13, 1999 - 9:30 a.m.** -- Open Meeting

Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ♿

A meeting to receive reports from staff members, discuss activities, and discuss other matters not yet 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, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

**December 17, 1999 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad St., Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct business of the full board. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-8514 at least ten days prior to this meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail [apelsla@dpor.state.va.us](mailto:apelsla@dpor.state.va.us), homepage <http://www.state.va.us/dpor>.

## Certified Interior Designers Section

**December 8, 1999 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad St., Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct section business. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-8514 at least ten days prior to this meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail [apelsla@dpor.state.va.us](mailto:apelsla@dpor.state.va.us), homepage <http://www.state.va.us/dpor>.

## COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND THEIR FAMILIES

### State Executive Council

**December 15, 1999 - 9 a.m.** -- Open Meeting

Theater Row Building, 730 East Broad Street, Richmond, Virginia.

A regular meeting. The council provides for interagency programmatic and fiscal policies, oversees the administration of funds appropriated under the Comprehensive Services Act, and advises the Governor.

**Contact:** Alan G. Saunders, Director, State Executive Council, 1604 Santa Rosa Road, Koger Center West, Richmond, VA 23229, telephone (804) 662-9815.

## BOARD FOR BRANCH PILOTS

**December 7, 1999 - 9 a.m.** -- Open Meeting

**December 8, 1999 - 9 a.m.** -- Open Meeting

Virginia Pilot Association, 3329 Shore Drive, Virginia Beach, Virginia. ♿ (Interpreter for the deaf provided upon request)

The board will meet to conduct examinations.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail [apelsla@dpor.state.va.us](mailto:apelsla@dpor.state.va.us), homepage <http://www.state.va.us/dpor>.

**December 14, 1999 - 9:30 a.m.** -- Open Meeting

Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-8514 at least ten days prior to this meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎



## CEMETERY BOARD

**November 23, 1999 - 1 p.m.** -- Public Hearing  
Fairfax County Government Center, 12000 Government  
Center Parkway, Fairfax, Virginia. ♿

**December 10, 1999** - 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 Cemetery Board intends to  
adopt regulations entitled: **18 VAC 47-10-10 et seq.  
Public Participation Guidelines.** The purpose of these  
regulations are to assure that the public is provided  
adequate notice concerning each opportunity for  
participation in the development, promulgation, and  
review of regulations affecting the operation of licensed  
cemeteries in the Commonwealth of Virginia.

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

**Contact:** Eric Olson, Regulatory Boards Administrator,  
Department of Professional and Occupational Regulation,  
3600 W. Broad St., Richmond, VA 23230, telephone (804)  
367-8510, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

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**December 10, 1999** - 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 Cemetery Board intends to  
adopt regulations entitled: **18 VAC 47-20-10 et seq.  
Cemetery Board Rules and Regulations.** The purpose  
of the proposed regulations is to outline requirements  
placed on cemetery companies and their sales personnel  
concerning their licensing reporting and enforcement of  
the regulations and the Cemetery Act (Chapter 23.1 of  
Title 54.1 of the Code of Virginia).

Statutory Authority: §§ 54.1-201 and 54.1-2313 of the Code  
of Virginia.

**Contact:** Eric Olson, Regulatory Boards Administrator,  
Department of Professional and Occupational Regulation,  
3600 W. Broad St., Richmond, VA 23230, telephone (804)  
367-8510, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

**January 19, 2000 - 9:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 W. Broad St., Richmond, Virginia. ♿

A regular business meeting.

**Contact:** Eric L. Olson, Regulatory Boards Administrator,  
Department of Professional and Occupational Regulation,  
3600 W. Broad Street, Richmond, VA 23230, telephone (804)  
367-2039, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-  
mail [olson@dpor.state.va.us](mailto:olson@dpor.state.va.us), homepage  
<http://www.state.va.us/dpor>.

**January 20, 2000 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 W. Broad St., Richmond, Virginia. ♿

A regularly scheduled meeting of the Delivery Committee  
to develop a working definition of the delivery of cemetery  
items.

**Contact:** Eric L. Olson, Regulatory Boards Administrator,  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, VA 23230, telephone  
(804) 367-2039, FAX (804) 367-2475, (804) 367-9753/TTY  
☎, e-mail [olson@dpor.state.va.us](mailto:olson@dpor.state.va.us), homepage  
<http://www.state.va.us/dpor>.

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

**December 13, 1999 - 10 a.m.** -- Open Meeting  
Chesapeake Bay Local Assistance Department, James  
Monroe Building, 101 North 14th Street, 17th Floor,  
Richmond, Virginia. ♿ (Interpreter for the deaf provided upon  
request)

A meeting to conduct general business and review  
Chesapeake Bay Preservation Area programs. Public  
comment will be taken during the meeting. A tentative  
agenda will be available by November 30 from the  
Chesapeake Bay Local Assistance Department.

**Contact:** Carolyn J. Elliott, Executive Secretary, Chesapeake  
Bay Local Assistance Department, James Monroe Bldg., 101  
N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804)  
371-7505, FAX (804) 225-3447 or toll-free (800) 243-  
7229/TTY ☎

## COMPENSATION BOARD

**November 23, 1999 - 11 a.m.** -- Open Meeting  
**December 21, 1999 - 11 a.m.** -- Open Meeting  
Compensation Board, 202 North 9th Street, 10th Floor,  
Richmond, Virginia. ♿

A monthly board meeting.

**Contact:** Cynthia P. Waddell, Administrative Assistant, 202  
N. 9<sup>th</sup> St., 10th Floor, Richmond, VA 23219, telephone (804)  
786-0786, FAX (804) 371-0235, e-mail  
[cwaddell@scb.state.va.us](mailto:cwaddell@scb.state.va.us).

## COMMONWEALTH COMPETITION COUNCIL

**December 8, 1999 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate  
Room B, First Floor, Richmond, Virginia. ♿ (Interpreter for the  
deaf provided upon request)

A regular meeting. The annual report will be reviewed.

**Contact:** Peggy R. Robertson, Executive Assistant,  
Commonwealth Competition Council, P.O. Box 1475,  
Richmond, VA 23218-1475, telephone (804) 786-0240, FAX  
(804) 786-1594, e-mail [probertson@ccc.state.va.us](mailto:probertson@ccc.state.va.us),  
homepage <http://www.vipnet.org/ccc/home.htm>.

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# Calendar of Events

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## BOARD OF CONSERVATION AND RECREATION

**December 2, 1999 - 10 a.m.** -- Open Meeting  
Department of Conservation and Recreation, 109 Governor Street, 13th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting. Public comment will be heard at the conclusion of regular business.

**Contact:** Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141 or (804) 786-2121/TTY

## DEPARTMENT OF CONSERVATION AND RECREATION

**November 23, 1999 - 7 p.m.** -- Open Meeting  
Hungry Mother State Park, 2854 Park Boulevard, Hemlock Haven Conference Center, Dogwood Room, Marion, Virginia. (Interpreter for the deaf provided upon request)

A meeting to obtain input on the present and future development of the Hungry Mother State Park. Persons requiring interpreter services should contact the department 10 days prior to the meeting.

**Contact:** Robert S. Munson, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899 or (804) 786-2121/TTY

## Falls of the James Scenic River Advisory Board

**December 2, 1999 - Noon** -- Open Meeting  
City Hall, 900 East Broad Street, Planning Commission Conference Room, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss river issues. A public comment period will follow the business meeting. Requests for interpreter services must be made by November 23.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899 or (804) 786-2121/TTY

## BOARD FOR CONTRACTORS

**December 1, 1999 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regularly scheduled meeting to address policy and procedural issues, review and render case decisions on matured complaints against licensees, and consider other matters which may require board action. The meeting is open to the public; however, a portion of the

board's business may be discussed in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department 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, FAX (804) 367-2474 or (804) 367-9753/TTY

## BOARD FOR COSMETOLOGY

**December 6, 1999 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. All meetings are subject to cancellation. Time of meeting subject to change. Call the office the Friday before the meeting to determine any changes. A public comment period will be held at the beginning of the meeting. Persons desiring to attend the meeting and requiring special accommodations or interpretive services should contact the department at (804)367-8590/TTY or (804)367-9753 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474, (804) 367-9753/TTY, e-mail [cosmo@dpor.state.va.us](mailto:cosmo@dpor.state.va.us), homepage <http://www.state.va.us/dpor>.

## CRIMINAL JUSTICE SERVICES BOARD

**December 7, 1999 - 9 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

A meeting of the Committee on Training to discuss law-enforcement training issues throughout the Commonwealth.

**Contact:** George Gotschalk, Section Chief, Training and Standards, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001 or FAX (804) 786-0410.

**December 7, 1999 - 11 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

A meeting of the full board to discuss criminal justice issues throughout the Commonwealth of Virginia.

**Contact:** Karen Sullivan, Board Secretary, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-7841 or FAX (804) 786-0588.

## BOARD OF DENTISTRY

**December 3, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A panel of the board will conduct formal administrative hearings. This is a public meeting; however, no public comment will be received.

**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/TTY ☎

## VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

**December 7, 1999 - 11 a.m.** -- Open Meeting  
Riverfront Plaza, 901 East Byrd Street, West Tower, 19th Floor, Presentation Center, Richmond, Virginia. ♿

A meeting to discuss issues pertaining 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 or FAX (804) 371-8112.

## STATE BOARD OF EDUCATION

**November 30, 1999 - 7 p.m.** -- Public Hearing  
Performing Arts Center, Charlottesville High School, 1400 Melbourne Road, Charlottesville, Virginia.

**November 30, 1999 - 7 p.m.** -- Public Hearing  
O. Trent Bonner Middle School, 300 Apollo Avenue, Danville, Virginia.

**November 30, 1999 - 7 p.m.** -- Public Hearing  
Marion Senior High School, 848 Stage Street, Marion, Virginia.

**November 30, 1999 - 7 p.m.** -- Public Hearing  
Gar-Field High School, 14000 Smoketown Road, Dale City, Virginia.

**November 30, 1999 - 7 p.m.** -- Public Hearing  
Jamestown High School, 3751 John Tyler Highway, Williamsburg, Virginia.

**January 21, 2000** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **8 VAC 20-131-10 et seq. Regulations Establishing Standards for Accrediting Public Schools in Virginia.** The

regulations have been revised primarily to (i) identify and target for early intervention and intensive assistance those schools that need the most help and attention and (ii) define consequences and rewards for schools that achieve, or fail to achieve, the standards.

Statutory Authority: §§ 22.1-19 and 22.1-253.13:13 of the Code of Virginia.

**Contact:** Charles W. Finley, Director of Accreditation, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 786-9421, FAX (804) 786-9763 or toll-free 1-800-292-3820.

## LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

**December 1, 1999 - 3 p.m.** -- Open Meeting  
Shawnee Fire Department, 2333 Roosevelt Boulevard, Winchester, Virginia. ♿

A meeting to appoint the Nominating Committee, conduct regular business and receive a Y2K update.

**Contact:** L. A. Miller, Fire and Rescue Chief, Winchester Fire and Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (540) 662-2298, FAX (540) 667-0118 or (540) 662-4131/TTY ☎

## DEPARTMENT OF ENVIRONMENTAL QUALITY

**December 1, 1999 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

A meeting of the technical advisory committee assisting the department and board in the development of proposed amendments to the Solid Waste Management Regulations.

**Contact:** Mike Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4146.

**December 8, 1999 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia. ♿

A public hearing to receive comments on an application from the Norfolk Naval Base (SIMA) to construct and operate one spray paint booth in Norfolk. The primary pollutant to be emitted would be volatile organic compounds.

**Contact:** Cathy L. Francis, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2000.

**December 8, 1999 - 7 p.m.** -- Public Hearing  
Henrico Eastern Government Center, 3820 Nine Mile Road, Community Room, Richmond, Virginia. ♿

A public hearing to receive comments on a draft permit amendment for the Cox Darbytown Road construction and demolition debris landfill. The facility is located on


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## Calendar of Events

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Darbytown Road in eastern Henrico County, approximately 0.2 miles northeast of the intersection of Darbytown Road and Bickerstaff Road.

**Contact:** Donald Brunson, Department of Environmental Quality, Office of Waste Permitting, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4239.

**December 10, 1999 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the Poultry Waste Management Advisory Group.

**Contact:** Richard W. Ayers, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 689-4075.

### VIRGINIA FIRE SERVICES BOARD

**December 2, 1999 - 8:30 a.m.** -- Open Meeting  
Holiday Inn Hotel and Suites Conference Center, 3005 Linden Drive, Bristol, Virginia.

Committee meetings of the board to discuss fire training and policies will meet as follows:

Fire/EMS Education and Training Committee - 8:30 a.m.  
Legislative/Liaison Committee - 10 a.m.  
Fire Prevention and Control Committee - 1 p.m.

The meetings are open to the public for input and comments.


**Contact:** Troy H. Lapetina, Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

**December 3, 1999 - 9 a.m.** -- Open Meeting  
Holiday Inn Hotel and Suites Conference Center, 3005 Linden Drive, Bristol, Virginia.

A business meeting to discuss fire training and policies. The meeting is open to the public for input and comments.


**Contact:** Troy H. Lapetina, Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

### BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**November 30, 1999 - 9 a.m.** -- Open Meeting  
Wyndham Hotel, 2801 Hershberger Rd. NW, Roanoke, Virginia. 

The Task Force on Resident Trainee Program for the Virginia Board of Funeral Directors and Embalmers will meet to discuss educational requirements. There will be a 15 minute public comment period at the beginning of the meeting.


**Contact:** Cheri Emma-Leigh, Administrative Staff Assistant, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, e-mail CEmma-Leigh@dhp.state.va.us.

**December 7, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 W. Broad Street, 5th Floor, Room 1, Richmond, Virginia. 

A general business meeting. There will be a 15-minute public comment period at the beginning of the meeting.

**Contact:** Cheri Emma-Leigh, Administrative Staff Assistant, Department of Health Professions, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, e-mail CEmma-Leigh@dhp.state.va.us.

### GOVERNOR'S COMMISSION ON COMMUNITY SERVICES AND IN-PATIENT CARE

**November 30, 1999 - 10 a.m.** -- Open Meeting  
MCV Alumni House, Paul Gross Conference Center, 1016 East Clay Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to consider recommendations from the Executive Committee. Public comment will be received at 10 a.m.

**Contact:** Fran M. Sadler, Administrative Staff Specialist, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1108 or FAX (804) 371-6638.

### STATE BOARD OF HEALTH

**November 26, 1999** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6:14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-80-10 et seq. Regulations for the Administration of the Virginia Hearing Impairment Identification and Monitoring System.** The purpose of the proposed regulations is to reflect current statutory law by providing consistent guidance for the implementation and administration of a system designed to ensure that infants with hearing loss are identified and receive appropriate intervention at the earliest possible age after birth. The amendments will (i) establish standards by which hospitals with neonatal intensive care services and hospitals with newborn nurseries shall perform hearing screening on all newborns prior to discharge after birth and provide information to parents and primary medical care providers; (ii) establish procedures for reporting by hospitals and by persons providing audiological services; (iii) establish appropriate mechanisms for follow-up; and (iv) establish responsibilities of the Virginia Department of Health for monitoring and evaluation.

Statutory Authority: §§ 32.1-12 and 32.1-64 of the Code of Virginia.

**Contact:** Pat T. Dewey, Speech and Hearing Services Administrator, Division of Child and Adolescent Health, Department of Health, P.O. Box 2448, Richmond, VA 23218-2448, telephone (804) 786-1964, FAX (804) 786-0917 or toll-free 1-800-828-1120/TTY ☎

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**December 10, 1999** - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **12 VAC 5-165-10 et seq. Regulations for the Repacking of Crab Meat.** These regulations establish criteria by which the Virginia crab industry can safely repack both domestic and foreign crab meat. Repacking involves the removal of crab meat picked and packed at another location and placing it in another container bearing the name of the packer.

Statutory Authority: §§ 28.2-801 and 28.2-803 of the Code of Virginia.

**Contact:** Keith Skiles, Program Manager, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-7937 or FAX (804) 786-5567.

## DEPARTMENT OF HEALTH

**December 8, 1999 - 10:15 a.m.** -- Open Meeting  
Department of Health, Main Street Station, 1500 East Main Street, Room 121, Richmond, Virginia. ♿

A quarterly meeting of the Virginia AIDS Drug Advisory Committee. No public comment will be received.

**Contact:** Ann Elam, Public Health Nurse Supervisor, Department of Health, Main Street Station, 1500 E. Main St., Room 112, Richmond, VA 23219, telephone (804) 371-8294 or FAX (804) 786-3223.

**December 10, 1999 - 8:30 a.m.** -- Open Meeting  
Holiday Inn Select, 1021 Koger Center Boulevard, Richmond, Virginia. ♿

A regular meeting of the Virginia HIV Community Planning Committee focusing on HIV prevention planning.

**Contact:** Elaine G. Martin, Coordinator, Coordinator AIDS Education, Information and Training, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-0877 or toll-free 1-800-533-4148/TTY ☎.

**December 13, 1999 - 7 p.m.** -- Public Hearing  
Fredericksburg Regional Library, 1201 Carolyn Street, Fredericksburg, Virginia. ♿

**December 15, 1999 - 7 p.m.** -- Public Hearing  
Lynchburg Public Library, 2315 Memorial Avenue, Lynchburg, Virginia. ♿

**December 16, 1999 - 7 p.m.** -- Public Hearing  
Williamsburg Regional Library, 7770 Croaker Road, Williamsburg, Virginia. ♿

A public hearing to discuss the proposed plan for the Virginia Department of Health 2000 year Ryan White Title II Care grant moneys. The proposed plan is to (i) provide continuation of the AIDS Drug Assistance Program to cover antiretrovirals, protease inhibitors, and other medications related to the treatment of HIV/AIDS and (ii) fund and operate HIV Care Consortia within five regional areas of the state affected by HIV disease.

**Contact:** Ann Elam, Public Health Nurse Supervisor, Department of Health, P.O. Box 2448, Richmond, VA 23219, telephone (804) 371-8294 or FAX (804) 786-3223.

## DEPARTMENT OF HEALTH PROFESSIONS

**December 10, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

The Health Practitioners' Intervention Program Committee will meet with its contractor and representatives to review reports, policies and procedures for the Health Practitioners' Intervention Program. The committee will meet in open session for general discussion of the program. The committee may meet in executive sessions for the purpose of consideration of specific requests from applicants to 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/TTY ☎

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**December 14, 1999 - 9 a.m.** -- Open Meeting  
Christopher Newport College, Newport News, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A regular monthly meeting of the council.

**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) 371-7911.

**January 18, 2000 - 8:30 a.m.** -- Open Meeting  
State Council of Higher Education for Virginia, James Monroe Building, 101 North 14th Street, 9th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Monthly committee and council meetings.

**Contact:** Pamela H. Landrum, Administrative Staff Assistant, State Council of Higher Education, James Monroe Bldg., 101


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# Calendar of Events


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N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2602 or FAX (804) 371-7911.


## VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

**December 15, 1999 - 10 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. 

A regular meeting of the board.

**Contact:** Libby Dutton, Director of Administration, Virginia Higher Education Tuition Trust Fund, James Monroe Bldg., 101 N. 14th St., 5th Floor, Richmond, VA 23219, telephone (804) 786-0730, FAX (804) 786-2453, toll-free 1-888-567-0540 or 1-888-203-1278/TTY 

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**December 7, 1999 - 9 a.m.** -- Open Meeting  
Hopewell Community Center, 100 West 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

**December 13, 1999 - 9 a.m.** -- Public Hearing  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.

**January 10, 2000** - 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 5-111-10 et seq. Enterprise Zone Program Regulation.** The amendments address changes made during the 1999 General Assembly session to the Virginia Enterprise Zone Act. These changes relate to the increase in total state enterprise zones from 50 to 55 with special conditions for the five newly designated zones. In addition, interpretive changes have been made for guidance.

Statutory Authority: § 59.1-278 of the Code of Virginia.


**Contact:** M. Shea Hollifield, Deputy Director, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7030, FAX (804) 371-7093 or (804) 371-7089/TTY 

## DEPARTMENT OF LABOR AND INDUSTRY

### Migrant and Seasonal Farmworkers Board

**December 1, 1999 - 10 a.m.** -- Open Meeting  
The Jackson Center, 501 North 2nd Street, 1st Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

**Contact:** Patti C. Bell, Public Relations Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 225-3083, FAX (804) 786-8418 or (804) 786-2376/TTY 


### Virginia Apprenticeship Council

**December 9, 1999 - 10 a.m.** -- Open Meeting  
Confederate Hills Recreation Building, 302 Lee Avenue, Highland Springs, Virginia.  (Interpreter for the deaf provided upon request)


Agenda to be announced.

**Contact:** Beverly Donati, Assistant Program Director, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY , e-mail [bgd@doli.state.va.us](mailto:bgd@doli.state.va.us), homepage <http://www.dli.state.va.us>.


## VIRGINIA LAND CONSERVATION FOUNDATION

**December 1, 1999 - 10 a.m.** -- Open Meeting  
The Library of Virginia, 800 East Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting. Public comment will be allowed following the conclusion of regular business.

**Contact:** Mary Vaughan Gibson, Confidential Policy Analyst, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2871, FAX (804) 786-6141 or (804) 786-2121/TTY 

## STATE LIBRARY BOARD

**January 21, 2000 - 8:15 a.m.** -- Open Meeting  
The Library of Virginia, 800 East Broad Street, Richmond, Virginia 23219-8000 

A meeting to discuss matters pertaining to The Library of Virginia and The Library Board.

The following committees will meet at 8:15 a.m.

Public Library Development Committee (Orientation Room)

Publications and Educational Services Committee (Conference Room B)

Records Management Committee (Conference Room C)

The following committees will meet at 9:30 a.m.

Archival and Information Services Committee  
(Orientation Room)  
Collection Management Services Committee  
(Conference Room B)  
Legislative and Finance Committee (Conference Room C).

The full board will meet in the conference room on 2M at 10:30 a.m. Public comment will be received at approximately 11 a.m.

**Contact:** Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 East Broad Street, Richmond, Virginia 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jtaylor@vsla.edu, homepage <http://www.lva.lib.va.us>.

## VIRGINIA MANUFACTURED HOUSING BOARD

**December 9, 1999 - 10 a.m.** -- Open Meeting  
The Jackson Center, 501 North 2nd Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular monthly meeting.

**Contact:** Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TTY ☎

## MARINE RESOURCES COMMISSION

**December 21, 1999 - 9:30 a.m.** -- Open Meeting  
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ♿ (Interpreter for the deaf provided upon request)

The commission will hear and decide the following marine environmental matters: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; and policy and regulatory issues. The commission will hear and decide the following fishery management items beginning at approximately noon: regulatory proposals; fishery management plans; fishery conservation issues; licensing; and 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.

**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/TTY ☎

## BOARD OF MEDICINE

**November 26, 1999** -- 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 85-31-10 et seq. Regulations Governing the Practice of Physical Therapy.** The purpose of the proposed amendments is to clarify the use of unlicensed persons in the practice of physical therapy, require proof of English proficiency for graduates of schools located outside the United States and Canada, require graduates of nonapproved schools to provide documentation of certification by the Foreign Credentialing Commission on Physical Therapy, establish the passing score for the examination, and to clarify certain requirements for practice and supervision of physical therapy assistants. In addition, the proposed amendments establish an inactive licensure status and those requirements for renewal or reinstatement of licensure which are necessary to protect the public health and safety in the delivery of physical therapy services.

Statutory Authority: § 54.1-2400 and Chapter 29 (§ 54.1-2900 et seq.) 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.

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**December 3, 1999 - 8 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**January 21, 2000** - 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;**

**18 VAC 85-31-10 et seq. Regulations Governing the Practice of Physical Therapy;**

**18 VAC 85-40-10 et seq. Regulations Governing the Practice of Respiratory Care Practitioners;**

**18 VAC 85-50-10 et seq. Regulations Governing the Practice of Physician Assistants;**

**18 VAC 85-80-10 et seq. Regulations Governing the Licensure of Occupational Therapists;**

**18 VAC 85-101-10 et seq. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited; and**

**18 VAC 85-110-10 et seq. Regulations Governing the Practice of Licensed Acupuncturists.**

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The proposed amendments revise the schedule of fees paid by physicians and other medical professionals to the Board of Medicine. These fee changes bring the board into compliance with the board's interpretation of § 54.1-113 of the Code of Virginia, which requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10% difference between revenues and expenditures.

Statutory Authority: §§ 54.1-113 and 54.1-2400 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.

## Informal Conference Committee

**December 8, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7332, FAX (804) 662-9517 or (804) 662-7197/TTY ☎

## VIRGINIA MILITARY INSTITUTE

**December 4, 1999 - 8:30 a.m.** -- Open Meeting  
Virginia Military Institute, Turman Room, Preston Library, Lexington, Virginia. ♿

A regular meeting of the Board of Visitors to visit academic departments and receive committee reports. The Board of Visitors does not provide an opportunity for public comment at this meeting. Public comment is received at the first meeting of the academic year, normally in August.

**Contact:** Colonel Edwin L. Dooley, Jr., Secretary to the Board of Visitors, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206 or FAX (540) 464-7660.

## COMMONWEALTH NEUROTRAUMA INITIATIVE ADVISORY BOARD

**December 15, 1999 - 10 a.m.** -- Open Meeting  
Department of Rehabilitative Services, Lee Building, 8004 Franklin Farms Drive, Richmond, Virginia. ♿

A meeting to discuss issues pertaining to the Commonwealth Neurotrauma Initiative. A public comment period will be held at the beginning of the

meeting. Any person who needs special accommodations to participate should contact Ana Hernandez at least five days before the meeting so that suitable arrangements can be made.

**Contact:** Ana Hernandez, Program Specialist, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K300, Richmond, VA 23288-0300, telephone (804) 662-7162, toll-free 1-800-552-5019, FAX (804) 662-7663, or 1-800-464-9950/TTY ☎

## BOARD OF NURSING

**November 30, 1999 - 2 p.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**January 21, 2000** - 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 Nursing intends to amend regulations entitled: **18 VAC 90-20-10 et seq. Regulations Governing the Practice of Nursing.** The proposed amendments increase application, renewal and other fees charged to applicants and regulated entities in order to cover the expenditures for the regulatory and disciplinary functions of the board.

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

**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 or FAX (804) 662-9943.

**December 1, 1999 - 8:30 a.m.** -- Open Meeting

**December 2, 1999 - 8:30 a.m.** -- Open Meeting

**December 7, 1999 - 8:30 a.m.** -- Open Meeting

**December 8, 1999 - 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 Special Conference Committee will conduct informal conferences with licensees and certificate holders. Public comments 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/TTY ☎

## BOARD OF NURSING HOME ADMINISTRATORS

**December 15, 1999 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad St, 5th Floor, Room 3, Richmond, Virginia. ♿

The Special Conference Committee of the board will hold informal disciplinary hearings. No public comments will be heard.



**Contact:** Senita Booker, Administrative Staff Assistant, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail SBooker@dhp.state.va.us.

**January 12, 2000 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad St, 5th Floor, Richmond, Virginia. ♿

A routine business meeting. Public comments will be heard for 15 minutes prior to the meeting.

**Contact:** Senita Booker, Administrative Staff Assistant, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523, or (804) 662-7197/TTY ☎

## BOARD OF OPTOMETRY

**December 1, 1999 - 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)

Informal conference hearings. This is a public meeting; however, public comment will not be received.

**Contact:** Carol Stamey, Administrative Assistant, 6606 West Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY ☎, e-mail cstamey@dhp.state.va.us, homepage <http://dhp.state.va.us>.

## VIRGINIA OUTDOORS FOUNDATION

**November 29, 1999 - 9 a.m.** -- Open Meeting  
Middle Peninsula District Commission Office, Saluda Professional Center, Saluda, Virginia. ♿ (Interpreter for the deaf provided upon request).

A meeting of the Trust Fund Region 3 Advisory Board to conduct the business of the board, review applications received for funding under the Open Space Lands Preservation Trust Fund, and make recommendations of funding. Public comment will be received after the conclusion of the regular business meeting.

**Contact:** Leslie Trew, Conservation Easement Specialist, Virginia Outdoors Foundation, 203 Governor St., Room 317, Richmond, VA 23219, telephone (804) 225-2147.

**December 8, 1999 - 10 a.m.** -- Open Meeting  
**December 9, 1999 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request).

A regularly scheduled meeting of the Board of Trustees to discuss foundation business and accept conservation easements. Public input will be accepted after the regular business meeting.

**Contact:** Tamara Vance, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Room 317, Richmond, VA 23219, telephone (804) 225-2147 or FAX (804) 371-4810.

## VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

**February 3, 2000 - 8:30 a.m.** -- Open Meeting  
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct board business.

**Contact:** Tom Ariail, Assistant Director, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free 1-800-846-4464 or (804) 786-0016/TTY ☎

## BOARD OF PHARMACY

**December 14, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

A general business meeting. The board may consider disciplinary matters and conduct disciplinary proceedings. The board may propose regulations subsequent to two NOIRA's, one relating to a revision of 18 VAC 110-30-10 et seq., Practitioners of the Healing Arts Selling Controlled Substances, and one relating to the use of robot technology in the dispensing process. A copy of the NOIRA can be obtained by calling or writing the board office at the number/address below. Public comments will be received at the beginning of the meeting immediately following the approval of the agenda and the review and acceptance of minutes.

**Contact:** Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911 or FAX (804) 662-9313.

## DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

### Polygraph Examiners Advisory Board

**November 30, 1999 - 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 held to discuss regulatory review and other matters requiring board action, including disciplinary cases. In addition, the polygraph examiner licensing examination will be administered to eligible polygraph examiner interns. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of this meeting is subject to change. All persons desiring to attend the meeting and

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requiring special accommodations or interpretative services should contact the department at 804-367-8590 or TTY 804-367-9753 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail polygraph@dpor.state.va.us, homepage <http://www.state.va.us/dpor>.

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

**November 26, 1999** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals intends to amend regulations entitled: **18 VAC 115-20-10 et seq. Regulations Governing the Practice of Professional Counseling.** The purpose of the proposed action is to amend regulations pursuant to Executive Order 15 (94) to clarify and simplify regulations, include an endorsement provision for practitioners licensed in other jurisdictions, reduce the burden of the residency requirements, simplify the reinstatement procedure and update the education requirements.

Statutory Authority: §§ 54.1-103 and 54.1-2400 and Chapter 35 (§ 54.1-3500 et seq.) of the Code of Virginia.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-7197/TTY ☎

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**January 6, 2000 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

**January 21, 2000** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals intends to amend regulations entitled:

**18 VAC 115-20-10 et seq. Regulations Governing the Practice of Professional Counseling;**

**18 VAC 115-30-10 et seq. Regulations Governing the Certification of Substance Abuse Counselors;**

**18 VAC 115-40-10 et seq. Regulations Governing the Certification of Rehabilitation Providers; and**

**18 VAC 115-50-10 et seq. Regulations Governing the Practice of Marriage and Family Therapists.**

The proposed amendments increase certain fees pursuant to the board's statutory mandate to levy fees as necessary to cover expenses of the board. Fees sufficient to fund the operations of the board are essential for activities such as licensing, investigation of complaints, and adjudication of disciplinary cases.

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

**Contact:** Janet Delorme, Deputy Executive Director, Board of Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9975 or (804) 662-9943.

## **BOARD OF PSYCHOLOGY**

**January 11, 2000 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

**January 21, 2000** - 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 Psychology intends to amend regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to increase fees for practitioners regulated by the board in order to comply with statutory requirements for revenues to be sufficient to cover the expenditures of the board.

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

**Contact:** Janet Delorme, Deputy Executive Director, Board of Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9975 or (804) 662-9943.

## **VIRGINIA RACING COMMISSION**

**November 29, 1999** - 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 Racing Commission intends to amend regulations entitled: **11 VAC 10-60-10 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Participants.** The purpose of the proposed action is to establish the qualifications and

responsibilities of participants in pari-mutuel horse racing in the Commonwealth.


Statutory Authority: § 59.1-360 of the Code of Virginia.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, 10700 Horsemen's Road, New Kent, VA 23124, telephone (804) 966-7404 or FAX (804) 966-7418.


## BOARD OF REHABILITATIVE SERVICES

**December 9, 1999 - 9:30 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, P.O. Box K-300, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A quarterly business meeting. Public comments will be received at 9:45 a.m.

**Contact:** Barbara G. Tyson, Administrative Staff Assistant, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23288-0300, telephone (804) 662-7010, toll-free 1-800-552-5019 or (804) 662-7000/TTY 

## DEPARTMENT OF REHABILITATIVE SERVICES

**December 16, 1999 - 12:30 p.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. 

A meeting of the Virginia Spinal Cord Injury Council to discuss issues pertaining to the council. A public comment period will be held at the beginning of the meeting, during which comments on the Virginia Department of Rehabilitative Services' next State Plan for Vocational Rehabilitation and Supported Employment will be invited. Any person who needs special accommodations to participate should contact Ana Hernandez at least five days before the meeting so that suitable arrangements can be made.


**Contact:** Ana Hernandez, Program Specialist, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K300, Richmond, VA 23288-0300, telephone (804) 662-7162, toll-free 1-800-552-5019, FAX (804) 662-7663, or 1-800-464-9950/TTY 

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**December 19, 1999** - 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 Rehabilitative Services intends to adopt regulations entitled: **22 VAC 30-40-10 et seq. Protection of Participants in Human Research.** The purpose of the proposed regulation is to establish a human research review committee and requirements for obtaining participant voluntary informed consent in human research conducted or authorized by the department, Woodrow Wilson Rehabilitation Center, centers for independent living, and sheltered workshops.

Statutory Authority: §§ 51.5-5.1 and 51.5-14 of the Code of Virginia.

**Contact:** Elizabeth Smith, Policy and Planning Manager, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K300, Richmond, VA 23288-0300, telephone (804) 662-7071, FAX (804) 662-7696, toll-free 1-800-552-5019 or 1-800-464-9950/TTY 

## VIRGINIA RESOURCES AUTHORITY

**December 14, 1999 - 9 a.m.** -- Open Meeting  
Virginia Resources Authority, 707 East Main Street, Suite 1350, Richmond, Virginia.

A meeting to approve minutes of the prior meeting, to review the authority's operations for the prior month, and to consider other matters and take other actions as the authority 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.

**Contact:** Robert W. Lauterberg, Executive Director, Virginia Resources Authority, 707 E. Main St., Suite 1350, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

## VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

**December 7, 1999 - 10 a.m.** -- Open Meeting  
Virginia Small Business Financing Authority, 707 East Main Street, 3rd Floor, Main Board Room, Richmond, Virginia. 

A meeting to review applications for loans submitted to the authority for approval and to conduct general business. Contact the authority for confirmation of meeting time.

**Contact:** Cathleen M. Surface, Executive Director, Virginia Small Business Financing Authority, 707 E. Main St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-8254 or FAX (804) 225-3384.

## DEPARTMENT OF SOCIAL SERVICES

### Virginia Commission on National and Community Service

**December 6, 1999 - 9 a.m.** -- Open Meeting  
Tidewater area (TBA)

A regular business meeting with subcommittee sessions.


**Contact:** Kimberly Brown, Program Officer/Assistant to the Director, Department of Social Services, 730 East Broad Street, telephone (804) 692-1951, FAX (804) 692-1999, toll-free (800) 638-3839, e-mail kgb2@email1.dss.state.va.us, homepage <http://localagency.dss.state.va.us>.

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# Calendar of Events


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## STATE BOARD OF SOCIAL SERVICES


**December 7, 1999 - 2 p.m.** -- Open Meeting  
The Ramada Inn and Conference Center, 500 Merrimac Trail,  
Williamsburg, Virginia. 


A work session of the Welfare Reform Subcommittee to discuss client transportation concerns in the area.

**Contact:** Pat Rengnerth, State Board Liaison, State Board of Social Services, 730 E. Broad Street, Richmond, VA 23219, telephone (804) 692-1826, FAX (804) 692-1965, toll-free (800) 552-3431, (800) 552-7096/TTY .


**December 8, 1999 - 9 a.m.** -- Open Meeting  
**December 9, 1999 - 9 a.m.** -- Open Meeting  
The Ramada Inn and Conference Center, 500 Merrimac Trail,  
Williamsburg, Virginia. 

A work session and formal business meeting of the full board.

**Contact:** Pat Rengnerth, State Board Liaison, State Board of Social Services, 730 E. Broad Street, Richmond, VA 23219, telephone (804) 692-1826, FAX (804) 692-1965, toll-free (800) 552-3431, (800) 552-7096/TTY .


**December 9, 1999 - 2 p.m.** -- Open Meeting  
The Ramada Inn and Conference Center, 500 Merrimac Trail,  
Williamsburg, Virginia. 

A work session of the Child Support Enforcement Subcommittee.


**Contact:** Arlene Kasper, State Board Liaison, State Board of Social Services, 730 E. Broad Street, Richmond, VA 23219, telephone (804) 692-1826, FAX (804) 692-1965, toll-free (800) 552-3431, (800) 552-7096/TTY .

**December 14, 1999 - 10 a.m.** -- Open Meeting  
St. Joseph's Villa, 800 Brook Road, Richmond, Virginia. 

A work session of the Child Protective Services Out-Of-Family Advisory Group to review procedures for handling Child Protective Services complaints and working relationship of school systems and the Department of Social Services.


**Contact:** Pat Rengnerth, State Board Liaison, State Board of Social Services, 730 E. Broad Street, Richmond, VA 23219, telephone (804) 692-1826, FAX (804) 692-1965, toll-free (800) 552-3431, (800) 552-7096/TTY .

## BOARD FOR PROFESSIONAL SOIL SCIENTISTS


**December 10, 1999 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

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 23230-3917, telephone (804) 367-2785, FAX (804) 367-2474 or (804) 367-9753/TTY .

## COUNCIL ON TECHNOLOGY SERVICES

**November 10, 1999 - 1 p.m.** -- Open Meeting  
110 South 7th Street, 3rd Floor Conference Room, Richmond,  
Virginia. 

A regular monthly meeting of the Council on Technology Services' Organizational Workgroup


**Contact:** Dan Ziomek, Policy and Planning Specialist, 110 South 7th St., Suite 135, Richmond, VA 23219, telephone (804) 371-2763, FAX (804) 371-2795, e-mail [dziomek@ntp.state.va.us](mailto:dziomek@ntp.state.va.us).

**November 17, 1999 - 1 p.m.** -- Open Meeting  
Department of Transportation, 1221 East Broad Street, Main Auditorium, Richmond, Virginia. 

A monthly organizational meeting.


**Contact:** Jamie Breeden, Admin. Staff Specialist, Council on Technology Services, 110 South 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-5506, FAX (804) 371-5273, e-mail [jvbreeden.dit@state.va.us](mailto:jvbreeden.dit@state.va.us), homepage <http://www.state.va.us/dit/dit.html>.

## COMMONWEALTH TRANSPORTATION BOARD

**December 15, 1999 - 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.


**December 16, 1999 - 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 comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group.


The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

**Contact:** Shirley J. Ybarra, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675.


## BOARD OF VETERINARY MEDICINE

**December 2, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences. Public comment will not be received.

**Contact:** Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, Virginia. 23230-1717, telephone (804) 662-9915, FAX (804) 662-7098 or (804) 662-7197/TTY 


## VIRGINIA INFORMATION PROVIDERS NETWORK AUTHORITY

**December 9, 1999 - 1 p.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 W. Broad St. Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


This is the regular bimonthly meeting of the authority, scheduled to accommodate the holiday season.

**Contact:** Fred Marcus, Agency Management Analyst, DMV, 2300 W. Broad St. Room 702, Richmond, VA 23269, telephone (804) 367-2850, FAX (804) 367-2536, e-mail [dmvfm@dmv.state.va.us](mailto:dmvfm@dmv.state.va.us), homepage <http://www.dmv.state.va.us>.

## BOARD FOR THE VISUALLY HANDICAPPED


**January 18, 2000 - 1 p.m.** -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting to receive information regarding department activities and operations, review expenditures from the board's endowment 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) 371-3145, toll-free 1-800-622-2155, FAX (804) 371-3157 or (804) 371-3140/TTY 

## DEPARTMENT FOR THE VISUALLY HANDICAPPED


### Statewide Rehabilitation Council for the Blind

**December 4, 1999 - 4 p.m.** -- Open Meeting  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting 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, VR Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111, toll-free 1-800-622-2155, FAX (804) 371-3351 or (804) 371-3140/TTY , e-mail [taylorjg@dvh.state.va.us](mailto:taylorjg@dvh.state.va.us), homepage <http://www.cns.state.va.us/dvh>.


### VIRGINIA VOLUNTARY FORMULARY BOARD

**December 16, 1999 - 10:30 a.m.** -- Public Hearing  
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia 


A meeting to review public hearing comments and product data for drug products being considered for inclusion in the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary Board, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 876-4326.

### STATE WATER CONTROL BOARD

**November 22, 1999 - 2 p.m.** -- Open Meeting  
Virginia War Memorial, 621 S. Belvidere St., Auditorium, Richmond, Virginia. 

A meeting of the Statewide Advisory Committee on the Development of Water Quality Management Plans. Topics to be discussed include the process for updating existing plans and the public participation process for development of total maximum daily loads (TMDLs).

**Contact:** Erlinda Patron, Environmental Engineer Consultant, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4136, (804) 698-4021/TTY , e-mail [elpatron@deq.state.va.us](mailto:elpatron@deq.state.va.us), homepage <http://www.deq.state.va.us>.

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**November 29, 1999** - 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 25-260-5**

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**et seq. Water Quality Standards.** Water Quality Standards consist of designated uses of the water body and narrative and numeric criteria that protect those uses by describing water quality in general terms and specifically as numerical limits for physical, chemical and biological characteristics of water.

The State Water Control Board proposes to amend the State's Water Board's Water Quality Standards at 9 VAC 25-260-350 and 9 VAC 25-260-400 to designate Stony Creek and its tributaries in Shenandoah County as a nutrient enriched water. If the water is designated nutrient enriched, a companion regulation, the Board's Policy for Nutrient Enriched Waters, 9 VAC 25-40-10 et seq., requires certain municipal and industrial dischargers with a design flow of 1.0 MGD or greater and effluents containing phosphorus to maintain a monthly average total phosphorus concentration of 2 milligrams per liter (mg/l) or less. Rocco Farm Foods near Edinburg - based on a design flow of 1.3 MGD - would be the only point source discharger impacted by this regulatory requirement to install a phosphorus removal system to control total phosphorus.

**Question and Answer Period:** A question and answer period will be held one half hour prior to the beginning of the public hearing at the same location. Department of Environmental Quality staff will be present to answer questions regarding the proposed action.

**Accessibility to Person with Disabilities:** The hearing will be held at a public facility believed to be accessible to persons with disabilities. Any persons with questions on the accessibility of the facilities should contact Jean Gregory at the address or phone numbers in the contact information given below.

**Comments:** The agency requests comments on any aspect of the proposal and also on the costs and benefits of the proposal.

**Alternatives:** In compliance with the State Water Control Board's Public Participation Guidelines, 9 VAC 25-10-10 et seq., the department will consider all alternatives which are considered to be less burdensome and less intrusive for achieving the essential purpose of the proposed regulation and any other alternatives presented during the proposed rulemaking. Several alternatives have already been considered. One alternative was to leave the regulation unchanged. This may appear to be the least intrusive approach; however, such an alternative would not provide a control strategy for the potential water quality degradation in Stony Creek from an already documented excess of phosphorus.

There may be other less intrusive alternatives to consider. For example, other alternatives would be to designate only the mainstem or a portion of the mainstem of Stony Creek as a nutrient enriched water.

**Other Pertinent Information:** The department has conducted analyses on the proposed action related to basis, substance, issues, need, estimated impacts, applicable federal requirements and alternative approaches and schedule for reevaluation. These analyses as well as copies of the

amendments may be viewed at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA 22801 or obtained from Jean Gregory.

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

**Contact:** Jean Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, 1-800-592-5482 or (804) 698-4161 TTY/☎, or e-mail [jwgregory@deq.state.va.us](mailto:jwgregory@deq.state.va.us).

**December 1, 1999 - 7 p.m.** -- Public Hearing  
North Fork Middle School, 1018 Caverns Road, Quicksburg, Virginia.

A public hearing to receive comments on the proposed reissuance of a VPDES permit to Wunder Orchards STP for a proposed facility to be located near Moores Store on the north side of the intersection of Routes 728 and 614 in Shenandoah County. The proposed facility would discharge treated sewage wastewater to Holmans Creek.

**Contact:** Janardan R. Pandey, Department of Environmental Quality, Valley Regional Office, P.O. Box 1129, Harrisonburg, VA 22801, telephone (540) 574-7800.

**December 7, 1999 - 9:30 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.☎

A quarterly meeting.

**Contact:** Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378, FAX (804) 698-4346, or (804) 698-4021/TTY, e-mail [cmberndt@deq.state.va.us](mailto:cmberndt@deq.state.va.us), homepage <http://www.deq.state.va.us>.

### BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**November 23, 1999 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia.☎

A meeting of the board and the Review Committee.


**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

**December 9, 1999 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia.☎


A routine business meeting. A public comment period will be held at the beginning of the meeting.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

## VIRGINIA WORKFORCE COUNCIL

**December 10, 1999 - 10 a.m.** -- Open Meeting  
Virginia Employment Commission, Central Office, 703 East Main Street, Room 303, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Existing Workforce Committee and the Hard to Employ Committee to consider allocation options for 30% of the local adult and youth funds under Title I of the Workforce Investment Act.

**Contact:** Gail Robinson, Virginia Workforce Council Liaison, Virginia Employment Commission, P.O. Box 1358, Richmond, VA 23218-1358, telephone (804) 225-3070, FAX (804) 371-8697 or (804) 828-1120/TTY 


## INDEPENDENT

### VIRGINIA WORKERS' COMPENSATION COMMISSION

**December 14, 1999** - 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 Workers' Compensation Commission intends to adopt regulations entitled: **16 VAC 30-11-10 et seq. Public Participation Guidelines.** The purpose of the proposed regulation is to define the Workers' Compensation Commission's process for soliciting input of interested parties in the formation and development of regulations.

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


**Contact:** Sam Lupica, Staff Attorney, Virginia Workers' Compensation Commission, 1000 DMV Dr., Richmond, VA 23220, telephone (804) 367-0438, FAX (804) 367-9740, toll-free 1-877-664-2566, or (804) 367-8600/TTY 

## LEGISLATIVE


### SPECIAL JOINT SUBCOMMITTEE STUDYING VIRGINIA'S MEDICAL CARE FACILITIES CERTIFICATE OF PUBLIC NEED PROGRAM AND LAW (SJR 496, 1999)

**December 8, 1999 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least seven days prior to the meeting.

**Contact:** Brian B. Taylor, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 

## COMMISSION ON REFORM OF THE CLASSIFIED COMPENSATION PLAN

**November 30, 1999 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Questions regarding the meeting should be directed to Bill Echelberger, Senate Committee Finance Staff, (804) 698-7480. Individuals requiring interpreter services or other accommodations should call or write Senate Committee Operations.

**Contact:** John McE. Garrett, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 

## VIRGINIA CODE COMMISSION

**December 15, 1999 - 9:30 a.m.** -- Open Meeting

**December 16, 1999 - 9:30 a.m.** -- Open Meeting


General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to continue with the recodification of Titles 2.1 and 9. Public comment will be received at the end of the meeting for a period not to exceed 15 minutes.


**Contact:** Jane D. Chaffin, Registrar of Regulations, General Assembly Building, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

## SENATE COMMITTEE ON COMMERCE AND LABOR

**December 7, 1999 - 1:30 p.m.** -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A joint meeting with the House Committee on Corporations, Insurance and Banking to brief members of the two committees on revised Article 9, Secured Transactions, of the Uniform Commercial Code, as proposed by the Uniform Law Commissioners. Questions should be directed to Jescey French, Staff Attorney, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should call or write Senate Committee Operations at least seven days prior to the meeting.


**Contact:** John McE. Garrett, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 

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# Calendar of Events

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## CORPORATIONS, INSURANCE AND BANKING SUBCOMMITTEE

**December 7, 1999 - 1:30 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room D, Richmond, Virginia.  (Interpreter for the deaf  
provided upon request)


A meeting to brief members on revised Article 9, Secured Transactions, of the Uniform Commercial Code, as proposed by the Uniform Law Commissioners. A representative of the Uniform Law Commissioners will present the briefing and the Virginia Bar Association, which is currently reviewing the revision, will participate. Questions regarding the meeting should be addressed to Jescey French, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

**Contact:** Dawn B. Smith, Committee Operations, House of Delegates, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


## DISABILITY COMMISSION

**December 8, 1999 - 9 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room D, Richmond, Virginia.  (Interpreter for the deaf  
provided upon request)


A regular meeting. Questions regarding the meeting should be addressed to Brian Parsons or Barbara Ettner, Virginia Board for People with Disabilities, (804) 786-0016. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

**Contact:** W. Travis Varner, Committee Operations, House of Delegates, P. O Box 406, Richmond, VA 23218, telephone (804) 698-1540, (804) 786-2369/TTY , homepage <http://cns.state.va.us/vbpd>.

## COMMISSION ON EDUCATIONAL INFRASTRUCTURE (HJR 670, 1999)

**December 9, 1999 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room D, Richmond, Virginia.  (Interpreter for the deaf  
provided upon request)


A regular meeting. Questions regarding the meeting should be addressed to Norma Szakal, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

**Contact:** Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


## COMMISSION ON THE FUTURE OF VIRGINIA'S ENVIRONMENT

**December 17, 1999 - 10 a.m.** -- Open meeting  
General Assembly Building, 9th and Broad Streets, House  
Room C, Richmond, Virginia.


A regular meeting. Any questions regarding the agenda for the meeting should be directed to Nikki Rovner, Division of Legislative Services, (804) 786-3591. For further assistance, or if you are unable to attend, please call committee operations. Individuals requiring interpreter services or other accommodations should call or write House Committee Operations at least 10 days prior the meeting.

**Contact:** Lois Johnson, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


## Solid Waste Subcommittee

**December 15, 1999 - 10 a.m.** -- Open meeting  
General Assembly Building, 9th and Broad Streets, House  
Room D, Richmond, Virginia. 


A regular meeting. Any questions regarding the agenda for the meeting should be directed to Nikki Rovner, Division of Legislative Services, (804) 786-3591. For further assistance, or if you are unable to attend, please call committee operations. Individuals requiring interpreter services or other accommodations should call or write House Committee Operations at least 10 days prior the meeting.

**Contact:** Lois Johnson, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

## Vision and Plan Subcommittee


**November 22, 1999 - 2 p.m.** -- Open meeting  
General Assembly Building, 9th and Broad Streets, House  
Room D, Richmond, Virginia. 

A regular meeting. Any questions regarding the agenda for the meeting should be directed to Nikki Rovner, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should call or write House Committee Operations at least 10 days prior the meeting.


**Contact:** Lois Johnson, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 




## **SPECIAL BY-LETTER SUBCOMMITTEE OF THE COMMITTEE ON AGRICULTURE STUDYING FARMERS MARKETS (HJR 506, 1999)**


**December 2, 1999 - 2 p.m.** -- Open Meeting  
State Capitol, Capitol Square, House Room 1, Richmond,  
Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be directed to Nikki Rovner, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 days prior to the meeting.


**Contact:** Barbara L. Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1544 or (804) 786-2369/TTY 

## **JOINT COMMISSION ON HEALTH CARE**


**December 1, 1999 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

**December 7, 1999 - 10 a.m.** -- Open Meeting  
**January 6, 2000 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Individuals requiring interpreter services or other special assistance should contact Kimberly Rockhold at least 10 working days prior to the meeting. You can also access information on the Internet at <http://legis.state.va.us/jhc/jchchome.htm>.

**Contact:** Travis Varner, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


## **Long-Term Care Subcommittee**

**December 14, 1999 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Individuals requiring interpreter services or other special assistance should contact Kimberly Rockhold at least 10 working days prior to the meeting. You can also access information on the Internet at <http://legis.state.va.us/jhc/jchchome.htm>.

**Contact:** Travis Varner, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


## **Therapeutic Interchange Subcommittee**

**November 23, 1999 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Individuals requiring interpreter services or other special assistance should contact Kimberly Rockhold at least 10 working days prior to the meeting. You can also access information on the Internet at <http://legis.state.va.us/jhc/jchchome.htm>.

**Contact:** Travis Varner, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


## **HOUSE COMMITTEE ON HEALTH, WELFARE AND INSTITUTIONS**

**November 23, 1999 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Questions regarding the meeting should be addressed to Gayle Vergara or Amy Marschean, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or special assistance should contact Barbara Regen at least 10 working days prior to the meeting.

**Contact:** Barbara Regen, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1544 or (804) 786-2369/TTY 


## **COMMISSION ON ACCESS AND DIVERSITY IN HIGHER EDUCATION IN VIRGINIA (HJR 226/1998)**

**November 22, 1999 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should contact Brenda Edwards, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact Dawn Smith at least 10 working days prior to the meeting.

**Contact:** Dawn B. Smith, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

## **JOINT SUBCOMMITTEE STUDYING EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS WITH DISABILITIES (HJR 725, 1999)**

**December 10, 1999 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 6th Floor Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

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## Calendar of Events

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A regular meeting. Questions regarding the meeting should be address to Amy Marschean, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or special assistance should contact Dawn Smith at least 10 working days prior to the meeting.

**Contact:** Dawn B. Smith, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

### **JOINT SUBCOMMITTEE TO STUDY PRISON INDUSTRIES IN VIRGINIA (HJR 606)**

**December 8, 1999 - 10 a.m.** -- Open Meeting  
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Questions about the meeting and the agenda should be directed to Amigo Wade, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or special assistance should contact committee operations at least 10 working days prior to the meeting.

**Contact:** Kimberly Rockhold, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

### **JOINT SUBCOMMITTEE STUDYING THE FUTURE DELIVERY OF PUBLICLY FUNDED MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (HJR 225, 1998)**

**December 6, 1999 - 1:30 p.m.** -- Open Meeting  
General Assembly Building, 7th Floor West Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request).

A meeting of the Comprehensive Services Act Work Group. Questions regarding the meeting should be addressed to Gayle Vergara, Division of Legislative Services, (804) 786-3591. The subcommittee's website address is <http://dls.state.va.us/hjr225.htm>. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

**Contact:** Anne R. Howard, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

**December 15, 1999 - 1:30 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Gayle Vergara, Division of Legislative Services, (804) 786-3591. The subcommittee's website address is <http://dls.state.va.us/hjr225.htm>. Individuals requiring interpreter services or other special assistance should

contact the committee operations office at least 10 working days prior to the meeting.

**Contact:** Anne R. Howard, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

### **SENATE COMMITTEE ON REHABILITATION AND SOCIAL SERVICES**

**November 23, 1999 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other special assistance should contact the committee operations office.

**Contact:** Thomas C. Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

### **JOINT SUBCOMMITTEE STUDYING REMEDIATION (HJR 572, 1999)**

**November 29, 1999 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Brenda Edwards, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting. Persons making audiovisual presentations to the committee should call for specifications.

**Contact:** Dawn B. Smith, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

### **SUBCOMMITTEE STUDYING SCHOOL DROPOUT PREVENTION (HJR 241, 1999)**

**November 30, 1999 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Brenda Edwards, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting. Persons making audiovisual presentations to the committee should call for specifications.

**Contact:** Dawn B. Smith, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

## **SPECIAL FINANCE SUBCOMMITTEE STUDYING A TAX SYSTEM THAT REFLECTS ABILITY TO PAY (HJR 271)**

**December 1, 1999 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 5th Floor West Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Joan Putney, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

**Contact:** Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

## **JOINT SUBCOMMITTEE STUDYING THE FUNDING REQUIREMENTS OF THE VIRGINIA UNEMPLOYMENT COMPENSATION ACT (HJR 589, 1999)**

**November 23, 1999 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other special assistance should contact the committee operations office.

**Contact:** Thomas C. Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

## **STATE WATER COMMISSION**

**December 17, 1999 - 2 p.m.** -- Open meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting. Any questions regarding the agenda for the meeting should be directed to Martin Farber, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should call or write House Committee Operations at least 10 days prior the meeting.

**Contact:** Lois Johnson, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

## **CHRONOLOGICAL**

### **OPEN MEETINGS**

#### **November 22**

Environment, Commission on the Future of Virginia's  
- Vision and Plan Subcommittee  
Higher Education in Virginia, Commission on Access and Diversity in  
Water Control Board, State  
- Advisory Committee on the Development of Water Quality Management Plans

#### **November 23**

Cemetery Board  
Compensation Board  
Conservation and Recreation, Department of Environment, Commission on the Future of Virginia's Health Care, Joint Commission on  
- Therapeutic Interchange Subcommittee  
Health, Welfare and Institutions, House Committee Rehabilitation and Social Services, Senate Committee on Unemployment Compensation Act, Joint Subcommittee Studying the Funding Requirements of the Virginia Waterworks and Wastewater Works Operators, Board for

#### **November 29**

Alcoholic Beverage Control Board, Virginia  
Outdoors Foundation, Virginia  
- Trust Fund Region 3 Advisory Board  
Remediation, Joint Subcommittee Studying

#### **November 30**

Agriculture and Consumer Services, Department of  
- Virginia Seed Potato Board  
Classified Compensation Plan, Commission on Reform of the  
Education, State Board of  
Funeral Directors and Embalmers, Board of  
- Task Force on Resident Trainee Program  
Governor's Commission on Community Services and Inpatient-Care Committee  
Nursing, Board of  
Professional and Occupational Regulation, Board for  
- Polygraph Examiners Advisory Board  
School Dropout Prevention, Subcommittee Studying

#### **December 1**

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for  
- Landscape Architect Section  
Contractors, Board for  
Emergency Planning Committee, Local - City of Winchester  
Environmental Quality, Department of  
- Solid Waste Management Regulation Technical Advisory Committee  
Health Care, Joint Commission on  
Labor and Industry, Department of  
- Migrant and Seasonal Farmworkers Board  
Land Conservation Foundation, Virginia

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# Calendar of Events

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Nursing, Board of  
Optometry, Board of  
Tax System that Reflects Ability to Pay, Special Finance  
Subcommittee Studying a

## December 2

Conservation and Recreation, Board of  
Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
Farmers Markets, Special By-Letter Subcommittee of the  
Committee on Agriculture Studying  
Fire Services Board, Virginia  
- Fire/EMS Education and Training Committee  
- Fire Prevention and Control Committee  
- Legislation Committee  
Nursing, Board of  
Veterinary Medicine, Board of

## December 3

Dentistry, Board of  
Fire Services Board, Virginia  
Medicine, Board of

## December 4

Military Institute, Virginia  
Visually Handicapped, Department for the  
- Statewide Rehabilitation Council for the Blind

## December 6

Cosmetology, Board for  
Mental Health, Mental Retardation and Substance Abuse  
Services, Joint Subcommittee Studying the Future  
Delivery of Publicly Funded  
- Comprehensive Services Work Group  
Social Services, Department of  
- Virginia Commission on National and Community  
Service

## December 7

Branch Pilots, Board for  
Commerce and Labor, Senate Committee on  
Corporations, Insurance and Banking Committee  
Criminal Justice Services Board  
- Committee on Training  
- Full Board  
Economic Development Partnership, Virginia  
- Board of Directors  
Funeral Directors and Embalmers, Board of  
Health Care, Joint Commission on  
Hopewell Industrial Safety Council  
Nursing, Board of  
Small Business Financing Authority, Virginia  
Social Services, State Board of  
- Welfare Reform Subcommittee  
Water Control Board, State

## December 8

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
- Interior Designers Section  
Branch Pilots, Board for

Certificate of Public Need Program and Law, Special  
Joint Subcommittee Studying Virginia's Medical Care  
Facilities  
Commonwealth Competition Council  
Disability Commission  
Health, Department of  
- Virginia AIDS Drug Advisory Committee  
Medicine, Board of  
Nursing, Board of  
Outdoors Foundation, Virginia  
- Board of Trustees  
People with Disabilities, Virginia Board for  
Prison Industries in Virginia, Joint Subcommittee to Study  
Rehabilitative Services, Board of  
Social Services, State Board of

## December 9

Aging, Commonwealth Council on  
Agriculture and Consumer Services, Board of  
Educational Infrastructure, Commission on  
Labor and Industry, Department of  
- Virginia Apprenticeship Council  
Manufactured Housing Board, Virginia  
Outdoors Foundation, Virginia  
- Board of Trustees  
Rehabilitative Services, Board of  
Social Services, State Board of  
Virginia Information Providers Network Authority  
Waterworks and Wastewater Works Operators, Board for

## December 10

Environmental Quality, Department of  
- Poultry Waste Management Advisory Group  
Health, Department of  
- HIV Prevention Community Planning Committee  
Health Professions, Department of  
- Health Practitioners' Intervention Program  
Infants and Toddlers with Disabilities, Joint  
Subcommittee Studying Early Intervention Services for  
Soil Scientists, Board for Professional  
Workforce Council, Virginia  
- Existing Workforce and the Hard to Employ  
Committee

## December 13

Accountancy, Board of  
Alcoholic Beverage Control Board, Virginia  
Chesapeake Bay Local Assistance Board

## December 14

Branch Pilots, State Board of  
Higher Education for Virginia, State Council of  
Health Care, Joint Commission on  
- Long-Term Care Subcommittee  
Pharmacy, Board of  
Resources Authority, Virginia  
- Board of Directors  
Social Services, State Board of  
- Child Protective Services Out-Of-Family Advisory  
Group

## December 15

At-Risk Youths and Their Families, Comprehensive  
Services for

- State Executive Council  
Code Commission, Virginia  
Environment, Commission on the Future of Virginia's  
- Solid Waste Subcommittee  
Higher Education Tuition Trust Fund, Virginia  
Neurotrauma Initiative Advisory Board, Commonwealth  
Transportation Board, Commonwealth  
Nursing Home Administrators, Board of  
- Special Conference Committee

**December 16**

Agriculture and Consumer Services, Department of  
- Virginia Corn Board  
Code Commission, Virginia  
Publicly Funded Mental Health, Mental Retardation and  
Substance Abuse Services, Joint Subcommittee  
Studying the Future Delivery of  
Rehabilitative Services, Department of  
- Virginia Spinal Cord Injury Council  
Transportation Board, Commonwealth  
Voluntary Formulary Board, Virginia

**December 17**

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
Environment, Commission on the Future of Virginia's  
Water Commission, State

**December 20**

Accountancy, Board of

**December 21**

Compensation Board  
Marine Resources Commission

**January 6, 2000**

Health Care, Joint Commission on

**January 4, 2000**

Air Pollution Control Board

**January 6**

Health Care, Joint Commission on

**January 11**

Psychology, Board of

**January 12**

Nursing Home Administrators, Board of

**January 18**

Higher Education for Virginia, State Council of  
Visually Handicapped, Board for the

**January 19**

Cemetery Board

**January 20**

Assistive Technology Loan Fund Authority  
- Board of Directors  
Cemetery Board  
- Delivery Committee

**January 21**

Library Board, State  
- Archival and Information Services Committee

- Collection and Management Services Committee  
- Legislative and Finance Committee  
- Publications and Educational Services Committee  
- Public Library Development Committee  
- Records Management Committee

Medicine, Board of  
Nursing, Board of  
Psychology, Board of

**January 24**

Accountancy, Board of

**February 3**

People with Disabilities, Virginia Board for

## PUBLIC HEARINGS

**November 30**

Education, State Board of

**December 1**

Water Control Board, State

**December 3**

Medicine, Board of

**December 8**

Environmental Quality, Department of

**December 13**

Health, Department of  
- Ryan White Care Act - Title II

**December 15**

Health, Department of  
- Ryan White Care Act - Title II

**December 16**

Health, Department of  
- Ryan White Care Act - Title II

**January 4, 2000**

Air Pollution Control Board, State

**January 6**

Professional Counselors, Marriage and Family Therapists  
and Substance Abuse Counselors, Board of Licensed

**January 11**

Psychology, Board of

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