VIRGINIA REGISTER OF REGULATIONS

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THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. 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*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

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 Joint Commission on Administrative Rules (JCAR) or the appropriate standing committee of each house 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 body, 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 legislative body 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 objection 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 and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. 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 no more than 12 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. 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 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 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. **28:2 VA.R. 47-141 September 26, 2011,** refers to Volume 28, Issue 2, pages 47 through 141 of the *Virginia Register* issued on September 26, 2011.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register*'s Internet home page (http://register.dls.virginia.gov).

March 2012 through April 2013

Volume: Issue	Material Submitted By Noon*	Will Be Published On
28:15	March 7, 2012	March 26, 2012
28:16	March 21, 2012	April 9, 2012
28:17	April 4, 2012	April 23, 2012
28:18	April 18, 2012	May 7, 2012
28:19	May 2, 2012	May 21, 2012
28:20	May 16, 2012	June 4, 2012
28:21	May 30, 2012	June 18, 2012
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28:23	June 27, 2012	July 16, 2012
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28:25	July 25, 2012	August 13, 2012
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29:6	October 31, 2012	November 19, 2012
29:7	November 13, 2012	December 3, 2012
29:8	November 28, 2012	December 17, 2012
29:9	December 11, 2012	December 31, 2012
29:10	December 26, 2012	January 14, 2013
29:11	January 9, 2013	January 28, 2013
29:12	January 23, 2013	February 11, 2013
29:13	February 6, 2013	February 25, 2013
29:14	February 20, 2013	March 11, 2013
29:15	March 6, 2013	March 25, 2013
29:16	March 20, 2013	April 8, 2013
29:17	April 3, 2013	April 22, 2013

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to consider amending **4VAC50-60, Stormwater Management Regulations.** The purpose of the proposed action is to consider amendments to the applicable portions of the Virginia Soil and Water Conservation Board's Virginia Stormwater Management Program (VSMP) Permit Regulations in order to reauthorize and amend the general permit for stormwater discharges from small municipal separate storm sewer systems (small MS4s). The existing five-year general permit became effective on July 9, 2008; thus, a new general permit must be adopted before the July 8, 2013, expiration date.

The changes may include, but are not limited to, (i) incorporation of water quality requirements for impaired waters and total maximum daily loads (TMDLs) including monitoring requirements, consistency requirements with other regulations such as erosion and sediment control, chemical application, and handling requirements; and (ii) minimum prescriptive measures regarding public notification and reporting. The permit will also consider implementation of new stormwater management technical criteria for post development (including compliance with water quality and quantity standards set out in Part II (4VAC50-60-40 et seq.) and compliance with Part III (4VAC50-60-100 et seq.)) and permit requirements for compliance with the Chesapeake Bay TMDL.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 10.1-603.2:1 and 10.1-603.4 of the Code of Virginia.

Public Comment Deadline: April 25, 2012.

Agency Contact: David C. Dowling, Policy and Planning Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, or email david.dowling@dcr.virginia.gov.

VA.R. Doc. No. R12-3136; Filed March 6, 2012, 1:25 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-860, General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Potable Water Treatment Plants.** The purpose of the proposed action is to establish appropriate and necessary permitting requirements for discharges of wastewater from potable water treatment plants. The existing general permit expires on December 23, 2013, and must be reissued to be available after that date. The proposed regulation will contain standard language for effluent limitations and monitoring requirements necessary to regulate this category of dischargers.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Public Comment Deadline: April 25, 2012.

Agency Contact: Elleanore M. Daub, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4032, or email elleanore.daub@deq.virginia.gov.

VA.R. Doc. No. R12-3134; Filed March 6, 2012, 1:23 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Pharmacy intends to consider amending **18VAC110-20, Regulations Governing the Practice of Pharmacy.** The purpose of the proposed action is to modify or eliminate the current requirement that bulk bins in an automated counting device be "run dry" every 60 days. The requirement to allow the bins to "run dry" every 60 days to prevent expired drugs from dispensed is probably not necessary to protect public health and safety. In modifying the regulation, the board will consider safeguards that would ensure expired or recalled drugs are not being dispensed to patients. If the technology of the device can ensure drugs in a particular lot have been cleared out of the machine, it might not be necessary to dispose of all drugs in a bin to which a recalled lot has been added. If not, and if multiple lots are in a bin, the drugs may have to be removed

and not used for patient care if there is a recall on any of the lots. Additionally, the regulation may require regular emptying and cleaning of the device to avoid an accumulation of drug residue that might affect the efficacy of the drugs or the accuracy of the dispensing. In considering modification to or elimination of the "run-dry" regulation, the board will include requirements in the best interest of public health and safety in prescription medications.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public Comment Deadline: April 25, 2012.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4416, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

VA.R. Doc. No. R12-3083; Filed February 23, 2012, 2:06 p.m.

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to § 2.2-4002 A 17 of the Code of Virginia when promulgating regulations regulating actual live horse racing at race meetings licensed by the commission.

Title of Regulation: **11VAC10-50. Racing Officials (amending 11VAC10-50-40).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: April 16, 2012.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804) 966-7404, FAX (804) 966-7418, or email david.lermond@vrc.virginia.gov.

Summary:

The amendments require the licensee's veterinarian to be approved by the Virginia Racing Commission and to work under the direction of the commission veterinarian. The amendments further define the duties of the licensee's veterinarian to include (i) assisting in the supervision and collection of samples in the test barn, (ii) revising the veterinarian's list, and (iii) humanely destroying a seriously injured horse when it is in the best interests of the horse to do so.

11VAC10-50-40. Licensee's veterinarian.

The licensee shall appoint a qualified person to act as the licensee's veterinarian for the race meeting. The licensee's veterinarian shall possess a full and unrestricted license to practice veterinary medicine from the Virginia Board of Veterinary Medicine and shall be present within the enclosure on racing days to perform his duties. The licensee's veterinarian shall be approved by the commission and shall be designated to work under the authority and direction of the commission veterinarian. The duties of the licensee's veterinarian include, but are not limited, to:

1. ~~Making the~~ Performing prerace ~~examination~~ examinations of ~~the~~ horses entered to race on that day's program ~~under the supervision of the commission veterinarian,~~ and recommending to the stewards that horses found to be unfit for racing be scratched;

2. Observing ~~the~~ horses in the paddock and being present at the starting gate, where he can recommend to the stewards scratching any horse that he deems to be unfit for racing;

3. Observing ~~all of the~~ horses after the finish of a race and upon their leaving the racing surface for injuries or lameness;

4. Rendering emergency care to horses injured either in workouts or racing when a practicing veterinarian is not readily available to perform these services; ~~and~~

5. Assisting the commission veterinarian in determining ~~those~~ horses ~~which~~ that are bleeders, either through observing the horse bleed from the nostrils after a workout or a race, ~~or~~ by observing a private practitioner's endoscopic examination of a horse following a workout or race, or by retrieving information from other racing jurisdictions;

6. Assisting the commission veterinarian in the supervision and collection of samples in the test barn;

7. Placing horses on the veterinarian's list and observing workouts as needed to remove horses from the veterinarian's list; and

8. Being authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of the horse to so act.

VA.R. Doc. No. R12-2402; Filed March 7, 2012, 3:04 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to § 2.2-4002 A 17 of the Code of Virginia when promulgating regulations regulating actual live horse racing at race meetings licensed by the commission.

Title of Regulation: **11VAC10-60. Participants (amending 11VAC10-60-20, 11VAC10-60-130).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: April 16, 2012.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804)

966-7404, FAX (804) 966-7418, or email david.lermond@vrc.virginia.gov.

Summary:

This regulatory action prohibits a practicing veterinarian from treating any other horse entered in the same race as a horse owned or trained by the veterinarian's spouse after entries have closed and clarifies the meaning of "ownership." The duties of a practicing veterinarian are amended to include maintaining complete medical records consistent with the laws and regulations of the Virginia Board of Veterinary Medicine; making electronic records available; and disposing of syringes, needles, and infusion tubes as directed by the commission veterinarian. Further, the action prohibits a jockey agent from being licensed as an owner, trainer, or authorized agent and establishes limits on the physical areas where a jockey agent may be present and on communication with a jockey.

11VAC10-60-20. Practicing veterinarian.

A. Qualifications. A holder of a permit allowing the person to participate as a practicing veterinarian in Virginia shall possess a full and unrestricted license from the Virginia Board of Veterinary Medicine.

B. Prohibitions. A practicing veterinarian shall be prohibited from engaging in the following activities:

1. Owning, directly or indirectly, entirely or a portion of any horse racing at the race meeting where he is practicing veterinary medicine. For purposes of this section, ownership shall be based on being named on the certificate of registration or eligibility paper, or named in a syndicate, corporation, lease, partnership, or other joint venture owning or managing the racehorse and shall not be based solely on community property laws relating to marriage;

2. Wagering on the outcome of any race, either directly or indirectly, at the race meeting where he is practicing veterinary medicine; ~~and~~

3. Furnishing any injection device, injectable substance, or any other medication intended for use by injection to another permit holder without the written permission of the stewards~~.~~; and

4. Treating any other horses entered to race in the same race as a horse owned or trained by the veterinarian's spouse after entries have closed for that race.

C. Duties. In the exercise of his duties, the practicing veterinarian shall:

1. Treat all horses under his care in a humane manner and report all instances of animal abuse or neglect immediately to the stewards and commission veterinarian;

2. Report immediately to the commission veterinarian and stewards any illness in a horse presenting unusual or unknown symptoms;

3. ~~Retain~~ Maintain complete medical records consistent with the statutes and regulations of the Virginia Board of Veterinary Medicine, and retain duplicate copies of bills or statements issued to trainers or owners for at least one year;

4. Make available to the commission veterinarian, stewards or other commission personnel, upon request, copies of any written or electronic records or billing statements to trainers or owners; and

5. Use only single-use disposable syringes, needles, and infusion tubes~~,~~ and ~~whenever using a hypodermic needle or syringe, the practicing veterinarian shall destroy the needle and syringe and remove it from the enclosure~~ dispose of the syringes, needles, and infusion tubes as directed by the commission veterinarian.

11VAC10-60-130. Jockey agent.

A person shall submit an application to participate in horse racing as a jockey agent. The jockey agent acts as an agent for the jockey he represents in securing riding engagements. The stewards, in their discretion, may ask a person to take a written or oral examination to determine his fitness to participate in horse racing as a jockey agent. In addition to all of the requirements imposed upon all holders of permits, the following shall apply to jockey agents:

1. A jockey agent shall designate in writing those jockeys for whom he is making engagements;

2. A jockey agent shall have in his possession at all times an engagement book, approved by the stewards, and all engagements made for a jockey by the agent shall be recorded in the book. The book shall be presented to the stewards upon request;

3. A jockey agent shall not make or assist in making any engagement for a jockey other than those he has designated in writing;

4. A jockey agent may make engagements for only two jockeys, one of which must be an apprentice jockey;

5. A jockey agent may make engagements for two journeyman jockeys only with the permission of the stewards;

6. If a jockey agent relinquishes the making of engagements for any jockey, the jockey agent shall immediately notify the stewards and clerk of scales and turn over to the stewards a list of any unfilled engagements he may have made for that jockey;

7. A jockey agent may give only one "first call" and one "second call" per race for each jockey he represents, and

conflicting claims for the services of a jockey shall be decided by the stewards;

8. A jockey agent shall be able to explain, to the satisfaction of the stewards, rival claims for the services of a jockey or that the rival claims are the result of bona fide error;

9. No jockey shall have more than one agent;

10. An owner, trainer or authorized agent may make engagements for an apprentice jockey or jockey; ~~and~~

11. A jockey not represented by an agent may make his own engagements~~.~~;

12. A holder of a jockey agent permit may not be licensed as an owner, trainer, or authorized agent; and

13. Under no circumstances shall a jockey agent be permitted within the saddling enclosure during racing hours nor shall he be allowed on the track proper or in the winner's circle at the conclusion of any race run. An agent may not have access to the jockey quarters at any time or communicate with any jockey during racing hours without permission of the stewards.

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (11VAC10-60)

~~Apprentice Jockey Certificate, DLLR/MRC/P/#6/97 786 (eff. 9/98).~~

~~Authorized Agent Form (eff. 9/98).~~

~~Application for Participants 20___ (eff. 8/00).~~

~~Renewal Application for Participants 20___ (eff. 8/00).~~

~~Multi-Jurisdiction Racing License Application for Owners (eff. 8/00).~~

~~National Racing License Owner's Application, nrcpaper__version1.pm5 (eff. 10/00).~~

Apprentice Jockey Certificate (rev. 6/05).

Authorized Agent Form (rev. 3/12).

Application for Participants (rev. 2/07).

Renewal Application for Participants (rev. 2/07).

VA.R. Doc. No. R12-3112; Filed March 8, 2012, 11:02 a.m.

Final Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to § 2.2-4002 A 17 of the Code of Virginia when promulgating regulations regulating actual live horse racing at race meetings licensed by the commission.

Title of Regulation: **11VAC10-80. Commission Veterinarian (amending 11VAC10-80-30).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: April 16, 2012.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804) 966-7404, FAX (804) 966-7418, or email david.lermond@vrc.virginia.gov.

Summary:

The amendments clarify and further define the commission veterinarian's scope of responsibility, jurisdiction, and duties.

11VAC10-80-30. Duties.

The scope of responsibility for the commission veterinarian encompasses not only the welfare of horses and the subsequent safety of jockeys, but the interests of the public within the broad context of upholding the integrity of racing. The commission veterinarian shall exercise jurisdiction over all veterinarians licensed by the commission to the extent necessary to ensure compliance with the regulations pertaining to pari-mutuel racing in Virginia and shall perform those duties assigned to him by the commission, the executive secretary of the commission, and the stewards. His duties shall include but not be limited to:

1. Ensuring that all horses within the enclosure are treated in a humane manner and reporting any case of animal abuse or neglect to the stewards;

2. Reviewing the daily written reports submitted by practicing veterinarians;

3. ~~Making~~ Ensuring that prerace examinations ~~of the horses~~ are performed on every horse entered to race on that day's program and recommending to the stewards that horses found to be unfit for racing be excused;

4. Recommending that sick and injured horses be placed on the ~~stewards'~~ veterinarian's list;

5. Advising the stewards on the condition of horses that are coming off the ~~stewards'~~ veterinarian's list;

6. ~~Supervising~~ Ensuring the collection of samples and the proper operation of the ~~detention~~ test barn;

7. Approving the lists of medications and preparations submitted by pharmaceutical representatives prior to their sale within the enclosure;

8. Being present at scratch time of each racing day to inspect any horses requested by the stewards and report on their fitness for racing;

9. Giving the stewards his opinion of a horse's condition and recommendation relative to the horse's fitness for racing; ~~and~~

10. Scheduling the licensee veterinarian and assistant commission veterinarians so that a veterinarian is present in the paddock during saddling, on the track during the post parade, at the starting gate until the horses are dispatched from the gate, and at the wire to observe horses after they finish a race;

~~10. Reporting~~ 11. Managing racing injuries on the track, being authorized to humanely destroy any horse deemed so seriously injured that it is in the best interests of the horse so to act, and reporting to the stewards the names of all horses euthanized at the race meeting and the reasons;

12. Facilitating postmortem examinations performed on horses that have died on the grounds of the licensee's racetrack and maintaining necessary records; and

13. Coordinating practicing veterinarians and regulatory agencies to effect measures to control communicable and reportable equine diseases.

VA.R. Doc. No. R12-2407; Filed March 8, 2012, 10:09 a.m.

Final Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to § 2.2-4002 A 17 of the Code of Virginia when promulgating regulations regulating actual live horse racing at race meetings licensed by the commission.

Title of Regulation: **11VAC10-110. Entries (amending 11VAC10-110-90).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: April 16, 2012.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804) 966-7404, FAX (804) 966-7418, or email david.lermond@vrc.virginia.gov.

Summary:

The amendment clarifies the rules regarding mutuel entries of horses having common ties through training.

11VAC10-110-90. Coupling.

All horses entered in the same race and owned wholly or partially by the same owner or spouse shall be joined as a mutuel entry and shall constitute a single wagering interest, except as provided for in subdivision 7 of this section. No trainer shall enter more than two horses in an overnight race. The following provisions shall apply to mutuel entries:

1. The racing secretary shall be responsible for coupling entries for wagering purposes;

2. No more than two horses having common ties through ownership, which would result in a mutuel entry and a single wagering interest, may be entered in an overnight race;

3. When two horses having common ties through ownership are entered in an overnight race, preference shall be given to the horse with the earliest preference date or the most stars;

4. Two horses having common ties through ownership shall not start as a mutuel entry in an overnight race to the exclusion of another horse ~~nor shall a trainer be permitted to run two horses in a race to the exclusion of another horse~~;

5. The racing secretary shall be responsible for assigning horses to the mutuel field when the number of wagering interests exceeds the numbering capacity of the infield tote board;

6. In an overnight race, the racing secretary may uncouple entries having common ties through training; and

7. In any thoroughbred stakes race with added or guaranteed money of $50,000 or more, the racing secretary may uncouple mutuel entries of horses sharing common ties through training or ownership or both.

VA.R. Doc. No. R12-3111; Filed March 8, 2012, 10:26 a.m.

Final Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to § 2.2-4002 B 23 of the Code of Virginia when promulgating regulations pertaining to the administration of medication or other substances foreign to the natural horse.

Title of Regulation: **11VAC10-180. Medication (amending 11VAC10-180-60, 11VAC10-180-70, 11VAC10-180-75, 11VAC10-180-110).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: April 16, 2012.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804)

966-7404, FAX (804) 966-7418, or email david.lermond@vrc.virginia.gov.

Summary:

The amendments allow racing stewards and judges to use mitigating as well as aggravating circumstances when issuing penalties to participants who violate the regulation for the medication of horses. Further, the amendments establish that use of the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances in the penalty stage of deliberations on rule violations is discretionary.

11VAC10-180-60. Medications and prohibited substances.

A. Medications and prohibited substances are divided into five classes. The classes are:

1. Class 1. Substances found in this class have no generally accepted medical use in the racehorse and have a very high pharmacological potential for altering the performance of a racehorse. These substances should never be found in the horse's system through postrace testing or in the possession of any holder of a permit within the enclosure of a horse racing facility licensed by the commission. Such substances are potent stimulants of the nervous system including opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines and U.S. Drug Enforcement Agency (DEA) Scheduled I and II controlled substances.

2. Class 2. Substances in this class have a high potential to affect the outcome of a race. Most are not generally accepted as therapeutic agents in the racehorse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate uses in equine medicine, but should not be found in a racehorse through postrace testing. The following groups of substances are in this class:

a. Opiate partial agonists or agonist-antagonists;

b. Nonopiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;

c. Miscellaneous substances that might have a stimulant effect on the central nervous system (CNS);

d. Drugs with prominent CNS depressant action;

e. Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;

f. Muscle-blocking substances that have a direct neuromuscular blocking action;

g. Local anesthetics that have a reasonable potential for use as nerve-blocking agents (except procaine);

h. Other biological substances and snake venoms or chemicals that may be used as nerve-blocking agents; and

i. Erythropoietin (Epogen), darbepoietin, oxyglobin, hemopure, or other blood-doping agents.

3. Class 3. Substances found in this class may or may not have an accepted therapeutic use in the horse, but have a potential to enhance performance, and their presence in the horse's system is prohibited on race day. The following groups of substances are in this class:

a. Substances affecting the autonomic nervous system that do not have prominent CNS effects, but that do have prominent cardiovascular and respiratory system effects (bronchodilators are included in this category);

b. Local anesthetics that have nerve-blocking potential but also a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the substance (procaine);

c. Miscellaneous substances with mild sedative action, such as the sleep-inducing antihistamines;

d. Primary vasodilating/hypotensive agents;

e. Potent diuretics affecting renal function and body fluid composition; and

f. Anabolic and/or androgenic steroids and/or growth hormones other than boldenone, stanozolol, nandrolone, and testosterone, which are classified elsewhere in this section.

4. Class 4. Substances in this class are primarily therapeutic medications routinely used in racehorses. These may influence performance, but generally have a more limited ability to do so. The following groups of drugs are in this class:

a. Nonopiate substances that have a mild central analgesic effect;

b. Substances affecting the autonomic nervous system that do not have prominent CNS, cardiovascular or respiratory effects:

(1) Substances used solely as topical vasoconstrictors or decongestants;

(2) Substances used as gastrointestinal antispasmodics;

(3) Substances used to void the urinary bladder; and

(4) Substances with a major effect on CNS vasculature or smooth muscle of visceral organs.

(5) Antihistamines that do not have a significant CNS depressant effect (this does not include H1 blocking agents, which are listed in Class ~~5)~~ 3).

c. Mineral corticoid substances;

d. Skeletal muscle relaxants;

e. Anti-inflammatory substances that may reduce pains as a consequence of their anti-inflammatory actions, which include:

(1) Nonsteroidal anti-inflammatory drugs (NSAIDs);

(2) Corticosteroids (glucocorticoids); and

(3) Miscellaneous anti-inflammatory agents.

f. Boldenone, stanozolol, nandrolone, and testosterone, individually but not in combination, at levels stipulated in 11VAC10-180-75.

g. Less potent diuretics;

h. Cardiac glycosides and antiarrhythmics including:

(1) Cardiac glycosides;

(2) Anti-arrhythmic agents (exclusive of lidocaine, bretylium and propranolol); and

(3) Miscellaneous cardiotonic drugs.

i. Topical anesthetics agents not available in injectable formulations;

j. Antidiarrheal agents; and

k. Miscellaneous substances including:

(1) Expectorants with little or no other pharmacologic action;

(2) Stomachics; and

(3) Mucolytic agents.

5. Class 5. Drugs in this class are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically are agents that have very localized action only, such as anti-ulcer drugs and certain anti-allergenic drugs. The anticoagulant drugs are also included.

B. Disciplinary actions.

1. In issuing penalties against individuals found guilty of medication and drug violations a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

2. The stewards or the commission ~~will~~ may use the ~~Racing Medication and Testing Consortium's penalty category and schedule~~ most recent revision of the Association of Racing Commissioners International (RCI) Uniform Classification Guidelines for Foreign Substances as ~~a starting place~~ the guideline in the penalty stage of the deliberations for a rule violation for any ~~drug listed in the Association of Racing Commissioners International (RCI) Uniform Classification Guidelines for Foreign Substances, revised July 2007~~ prohibited substance.

3. If a licensed veterinarian is administering or prescribing a drug not listed in the RCI Uniform Classification Guidelines for Foreign Substances ~~or shown in the RMTC penalty guideline listing~~, the identity of the drug shall be forwarded to the commission veterinarian to be forwarded to ~~the Racing Medication and Testing Consortium~~ RCI for classification.

4. Any drug or metabolite thereof found to be present in a ~~pre-~~ pre-race or postrace sample that is not classified in the most ~~current~~ recent RCI Uniform Classification Guidelines for Foreign Substances ~~shall~~ may be assumed to be an RCI Class 1 Drug and the trainer and owner ~~shall~~ may be subject to those penalties as set forth in schedule "A" unless satisfactorily demonstrated otherwise by the Racing Medication and Testing Consortium, with a penalty category assigned.

~~5. The penalty categories and their related schedules, if applicable, shall be on the following criteria:~~

~~a. Whether the drug is approved by the U.S. Food and Drug Administration for use in the horse;~~

~~b. Whether the drug is approved by the U.S. Food and Drug Administration for use in any species;~~

~~c. Whether the drug has any legitimate therapeutic application in the equine athlete;~~

~~d. Whether the drug was identified as "necessary" by the RMTC Veterinary Advisory Committee;~~

~~e. Whether legitimate, recognized therapeutic alternatives exist; and~~

~~f. The current RCI classification of the drug.~~

~~6. Except as may be expressly stipulated in the regulations elsewhere, the penalty categories "A," "B," "C," and "D" and their related schedules for trainers and owners are as follows:~~

~~a. The recommended penalties for violations due to the presence of a substance carrying a category "A" penalty and for violations of 11VAC10-180-35 are:~~

~~(1) First offense for the trainer will be:~~

~~(a) Minimum one-year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a five-year suspension;~~

~~(b) Minimum fine of $10,000 absent mitigating circumstances; and~~

~~(c) May be referred to the commission for any further action deemed necessary by the commission.~~

(2) Second lifetime offense in any jurisdiction for the trainer will be:

(a) Minimum five year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five year period;

(b) Minimum fine of $10,000 absent mitigating circumstances; and

(c) May be referred to the commission for any further action deemed necessary by the commission.

(3) Third and any subsequent lifetime offense in any jurisdiction for the trainer will be:

(a) Minimum 10 year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five year period;

(b) Minimum fine of $10,000 absent mitigating circumstances; and

(c) May be referred to the commission for any further action deemed necessary by the commission.

(4) First offense for the owner will be:

(a) Disqualification and loss of purse; and

(b) Horse shall be placed on the veterinarian's list for 90 days and must pass a commission approved examination before becoming eligible to be entered.

(5) Second lifetime offense in owner's stable in any jurisdiction will be:

(a) Disqualification, loss of purse and $5,000 fine; and

(b) Horse shall be placed on the veterinarian's list for 120 days and must pass a commission approved examination before becoming eligible to be entered.

(6) Third and any subsequent lifetime offense in the owner's stable in any jurisdiction will be:

(a) Disqualification, loss of purse, $10,000 fine and 90 days suspension; and

(b) Horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered.

b. The recommended penalties for violations due to the presence of a substance carrying a category "B" penalty, for the presence of more than one NSAID in a plasma or serum sample, and for violations of the established level for total carbon dioxide are:

(1) First offense for the trainer will be:

(a) Minimum 15 day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 60 day suspension; and

(b) Minimum fine of $2,500 absent mitigating circumstances. The presence of aggravating factors could be sued to impose a maximum fine of $10,000.

(2) Second offense within a 365 day period in any jurisdiction for the trainer will be:

(a) Minimum 30 day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a 180 day suspension; and

(b) Minimum fine of $5,000 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $10,000.

(3) Third and any subsequent offense within a 365 day period in any jurisdiction for the trainer will be:

(a) Minimum 90 day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose up to a maximum of a two year suspension;

(b) Minimum fine of $10,000 absent mitigating circumstances; and

(c) May be referred to the commission for any further action deemed necessary by the commission.

(4) First offense for the owner will be:

(a) Disqualification and loss of purse; and

(b) Horse must pass a commission approved examination before becoming eligible to be entered.

(5) Second offense in the owner's stable within a 365 day period in any jurisdiction will be:

(a) Disqualification and loss of purse; and

(b) Horse must pass a commission approved examination before becoming eligible to be entered.

(6) Third and any subsequent offense in owner's stable within a 365 day period in any jurisdiction will be:

(a) Disqualification and loss of purse;

(b) Minimum fine of $5,000 absent mitigating circumstances; and

(c) Horse shall be placed on the veterinarian's list for 45 days and must pass a commission-approved examination before becoming eligible to be entered.

c. The recommended penalties for violations due to the presence of a substance carrying a category "C" penalty are:

(1) First offense for the trainer will be:

~~(a) Disqualification and loss of purse; and~~

~~(b) Minimum fine of $500 absent mitigating circumstances.~~

~~(2) Second offense for the trainer within a 365-day period in any jurisdiction will be:~~

~~(a) Disqualification and loss of purse;~~

~~(b) Minimum fine of $1,000 absent mitigating circumstances; and~~

~~(c) Minimum 15-day suspension absent mitigating circumstances.~~

~~(3) Third and any subsequent offense for the trainer within a 365-day period in any jurisdiction will be:~~

~~(a) Disqualification and loss of purse;~~

~~(b) Minimum fine of $2,500 absent mitigating circumstances; and~~

~~(c) Minimum 30-day suspension absent mitigating circumstances.~~

~~(4) First offense for the owner will be:~~

~~(a) Disqualification and loss of purse;~~

~~(b) Horse must pass a commission-approved examination before becoming eligible to be entered.~~

~~(5) Second offense in owner's stable within a 365-day period in any jurisdiction will be:~~

~~(a) Disqualification and loss of purse;~~

~~(b) Horse shall be placed on the veterinarian's list for 45 days and must pass a commission-approved examination before becoming eligible to be entered.~~

~~(6) Third and any subsequent offense in owner's stable within a 365-day period in any jurisdiction will be:~~

~~(a) Disqualification and loss of purse;~~

~~(b) Minimum fine of $5,000 absent mitigating circumstances; and~~

~~(c) Horse shall be placed on the veterinarian's list for 60 days and must pass a commission-approved examination before becoming eligible to be entered.~~

~~d. The recommended penalty for violations due to the presence of a substance carrying a category "D" penalty is an official letter of reprimand.~~

~~7.~~ 5. Any permit holder of the commission, including practicing veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may be subject to the same penalties set forth to the trainer.

~~8.~~ 6. Any veterinarian found to be involved in the administration of any drug carrying the penalty category of "A" shall be referred to the respective state licensing board of veterinary medicine for consideration of further disciplinary action and/or license revocation. This is in addition to any penalties issued by the stewards or the commission.

~~9.~~ 7. Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes shall be referred to the appropriate law-enforcement agency. Administrative action taken by the stewards or the commission in no way prohibits a prosecution for criminal acts committed, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

~~10.~~ 8. Pursuant to 11VAC10-60-70 E ~~of the commission regulations~~, all horses in the care of a trainer who is suspended for more than 10 days must be transferred to another trainer approved by the stewards. During the period of suspension the suspended trainer shall have no communication with the new trainer, the new trainers' staff, or the horse owner; shall not benefit financially from transferred horses in his stable during the time of suspension; and shall not be permitted on the grounds except with the permission of the stewards.

11VAC10-180-70. Phenylbutazone, flunixin and other NSAIDs.

A. Generally. By this regulation, the Virginia Racing Commission specifically permits the use of either phenylbutazone or flunixin (but not concurrently) in racehorses in the quantities provided for in this chapter.

B. Quantitative testing. Any horse to which phenylbutazone or flunixin has been administered shall be subject to testing at the direction of the commission veterinarian to determine the quantitative levels of phenylbutazone and flunixin or the presence of other substances which may be present.

C. Disciplinary actions. The stewards ~~shall~~ may take ~~the following~~ disciplinary actions for reports of quantitative testing by the primary testing laboratory for levels of phenylbutazone quantified at levels above 2.0 micrograms per milliliter of plasma or flunixin quantified at levels above 20 ng per milliliter of plasma in horses following races, qualifying races, and official timed workouts for the stewards or commission veterinarian~~:~~, and may use the most recent revision of the Association of Racing Commissioners International (RCI) Uniform Classification Guidelines for Foreign Substances as a guide. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which phenylbutazone or flunixin is permitted by the commission.

~~1. The stewards shall impose the following for a post race test quantifying flunixin above 20 ng per milliliter of plasma:~~

~~a. First offense within a 365 day period in any jurisdiction: $500 fine, disqualification and loss of purse;~~

~~b. Second offense within a 365 day period in any jurisdiction: $1,500 fine, disqualification and loss of purse; and~~

~~c. Third offense within a 365 day period in any jurisdiction: $2,500 fine, disqualification and loss of purse.~~

~~2. The stewards shall impose the following for a post race test quantifying phenylbutazone above 2.0 micrograms per milliliter of plasma:~~

~~a. For levels of phenylbutazone quantified above 2.0 to below 2.6 micrograms per milliliter of plasma: a verbal warning;~~

~~b. For levels of phenylbutazone quantified from 2.6 to 5.0 micrograms per milliliter of plasma, first offense within a 365 day period in any jurisdiction: $500 fine;~~

~~c. For levels of phenylbutazone quantified from 2.6 to 5.0 micrograms per milliliter of plasma, second offense within a 365 day period in any jurisdiction: $500 fine, disqualification, and loss of purse;~~

~~d. For levels of phenylbutazone quantified from 2.6 to 5.0 micrograms per milliliter of plasma, third offense within a 365 day period in any jurisdiction: $1,500 fine, disqualification and loss of purse, and 15 day suspension;~~

~~e. For levels of phenylbutazone quantified above 5.0 micrograms per milliliter of plasma, first offense within a 365 day period in any jurisdiction: $1,500 fine, disqualification, and loss of purse:~~

~~f. Any subsequent offense for levels of phenylbutazone quantified above 5.0 micrograms per milliliter of plasma within a 365 day period in any jurisdiction: $2,500 fine, disqualification and loss of purse, and 15 day suspension.~~

~~3. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which phenylbutazone or flunixin is permitted by the commission.~~

11VAC10-180-75. Androgenic and anabolic steroids.

A. All androgenic and anabolic steroids are prohibited in racing horses, except as provided below.

B. Residues of the major metabolite of stanozolol, nandrolone, boldenone and testosterone at concentrations less than the thresholds indicated below are permitted in test samples collected from racing horses.

C. Concentrations of these substances identified in subsection B of this section shall not exceed the following total threshold concentrations (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):

1. Metabolite of stanozolol (16Beta-hydroxystanozolol) – 25 pg/ml in plasma or 1 ng/ml in urine for all horses regardless of gender.

2. Boldenone – 200 pg/ml in plasma or 15 ng/ml in urine in male horses other than geldings. No boldenone is permitted in geldings or female horses.

3. Nandrolone:

a. 50 pg/ml in plasma or 1 ng/ml in urine in geldings, fillies, and mares.

b. 50 pg/ml in plasma or 45 ng/ml in urine in male horses other than geldings.

c. Male horses other than geldings will not be tested.

4. Testosterone.

a. 25 pg/ml in plasma or 20 ng/ml in urine in geldings.

b. 25 pg/ml in plasma or 55 ng/ml in urine in fillies and mares.

c. Male horses other than geldings will not be tested.

D. The presence of more than one of the four substances identified in subsection B of this section at concentrations greater than the individual thresholds indicated in subsection C of this section or a combination of any two or more substances recognized as androgenic or anabolic is prohibited.

E. Test samples collected from male horses other than geldings must be so identified to the laboratory.

F. Any horse administered an androgenic or anabolic steroid to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold, the horse is eligible to be removed from the list.

G. The stewards ~~shall~~ may take disciplinary actions for reports of quantitative testing by the primary testing laboratory indicating the presence of one or more androgenic or anabolic steroid at concentrations above the individual thresholds indicated in subsection C of this section and may use the most recent revision of the Association of Racing Commissioners International (RCI) Uniform Classification Guidelines for Foreign Substances as a guide.

~~1. For the first violation of the regulation pertaining to androgenic and anabolic steroids regarding a particular horse, absent mitigating factors, the recommended penalties are:~~

~~a. Disqualification and loss of purse;~~

~~b. Fine up to $1,000 at the stewards' discretion if aggravating factors are found; and~~

~~c. The horse shall be placed on the veterinarian's list until the concentration has fallen below the designated threshold level.~~

~~2. For the second violation of the regulation pertaining to androgenic and anabolic steroids in a 365-day period for the same horse, absent mitigating factors, the recommended penalties are:~~

~~a. Disqualification and loss of purse;~~

~~b. Fine of $2,500, 90 days suspension; and~~

~~c. The horse shall be placed on the veterinarian's list until the concentration has fallen below the designated threshold level.~~

~~3. For the third violation of the regulation pertaining to androgenic and anabolic steroids in a 365 day period for the same horse, absent mitigating factors, the recommended penalties are:~~

~~a. Disqualification and loss of purse;~~

~~b. Revocation of permit; and~~

~~c. The horse shall be placed on the veterinarian's list until the concentration has fallen below the designated threshold level.~~

11VAC10-180-110. Laboratory findings and reports.

A. Primary testing laboratory. The commission shall designate a primary testing laboratory for the analysis of test samples collected under the supervision of the commission veterinarian. The commission shall designate a chief racing chemist within the primary testing laboratory who shall have the authority to report his findings to the executive secretary of the commission, the stewards and the commission veterinarian.

B. Reference laboratories. The commission shall designate one or more laboratories, other than the primary testing laboratory, as references laboratories. These laboratories will conduct confirmatory analysis of split samples. Any reference laboratory must be willing to accept split samples for confirmatory testing. Any reference laboratory shall send results to both the person requesting the testing and the commission.

C. Chief racing chemist's responsibilities. The chief racing chemist shall be responsible for safeguarding and analyzing the test samples delivered to the primary testing laboratory. It shall be the chief racing chemist's responsibility to maintain proper equipment, adequate staffing and acceptable procedures to thoroughly and accurately analyze test samples submitted to the primary testing laboratory.

D. Reporting procedures. The chief racing chemist shall submit to the commission veterinarian a written report as to each test sample analyzed, indicating by identification tag number whether the test sample was negative or there was a chemical identification. All confirmed positive identifications shall be submitted to the executive secretary, the stewards, and the commission veterinarian.

E. Chemical identifications. If the chief racing chemist determines that there is present in the test sample a substance or metabolites of a substance foreign to the natural horse, except those specifically permitted by the regulations of the commission, he shall submit a report of chemical identification to the executive secretary of the commission, the stewards and the commission veterinarian. In a report of chemical identification, the chief racing chemist shall submit evidence acceptable in the scientific community and admissible in court in support of his determination.

F. Review of chemical identifications. Upon receipt of a report of a chemical identification from the chief racing chemist, the stewards shall conduct a review of the chemical identification, which shall include, but not be limited to, the chief racing chemist and the commission veterinarian. During the review, the following procedures shall apply:

1. All references to the report of a chemical identification shall be only by the identification tag number of the sample collected from the horse;

2. The chief racing chemist shall submit his written report of the chemical identification and the evidence supporting his finding;

3. The commission veterinarian shall submit a written statement to the stewards including, but not limited to, the class of the substance, the concentration level detected in the sample, if determined, and its probable effect on a racehorse;

4. The stewards may ask questions at any time and request further documentation as they deem necessary;

5. After receiving the appropriate information on the identified substance, the stewards shall determine whether the chemical identification constitutes a violation of the regulations of the commission and whether it should be deemed a positive test result. In doing so, the stewards shall consider, among other things, the concentration level reported, its likely effect on the horse, and whether environmental contamination may have contributed to the test result;

6. In the event of a positive test result, the stewards shall notify the trainer and the owner of the horse of the right to send the split sample collected from the horse to one of the reference laboratories, designated by the commission, for confirmatory testing;

7. If the trainer or the owner elects to send the split sample to a reference laboratory, the stewards shall take no disciplinary action against any permit holder until the results from the reference laboratory are received, and the findings shall be a part of the record of any subsequent hearing; and

8. The chief racing chemist's report of a chemical identification, the commission veterinarian's written statement, the results of confirmatory testing and any other documentation submitted to the stewards shall become part of the record of any subsequent proceedings.

G. ~~Barred from racing. No~~ A horse from which a positive test sample was collected ~~shall be permitted to race~~ may be placed on the steward's list until the stewards have made a final determination in the matter. ~~Such a~~ The horse shall not be immune from resulting disciplinary action by the stewards or the commission.

H. Frozen samples. Unconsumed portions of all test samples tested by the primary testing laboratory will be maintained in a frozen state until cleared by the chief racing chemist and permission for their disposal is obtained from the Senior Commonwealth Steward.

I. Split samples. The commission veterinarian or his designee shall determine a minimum test sample requirement for the primary testing laboratory. If the test sample collected is less than the minimum requirement, then the entire test sample shall be sent to the primary laboratory.

If the sample collected is greater than the minimum sample requirement but less than twice that amount, the portion of the test sample that is greater than the minimum test sample requirement shall be secured as the split sample.

If the test sample collected is greater than twice the minimum test sample requirement, a portion of the sample approximately equal to the test sample shipped to the primary testing laboratory shall be secured as the split sample.

J. Storage of split samples. Split samples shall be stored in secured location inside a locked freezer in accordance with the following procedures:

1. Split samples shall be secured in the test barn in the same manner as the portion of the test sample acquired for shipment to the primary laboratory until such time as test samples are packed and secured for shipment to the primary laboratory.

2. Upon packing of the test samples for shipment to the primary laboratory, the split samples shall be transferred to the locked freezer by the commission veterinarian or his authorized designee who shall be responsible for securing possession of the keys.

3. The freezer for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of split samples.

4. Whenever the freezer used for storage of split samples is opened, it shall be attended by the commission veterinarian or his designee and a representative of the horsemen if the respective horsemen's association has provided a representative. In the case that the split samples from a race must be secured in the freezer and no horsemen's representative is present, the commission veterinarian or his designee shall be in attendance.

5. A log shall be maintained each time the freezer used for storage of split samples is opened to specify each person in attendance, the purpose for opening the freezer, identification of split samples deposited or removed, the date and time the freezer was opened, and the time the freezer was locked.

6. Any evidence of a malfunction of the freezer used for storage of split samples or evidence that split samples are not in a frozen condition shall be documented in the log and immediately reported to the stewards.

K. Shipment of split samples. The trainer or owner of the horse shall have 48 hours from receipt of notice of a positive test result to request that the split sample be shipped to one of the reference laboratories designated by the commission and the split sample shall be shipped to the requested reference laboratory. The cost of shipment and additional testing shall be paid by the permit holder requesting the testing of the split sample. Upon the expiration of this 48-hour period, the trainer or owner relinquishes his right to request a split sample.

L. Chain of custody form. The commission veterinarian, or his designee, shall be responsible for the completion of a chain of custody verification form that shall provide a place for recording the following information:

1. Date and time the split sample is removed from the freezer;

2. The test sample number;

3. The address of the reference laboratory;

4. The name and address where the split sample package is to be taken for shipment to the reference laboratory;

5. Verification of retrieval of the split sample from the freezer;

6. Verification that each specific step of the split sample packaging procedure is in accordance with the recommended procedure;

7. Verification of the address of the reference laboratory on the split sample package;

8. Verification of the condition of the split sample package immediately prior to the transfer of custody to the carrier for shipment to the reference laboratory; and

9. The date and time custody of the split sample package was transferred to the carrier. The commission veterinarian, or his designee, shall witness, attest and sign the form, and a copy of the form shall be supplied to the trainer or owner.

In the event that the trainer or owner of the horse, or his designee, is not present, the commission veterinarian may not remove the split sample from the freezer or ship the split sample to a reference laboratory unless the trainer or owner has declined in writing his option to witness the removal, packaging and shipping procedure.

M. Packaging the split sample. The following procedures shall apply to the packaging of the split sample:

1. The split sample shall be removed from the freezer by the commission veterinarian or his designee; the trainer or owner, or his designee, may be present.

2. The trainer or owner, or his designee, may witness the packaging of the split sample by the commission veterinarian or his designee, in accordance with the instructions supplied by the reference laboratory.

3. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.

4. The trainer or owner, or his designee, may accompany the commission veterinarian or his designee while delivering the package containing the split sample to the location where custody is transferred to the delivery carrier for shipment to the reference laboratory.

5. The trainer or owner, or his designee, may inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

6. The trainer or owner, or his designee, if witnessing the procedures, shall sign the chain of custody verification form.

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (11VAC10-180)

~~Universal Bleeder Certificate - Examination for Exercise Induced Pulmonary Hemorrhage (eff. 3/98).~~

~~Furosemide Administration Report (eff. 3/98).~~

~~Chain of Custody Form (eff. 3/98).~~

~~Test Barn Daily Log (eff. 3/98).~~

~~Certification of Removal from the Lasix Program (eff. 7/00).~~

~~Schedule of Split Samples (Id) (eff. 7/00).~~

~~Test Barn Freezer Log (eff. 7/00).~~

Universal Bleeder Certificate - Examination Report for Excercise Induced Pulmonary Hemorrhage (eff. 9/09).

Chain of Custody Form (eff. 2/10).

Test Barn Daily Log (eff. 2/10).

Request to Remove Horse from the Furosemide Program (eff. 9/09).

Test Barn Samples Log (eff. 2/10).

Test Barn Freezer Log (eff. 2/10).

DOCUMENTS INCORPORATED BY REFERENCE (11VAC10-180)

~~Racing Medication and Testing Consortium, Penalty Guidelines, undated.~~

~~Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule, revised July 2007, Association of Racing Commissioners International, Inc.~~

VA.R. Doc. No. R12-3099; Filed March 8, 2012, 11:34 a.m.

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TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Medical Assistance Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: **12VAC30-70. Methods and Standards for Establishing Payment Rates - Inpatient Hospital Services (amending 12VAC30-70-201, 12VAC30-70-221).**

12VAC30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12VAC30-80-10).

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Effective Date: April 25, 2012.

Agency Contact: Brian McCormick, Regulatory Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680, or email brian.mccormick@dmas.virginia.gov.

Summary:

This regulatory action implements federal requirements prohibiting medical assistance payments for provider-preventable conditions, which include health care-acquired conditions in an inpatient hospital setting and other provider-preventable conditions, such as a surgery performed on the wrong body part.

Part V
Inpatient Hospital Payment System

Article 1
Application of Payment Methodologies

12VAC30-70-201. Application of payment methodologies.

A. The state agency will pay for inpatient hospital services in general acute care hospitals, rehabilitation hospitals, and freestanding psychiatric facilities licensed as hospitals under a prospective payment methodology. This methodology uses both per case and per diem payment methods. Article 2 (12VAC30-70-221 et seq.) describes the prospective payment methodology, including both the per case and the per diem methods.

B. Article 3 (12VAC30-70-400 et seq.) describes a per diem methodology that applied to a portion of payment to general acute care hospitals during state fiscal years 1997 and 1998, and that will continue to apply to patient stays with admission dates prior to July 1, 1996. Inpatient hospital services that are provided in long stay hospitals shall be subject to the provisions of Supplement 3 (12VAC30-70-10 through 12VAC30-70-130).

C. Inpatient hospital facilities operated by the Department of Behavioral Health and Developmental Services (DBHDS) shall be reimbursed costs. Facilities may also receive disproportionate share hospital (DSH) payments. The criteria for DSH eligibility and the payment amount shall be based on subsection F of 12VAC30-70-50. If the DSH limit is exceeded by any facility, the excess DSH payments shall be distributed to all other qualifying DBHDS facilities in proportion to the amount of DSH they otherwise receive.

D. Transplant services shall not be subject to the provisions of this part. Reimbursement for covered liver, heart, and bone marrow/stem cell transplant services and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be a fee based upon the greater of a prospectively determined, procedure-specific flat fee determined by the agency or a prospectively determined, procedure-specific percentage of usual and customary charges. The flat fee reimbursement will cover procurement costs; all hospital costs from admission to discharge for the transplant procedure; and total physician costs for all physicians providing services during the hospital stay, including radiologists, pathologists, oncologists, surgeons, etc. The flat fee reimbursement does not include pre- and post-hospitalization for the transplant procedure or pretransplant evaluation. If the actual charges are lower than the fee, the agency shall reimburse the actual charges. Reimbursement for approved transplant procedures that are performed out of state will be made in the same manner as reimbursement for transplant procedures performed in the Commonwealth. Reimbursement for covered kidney and cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in 12VAC30-50-540 through 12VAC30-50-580.

E. Reduction of payments methodology.

1. For state fiscal years 2003 and 2004, the Department of Medical Assistance Services (DMAS) shall reduce payments to hospitals participating in the Virginia Medicaid Program by $8,935,825 total funds, and $9,227,815 total funds respectively. For purposes of distribution, each hospital's share of the total reduction amount shall be determined as provided in this subsection.

2. Determine base for revenue forecast.

a. DMAS shall use, as a base for determining the payment reduction distribution for hospitals Type I and Type II, net Medicaid inpatient operating reimbursement and outpatient reimbursed cost, as recorded by DMAS for state fiscal year 1999 from each individual hospital settled cost reports. This figure is further reduced by 18.73%, which represents the estimated statewide HMO average percentage of Medicaid business for those hospitals engaged in HMO contracts, to arrive at net baseline proportion of non-HMO hospital Medicaid business.

b. For freestanding psychiatric hospitals, DMAS shall use estimated Medicaid revenues for the six-month period (January 1, 2001, through June 30, 2001), times two, and adjusted for inflation by 4.3% for state fiscal year 2002, 3.1% for state fiscal year 2003, and 3.7% for state fiscal year 2004, as reported by DRI-WEFA, Inc.'s, hospital input price level percentage moving average.

3. Determine forecast revenue.

a. Each Type I hospital's individual state fiscal year 2003 and 2004 forecast reimbursement is based on the proportion of non-HMO business (see subdivision 2 a of this subsection) with respect to the DMAS forecast of SFY 2003 and 2004 inpatient and outpatient operating revenue for Type I hospitals.

b. Each Type II, including freestanding psychiatric, hospital's individual state fiscal year 2003 and 2004 forecast reimbursement is based on the proportion of non-HMO business (see subdivision 2 of this subsection) with respect to the DMAS forecast of SFY 2003 and 2004 inpatient and outpatient operating revenue for Type II hospitals.

4. Each hospital's total yearly reduction amount is equal to their respective state fiscal year 2003 and 2004 forecast reimbursement as described in subdivision 3 of this subsection, times 3.235857% for state fiscal year 2003, and 3.235857%, for the first two quarters of state fiscal year 2004 and 2.88572% for the last two quarters of state fiscal year 2004, not to be reduced by more than $500,000 per year.

5. Reductions shall occur quarterly in four amounts as offsets to remittances. Each hospital's payment reduction shall not exceed that calculated in subdivision 4 of this subsection. Payment reduction offsets not covered by claims remittance by May 15, 2003, and 2004, will be billed by invoice to each provider with the remaining balances payable by check to the Department of Medical Assistance Services before June 30, 2003, or 2004, as applicable.

F. Consistent with 42 CFR 447.26 and effective July 1, 2012, the Commonwealth shall not reimburse inpatient hospitals for provider-preventable conditions (PPCs), which include:

1. Health care-acquired conditions (HCACs). HCACs are conditions occurring in any hospital setting, identified as a hospital-acquired condition (HAC) by Medicare other than deep vein thrombosis (DVT)/pulmonary embolism (PE) following total knee replacement or hip replacement surgery in pediatric and obstetric patients.

2. Other provider preventable conditions (OPPCs) as follows: (i) wrong surgical or other invasive procedure performed on a patient; (ii) surgical or other invasive procedure performed on the wrong body part; or (iii) surgical or other invasive procedure performed on the wrong patient.

Article 2
Prospective (DRG-Based) Payment Methodology

12VAC30-70-221. General.

A. Effective July 1, 2000, the prospective (DRG-based) payment system described in this article shall apply to inpatient hospital services provided in enrolled general acute care hospitals, rehabilitation hospitals, and freestanding psychiatric facilities licensed as hospitals, unless otherwise noted.

B. The following methodologies shall apply under the prospective payment system:

1. As stipulated in 12VAC30-70-231, operating payments for DRG cases that are not transfer cases shall be determined on the basis of a hospital specific operating rate per case times relative weight of the DRG to which the case is assigned.

2. As stipulated in 12VAC30-70-241, operating payments for per diem cases shall be determined on the basis of a hospital specific operating rate per day times the covered days for the case with the exception of payments for per diem cases in freestanding psychiatric facilities. Payments for per diem cases in freestanding psychiatric facilities licensed as hospitals shall be determined on the basis of a hospital specific rate per day that represents an all-inclusive payment for operating and capital costs.

3. As stipulated in 12VAC30-70-251, operating payments for transfer cases shall be determined as follows: (i) the transferring hospital shall receive an operating per diem payment, not to exceed the DRG operating payment that would have otherwise been made and (ii) the final discharging hospital shall receive the full DRG operating payment.

4. As stipulated in 12VAC30-70-261, additional operating payments shall be made for outlier cases. These additional payments shall be added to the operating payments determined in subdivisions 1 and 3 of this subsection.

5. As stipulated in 12VAC30-70-271, payments for capital costs shall be made on an allowable cost basis.

6. As stipulated in 12VAC30-70-281, payments for direct medical education costs of nursing schools and paramedical programs shall be made on an allowable cost basis. Payment for direct graduate medical education (GME) costs for interns and residents shall be made quarterly on a prospective basis, subject to cost settlement based on the number of full time equivalent (FTE) interns and residents as reported on the cost report.

7. As stipulated in 12VAC30-70-291, payments for indirect medical education costs shall be made quarterly on a prospective basis.

8. As stipulated in 12VAC30-70-301, payments to hospitals that qualify as disproportionate share hospitals shall be made quarterly on a prospective basis.

C. The terms used in this article shall be defined as provided in this subsection:

"Base year" means the state fiscal year for which data is used to establish the DRG relative weights, the hospital case-mix indices, the base year standardized operating costs per case, and the base year standardized operating costs per day. The base year will change when the DRG payment system is rebased and recalibrated. In subsequent rebasings, the Commonwealth shall notify affected providers of the base year to be used in this calculation.

"Base year standardized costs per case" reflects the statewide average hospital costs per discharge for DRG cases in the base year. The standardization process removes the effects of case-mix and regional variations in wages from the claims data and places all hospitals on a comparable basis.

"Base year standardized costs per day" reflects the statewide average hospital costs per day for per diem cases in the base year. The standardization process removes the effects of regional variations in wages from the claims data and places all hospitals on a comparable basis. Base year standardized costs per day were calculated separately, but using the same calculation methodology, for the different types of per diem cases identified in this subsection under the definition of "per diem cases."

"Cost" means allowable cost as defined in Supplement 3 (12VAC30-70-10 through 12VAC30-70-130) and by Medicare principles of reimbursement.

"Disproportionate share hospital" means a hospital that meets the following criteria:

1. A Medicaid utilization rate in excess of 14%, or a low-income patient utilization rate exceeding 25% (as defined in the Omnibus Budget Reconciliation Act of 1987 and as amended by the Medicare Catastrophic Coverage Act of 1988); and

2. At least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a state Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

3. Subdivision 2 of this definition does not apply to a hospital:

a. At which the inpatients are predominantly individuals under 18 years of age; or

b. Which does not offer nonemergency obstetric services as of December 21, 1987.

"DRG cases" means medical/surgical cases subject to payment on the basis of DRGs. DRG cases do not include per diem cases.

"DRG relative weight" means the average standardized costs for cases assigned to that DRG divided by the average standardized costs for cases assigned to all DRGs.

"Groupable cases" means DRG cases having coding data of sufficient quality to support DRG assignment.

"Hospital case-mix index" means the weighted average DRG relative weight for all cases occurring at that hospital.

"Medicaid utilization percentage" is equal to the hospital's total Medicaid inpatient days divided by the hospital's total inpatient days for a given hospital fiscal year. The Medicaid utilization percentage includes days associated with inpatient hospital services provided to Medicaid patients but reimbursed by capitated managed care providers. This definition includes all paid Medicaid days (from DMAS MR reports for fee-for-service days and managed care organization or hospital reports for HMO days) and nonpaid/denied Medicaid days to include medically unnecessary days, inappropriate level of care service days, and days that exceed any maximum day limits (with appropriate documentation). The definition of Medicaid days does not include any general assistance, Family Access to Medical Insurance Security (FAMIS), State and Local Hospitalization (SLH), charity care, low-income, indigent care, uncompensated care, bad debt, or Medicare dually eligible days. It does not include days for newborns not enrolled in Medicaid during the fiscal year even though the mother was Medicaid eligible during the birth.

"Medicare wage index" and the "Medicare geographic adjustment factor" are published annually in the Federal Register by the Health Care Financing Administration. The indices and factors used in this article shall be those in effect in the base year.

"Operating cost-to-charge ratio" equals the hospital's total operating costs, less any applicable operating costs for a psychiatric DPU, divided by the hospital's total charges, less any applicable charges for a psychiatric DPU. The operating cost-to-charge ratio shall be calculated using data from cost reports from hospital fiscal years ending in the state fiscal year used as the base year.

"Outlier adjustment factor" means a fixed factor published annually in the Federal Register by the Health Care Financing Administration. The factor used in this article shall be the one in effect in the base year.

"Outlier cases" means those DRG cases, including transfer cases, in which the hospital's adjusted operating cost for the

case exceeds the hospital's operating outlier threshold for the case.

"Outlier operating fixed loss threshold" means a fixed dollar amount applicable to all hospitals that shall be calculated in the base year so as to result in an expenditure for outliers operating payments equal to 5.1% of total operating payments for DRG cases. The threshold shall be updated in subsequent years using the same inflation values applied to hospital rates.

"Per diem cases" means cases subject to per diem payment and include (i) covered psychiatric cases in general acute care hospitals and distinct part units (DPUs) of general acute care hospitals (hereinafter "acute care psychiatric cases"), (ii) covered psychiatric cases in freestanding psychiatric facilities licensed as hospitals (hereinafter "freestanding psychiatric cases"), and (iii) rehabilitation cases in general acute care hospitals and rehabilitation hospitals (hereinafter "rehabilitation cases").

"Psychiatric cases" means cases with a principal diagnosis that is a mental disorder as specified in the ICD-9-CM. Not all mental disorders are covered. For coverage information, see Amount, Duration, and Scope of Services, Supplement 1 to Attachment 3.1 A & B (12VAC30-50-95 through 12VAC30-50-310). The limit of coverage of 21 days in a 60-day period for the same or similar diagnosis shall continue to apply to adult psychiatric cases.

"Psychiatric operating cost-to-charge ratio" for the psychiatric DPU of a general acute care hospital means the hospital's operating costs for a psychiatric DPU divided by the hospital's charges for a psychiatric DPU. In the base year, this ratio shall be calculated as described in the definition of "operating cost-to-charge ratio" in this subsection, using data from psychiatric DPUs.

"Readmissions" occur when patients are readmitted to the same hospital for the same or a similar diagnosis within five days of discharge. Such cases shall be considered a continuation of the same stay and shall not be treated as a new case. Similar diagnoses shall be defined as ICD-9-CM diagnosis codes possessing the same first three digits.

"Rehabilitation operating cost-to-charge ratio" for a rehabilitation unit or hospital means the provider's operating costs divided by the provider's charges. In the base year, this ratio shall be calculated as described in the definition of "operating cost-to-charge ratio" in this subsection, using data from rehabilitation units or hospitals.

"Statewide average labor portion of operating costs" means a fixed percentage applicable to all hospitals. The percentage shall be periodically revised using the most recent reliable data from the Virginia Health Information (VHI), or its successor.

"Transfer cases" means DRG cases involving patients (i) who are transferred from one general acute care hospital to another for related care or (ii) who are discharged from one general acute care hospital and admitted to another for the same or a similar diagnosis within five days of that discharge. Similar diagnoses shall be defined as ICD-9-CM diagnosis codes possessing the same first three digits.

"Type One" hospitals means those hospitals that were state-owned teaching hospitals on January 1, 1996. "Type Two" hospitals means all other hospitals.

"Ungroupable cases" means cases assigned to DRG 469 (principal diagnosis invalid as discharge diagnosis) and DRG 470 (ungroupable) as determined by the AP-DRG Grouper.

D. The All Patient Diagnosis Related Groups (AP-DRG) Grouper shall be used in the DRG payment system. Until notification of a change is given, Version 14.0 of this grouper shall be used. DMAS shall notify hospitals when updating the system to later grouper versions.

~~E. Effective January 1, 2010, DRG cases shall be grouped based on the exclusion of Hospital Acquired Conditions (HAC) as published by Medicare periodically. HACs shall be defined using the criteria published by Medicare in the Federal Register (73 FR 48471 48491 (August 19, 2008)). Any significant changes to the Medicare list of conditions shall be implemented each January 1.~~

~~F.~~ E. The primary data sources used in the development of the DRG payment methodology were the department's hospital computerized claims history file and the cost report file. The claims history file captures available claims data from all enrolled, cost-reporting general acute care hospitals, including Type One hospitals. The cost report file captures audited cost and charge data from all enrolled general acute care hospitals, including Type One hospitals. The following table identifies key data elements that were used to develop the DRG payment methodology and that will be used when the system is recalibrated and rebased.

Data Elements for DRG Payment Methodology	
Data Elements	Source
Total charges for each groupable case	Claims history file
Number of groupable cases in each DRG	Claims history file
Total number of groupable cases	Claims history file
Total charges for each DRG case	Claims history file
Total number of DRG cases	Claims history file
Total charges for each acute care psychiatric case	Claims history file
Total number of acute care psychiatric days for each acute care hospital	Claims history file

Total charges for each freestanding psychiatric case	Medicare cost reports
Total number of psychiatric days for each freestanding psychiatric hospital	Medicare cost reports
Total charges for each rehabilitation case	Claims history file
Total number of rehabilitation days for each acute care and freestanding rehabilitation hospital	Claims history file
Operating cost-to-charge ratio for each hospital	Cost report file
Operating cost-to-charge ratio for each freestanding psychiatric facility licensed as a hospital	Medicare cost reports
Psychiatric operating cost-to-charge ratio for the psychiatric DPU of each general acute care hospital	Cost report file
Rehabilitation cost-to-charge ratio for each rehabilitation unit or hospital	Cost report file
Statewide average labor portion of operating costs	VHI
Medicare wage index for each hospital	Federal Register
Medicare geographic adjustment factor for each hospital	Federal Register
Outlier operating fixed loss threshold	Claims history file
Outlier adjustment factor	Federal Register

12VAC30-80-10. General.

The policy and the method to be used in establishing payment rates for each type of care or service (other than inpatient hospitalization, skilled nursing and intermediate care facilities) listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs:

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

2. Participation in the program will be limited to providers of services who accept, as payment in full, the state's payment plus any copayment required under the State Plan.

3. Payment for care or service will not exceed the amounts indicated to be reimbursed in accord with the policy and methods described in this Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.304(a). The state agency has continuing access to data identifying the maximum charges allowed: such data will be made available to the Secretary, HHS, upon request.

4. Consistent with 42 CFR 447.26 and effective July 1, 2012, the Commonwealth shall not reimburse any other providers for (i) wrong surgical or other invasive procedure performed on a patient; (ii) surgical or other invasive procedure performed on the wrong body part; or (iii) surgical or other invasive procedure performed on the wrong patient.

VA.R. Doc. No. R12-3065; Filed February 27, 2012, 1:09 p.m.

DEPARTMENT OF CONSERVATION AND RECREATION
DEPARTMENT OF ENVIRONMENTAL QUALITY

Chesapeake Bay TMDL Draft Phase II Watershed Implementation Plan

The Virginia Department of Conservation and Recreation and the Department of Environmental Quality seek written comments from interested persons on the draft Phase II watershed implementation plan (WIP) for the Chesapeake Bay total maximum daily loads (TMDLs) to address the water quality impairment in Virginia's tidal waters of the Chesapeake Bay. These tidal waters were identified as impaired due to a violation of Virginia's general water quality standard for nutrients and dissolved oxygen.

The Environmental Protection Agency (EPA) has established a federal TMDL for the 92 tidal segments of the Chesapeake Bay and its tidal tributaries and embayments that are listed as impaired or segments that deliver pollutant loads to segments listed as impaired under § 303(d) of the Clean Water Act due to excess nutrients and sediments. The Chesapeake Bay Phase I WIP was approved by EPA on December 29, 2010, and is available at http://www.epa.gov/chesapeakebaytmdl.

In accordance with EPA expectations, the jurisdictions' Phase II watershed implementation plans (WIP) are to identify local and federal partners, how the state will work with these partners to raise awareness as to the level of effort necessary to address the Chesapeake Bay TMDL, and what role those partners can play in reducing pollutants at the local level. EPA also expects the WIP to explain how jurisdictions will work with federal agencies and how progress by local partners will be tracked. The overall purpose is to initiate a set of actions at the local, state, and federal level that will accomplish the allocations goals identified in the Chesapeake Bay TMDL. A copy of Virginia's draft Phase II WIP and supporting documentation are available at http://www.dcr.virginia.gov/vabaytmdl/index.shtml.

The public comment period for Virginia's Phase II WIP development begins on April 1, 2012, and will end on May 31, 2012. Comments or questions on the draft Phase II WIP should be sent to vabaytmdl@dcr.virginia.gov. Written comments and inquiries should include the name, address, and telephone number of the person submitting the comments. For additional questions contact (i) James Davis-Martin, Department of Conservation and Recreation, 900 East Main Street, 8th Floor, Richmond, VA 23219, telephone (804) 786-1795, or email james.davis-martin@dcr.virginia.gov or (ii) Russ Baxter, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, telephone (804) 698-4382, or email russ.baxter@deq.virginia.gov.

Total Maximum Daily Loads for Spout Run and Page Brook in Clarke County

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 an Implementation Plan (IP) for bacteria and sediment total maximum daily loads (TMDLs) for Spout Run and Page Brook in Clarke County. The TMDLs for these stream impairments were completed in June 2010 and a report can be found as the TMDL Development to address bacteria and benthic impairments in the Shenandoah River Watershed, Clarke County, Virginia on DEQ's website at www.deq.virginia.gov/tmdl/apptmdls/shenrvr/spout.pdf.

Section 62.1-44.19:7 C of the Code of Virginia requires the development of an IP for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated costs, benefits, and environmental impacts.

The first public meeting to discuss the development of the IP for the bacteria and sediment TMDLs will be held on Tuesday, April 3, 2012, from 7 p.m. to 9 p.m. at the Boyce Fire Hall, 1 South Greenway Avenue, Boyce, VA. At this meeting, development of the implementation plan will be discussed and citizens will learn how they can be part of the public participation process.

The 30-day public comment period on the information presented at the meeting will end on May 4, 2012. A fact sheet on the development of the IP is available upon request. Questions or information requests should be addressed to Nesha McRae with DCR. Written comments and inquiries should include the name, address, and telephone number of the person submitting the comments and should be sent to Nesha McRae, Department of Conservation and Recreation, 44 Sangers Lane, Suite 102, Staunton, VA 24401, telephone (540) 332-9238, or email nesha.mcrae@dcr.virginia.gov.

STATE CORPORATION COMMISSION

Bureau of Insurance

Administrative Letter 2012-02

TO: All Insurers Licensed to Write Accident and Sickness Insurance in Virginia, and All Health Services Plans and Health Maintenance Organizations Licensed in Virginia

RE: 14VAC5-190-10 et seq.: Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers - 2011 Reporting Period

The purpose of this Administrative Letter is to assist carriers in the preparation of the Annual Report of Cost and Utilization Data relating to Mandated Benefits and Providers

required pursuant to 14VAC5-190-10 et seq. and § 38.2-3419.1 of the Code of Virginia, and to remind all affected carriers of the reporting requirements applicable to mandated benefits and providers for the 2011 reporting year.

The Virginia total annual written premiums for all accident and sickness policies or contracts referenced in the regulation is the amount reported to the Commission on the company's Annual Statement for the year ending December 31, 2011. This is the amount used to determine if a report is required. If the total annual written premium reported to Virginia for all accident and sickness lines is less than $500,000 or the company is licensed to issue only credit accident and sickness insurance, the company is EXEMPT from filing any information and a report is not required.

A company may be required to file a COMPLETE report or an ABBREVIATED report if the total annual written premium reported to Virginia for all accident and sickness lines is at least $500,000 (excluding credit only accident and sickness). Carriers should refer to 14VAC5-190-40 for an explanation of the circumstances under which a COMPLETE or an ABBREVIATED report must be filed.

Each affected carrier must submit a completed Form MB-1 to furnish the required information. It is not acceptable to submit more than one Form MB-1 for a single carrier or to consolidate information from different carriers on one form.

The completed Form MB-1 (cover sheet and sections) is due on or before May 1, 2012 and may be submitted electronically. The due date may not be extended for any reason, including the inability to file the reports electronically. The instructions, representative CPT and ICD-9-CM codes, and forms for the 2011 reporting period are available on the Bureau of Insurance's website at: http://www.scc.virginia.gov/boi/co/health/mandben.aspx.

The instructions explain the type of information necessary to complete Form MB-1. All sources of information, including 14VAC5-190-10 et seq., §§ 38.2-3408 through 38.2-3418.16, as applicable, § 38.2-4221, and CPT and ICD-9-CM codes, should be consulted in the preparation of this report. Please note that the CPT and ICD-9-CM codes are not intended to exhaust all medical codes that may be used in collecting data for Form MB-1, but are representative of some of the more common codes associated with the mandated benefits.

Carriers are reminded that failure to submit a substantially complete and accurate report pursuant to the provisions of 14VAC5-190-10 et seq. by May 1, 2012, may be considered a violation subject to a penalty as set forth in § 38.2-218 of the Code of Virginia. Lack of notice, lack of information, lack of means of producing the required data, or other such reasons will not be accepted for not submitting a complete and accurate report in a timely manner.

ALERT! Beginning with calendar year 2012, companies are required to capture data for autism spectrum disorder. This data must be included in the 2012 mandated benefits report due on or before May 1, 2013. Please refer to § 38.2-3418.17 for coverage details.

Correspondence regarding reporting requirements should be directed to Mary Ann Mason, Senior Insurance Market Examiner, Forms and Rates Section, Bureau of Insurance, Life and Health Division, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9348, FAX (804) 371-9944, or email maryann.mason@scc.virginia.gov.

System related questions or problems should be directed to Andrew Iverson, Insurance Analyst, Bureau of Insurance, Automated Systems, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9851, FAX (804) 371-9516, or email andrew.iverson@scc.virginia.gov.

/s/ Jacqueline K. Cunningham
Commissioner of Insurance

DEPARTMENT OF ENVIRONMENTAL QUALITY

Draft Environmental Assessment Virginia Tech-Montgomery Executive Airport Proposed Extension of Runway 12 and Associated Improvements

Purpose of notice: The Department of Environmental Quality (DEQ) seeks public comments on a Draft Environmental Assessment (EA) for the proposed extension of Runway 12 and associated improvements at Virginia Tech-Montgomery Executive Airport located within the Town of Blacksburg, Virginia.

Public comment period: March 14, 2012, through April 13, 2012.

Type of response: DEQ is reviewing a Draft Environmental Assessment (EA) for a proposed runway extension as a component of the airport's License Modification Application.

Name of agency proposing the project: The Virginia Tech-Montgomery Regional Airport Authority has submitted a License Modification Application to the Virginia Department of Aviation (DOAV).

Project description: The Draft EA has been prepared to address the range of potential environmental impacts that could result from the implementation of the proposed extension of Runway 12 with a parallel taxiway and associated improvements. The EA describes potential impacts associated with the development actions of the 2010 Airport Layout Plan, which includes a 1,870-foot runway extension, relocation of navigational aides and fueling facilities, and removal of structures and tree obstructions.

How a decision is made: DEQ's Office of Environmental Impact Review coordinates the Commonwealth's response to environmental documents for proposed state and federal projects. DEQ distributes the documents to appropriate state

agencies, planning districts, and localities for their review and comment. Upon consideration of all comments, DEQ prepares a single state response.

How to comment: DEQ accepts comments from the public by email, fax, or U.S. mail (see below). All comments must include the name, address, and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the project documents at DEQ's Central Office, 629 East Main Street, Room 646, Richmond, VA 23219 and at the following locations:

- Virginia Tech-Montgomery Executive Airport, 1601 Tech Center Drive, Blacksburg, VA 24060
- Blacksburg Public Library, 200 Miller Street, Blacksburg, VA 24060
- Virginia Department of Aviation, 5702 Gulfstream Road, Richmond, VA 23250
- Federal Aviation Administration, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 20166

A joint public hearing on the Draft EA will be hosted by DEQ in conjunction with the Federal Aviation Administration and DOAV for the purposes of compliance with the National Environmental Policy Act and state licensing requirements (Title 5.1 of the Code of Virginia). Anyone desiring to be heard in support of or in opposition to this proposed action may attend and have their comments considered by DEQ and DOAV.

Date: Wednesday, March 28, 2012.
Time: Informational Workshop between 6 p.m. and 7 p.m.
Public Hearing beginning at 7 p.m.
Location: Virginia Tech-Montgomery Executive Airport, 1601 Tech Center Drive, Blacksburg, VA 24060

Contact for public comments, document requests, and additional information: Ellie Irons, Program Manager, Environmental Impact Review, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4325, FAX (804) 698-4319, or email ellie.irons@deq.virginia.gov, or Julia Wellman, EIR Coordinator, Office of Environmental Impact Review, Department of Environmental Quality, telephone (804) 698-4326, FAX (804) 698-4319, or email julia.wellman@deq.virginia.gov.

Total Maximum Daily Load Studies in Waters in Accomack County

The Department of Environmental Quality (DEQ) will host a public meeting on water quality studies for Gargathy Creek, Finney Creek, Northam Creek, Folly Creek, Ross Branch, and Wachapreague Channel, which are all located in Accomack County, on Wednesday, March 28, 2012.

The meeting will start at 6:30 p.m. at the Accomack-Northampton Planning District Commission (A-NPDC) located at 23372 Front Street, Accomac, VA 23301. The purpose of the meeting is to provide information and discuss the study with community members and local government.

Gargathy Creek (benthic, E. coli, dissolved oxygen (DO), Finney Creek (enterococci), Northam Creek (DO), Folly Creek (DO, benthic), Ross Branch (benthic) and Wachapreague Channel (enterococci) were identified in Virginia's 2010 Water Quality Assessment & Integrated Report as impaired due to violations of the state's water quality standard for recreation bacteria, dissolved oxygen, and benthic integrity and do not support the designated uses.

Section 303(d) of the 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 and subsequent Water Quality Assessment Reports.

During the study, DEQ will develop a total maximum daily load for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the TMDL amount. The Virginia Departments of Environmental Quality, Conservation and Recreation, and Health are working to identify the sources of pollution in the watersheds of these streams.

The public comment period on materials presented at this meeting will extend from March 28, 2012, to April 27, 2012. For additional information or to submit comments, contact Jennifer Howell, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2111, or email jennifer.howell@deq.virginia.gov.

Additional information is also available on the DEQ website at www.deq.virginia.gov/tmdl.

LIBRARY OF VIRGINIA

Notice of Periodic Review

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Library of Virginia is conducting a periodic review of 17VAC15-120, Elimination of Social Security Numbers in Public Records. The review of this regulation will be guided by the principles in Executive Order 14 (2010) and § 2.2-4007.1 of the Code of Virginia.

The purpose of this review is to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the

economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins April 1, 2012, and ends on May 31, 2012.

Comments may be submitted online to the Virginia Regulatory Town Hall at http://www.townhall.virginia.gov/L/Forums.cfm. Comments may also be sent to John Metz, Director, Archives, Records, Collection Services, 800 East Broad Street, Richmond, VA 23219, telephone (804) 692-3607, FAX (804) 692-2277, or email john.metz@lva.virginia.gov.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of the periodic review will be posted on the Town Hall and published in the Virginia Register of Regulations.

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on March 14, 2012. The orders may be viewed at the State Lottery Department, 900 East Main Street, Richmond, VA, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, VA.

Director's Order Number Twenty-Six (12)

Virginia's Instant Game Lottery 1300; "Treasurer" Final Rules for Game Operation (effective March 13, 2012)

Director's Order Number Thirty (12)

"Buy One Get One Chain Account Promotion" Virginia Lottery Retailer Incentive Program Rules (effective March 13, 2012)

BOARD OF MEDICAL ASSISTANCE SERVICES

Legal Notice
Hospital Inpatient Reimbursement for Type One Hospitals
Notice of Intent to Amend the Virginia State Plan for Medical Assistance (pursuant to § 1902(a)(13) of the Act (42 USC § 1396a(a)(13))

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates-Inpatient Hospital Services (12VAC30-70). Hospital inpatient reimbursement for Type One hospitals is being amended to change reimbursement for graduate medical education to cover costs for Type One hospitals, to case mix adjust the formula for indirect medical education reimbursement for HMO discharges for Type One hospitals, and to increase the adjustment factor for Type One hospitals to 1.0. DMAS estimates that this will increase Medicaid reimbursement by $111 million annually, which will replace disproportionate share hospital funding for Type One hospitals.

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act, 42 USC § 1396a(a)(13). A copy of this notice is available for public review from William Lessard, Provider Reimbursement Division, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, and on the Regulatory Town Hall (www.townhall.com). Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Mr. Lessard and such comments are available for review at the same address.

Contact Information: William Lessard, Provider Reimbursement Division, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 786-1680, or email william.lessard@dmas.virginia.gov.

Legal Notice
2012 Pharmacy Reimbursement Changes
Notice of Intent to Amend the Virginia State Plan for Medical Assistance (pursuant to § 1902(a)(13) of the Act (42 USC § 1396a(a)(13))

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance (State Plan) with two changes to the State Plan: (i) elimination of the additional reimbursement for unit dose dispensing systems for patients residing in nursing facilities (12VAC30-80-40 7) and (ii) modification of the model supplemental rebate agreement between the Commonwealth of Virginia and pharmaceutical manufacturers for legend drugs provided to fee-for-service Medicaid individuals (12VAC30-80-40 9). The elimination of the additional reimbursement for the unit dose dispensing system change is being made as a result of Chapter 890, Item 297 NNNN of the 2011 Acts of the Assembly. The modifications of the model supplemental rebate agreement are being made to improve government operational efficiencies by reducing paperwork.

The payment of the dispensing fee for unit dose prescription drugs covered by DMAS is no longer necessary or appropriate as a result of the onset of the Medicare Part D program. This Medicare program reimburses for most of the drugs required by individuals in nursing facilities. Although DMAS still covers drugs not covered by Medicare Part D (benzodiazepines, barbiturates, and over-the-counter medications) and prescription drugs for Medicaid nursing facility individuals who are not eligible for Medicare Part D,

the vast majority of unit dose prescriptions by volume are now provided by Medicare Part D plans. Additionally, DMAS determined in a recent analysis of pharmacy reimbursement that nursing facility pharmacies, which do provide unit dose prescriptions to nursing facility individuals, are no longer preparing unit dose dispensing systems in-house. Instead, they are receiving prepackaged unit dose prescriptions directly from external pharmacies, thereby making the unit dose dispensing fee no longer necessary. DMAS estimated that the elimination of the unit dose dispensing fee will save the agency approximately $323,708 in federal matching fund dollars for the 2012 state fiscal year.

The second change to the State Plan provides for streamlining the supplemental rebate agreement process between DMAS and drug manufacturers. Modifications to the supplemental rebate contracts and their amendments will reduce the amount of paperwork necessary to review and execute the contracts for pharmaceutical manufacturers by combining contracts into one document and the contract amendments into another document. Once implemented, the streamlined documents can be renewed annually by executing a two-page amendment thereby reducing paperwork and saving turnaround time. All CMS requirements will remain in the revised documents and the financial formula. There is no expected increase or decrease in annual aggregate expenditures for this change.

This notice is intended to satisfy the requirements of 42 CFR 447.205 and § 1902(a)(13) of the Social Security Act, 42 USC § 1396(a)(13). A copy of this notice is available for public view from Scott Cannady, Division of Health Care Services, 600 East Broad Street, Suite 1300, Richmond VA 23219, and on the Regulatory Town Hall (www.townhall.com). Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Mr. Cannady and such comments are available for review at www.townhall.com.

Contact Information: Brian McCormick, Regulatory Supervisor, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680, TDD (800) 343-0634, or email brian.mccormick@dmas.virginia.gov.

Notice of Periodic Review

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medical Assistance Services is conducting a periodic review of 12VAC30-60-300 (nursing facility criteria), 12VAC30-60-303 (pre-admission screening criteria for long-term care), and 12VAC30-60-307 (summary of pre-admission nursing facility criteria) of the Standards Established and Methods Used to Assure High Quality Care, relating to preadmission screening criteria for long term care-pediatric UAI. The review of this regulation will be guided by the principles in Executive Order 14 (2010) and § 2.2-4007.1 of the Code of Virginia.

The purpose of this review is to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins March 26, 2012, and ends on April 16, 2012.

Comments may be submitted online to the Virginia Regulatory Town Hall at http://www.townhall.virginia.gov/L/Forums.cfm. Comments may also be sent to Brian McCormick, Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680, or email brian.mccormick@dmas.virginia.gov.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of the periodic review will be posted on the Town Hall and published in the Virginia Register of Regulations.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Proposed Consent Special Order - Pinnacle Construction and Development Corporation

Purpose of notice: To seek public comment on the terms of a proposed consent special order issued to Pinnacle Construction and Development Corporation (Pinnacle).

Public comment period: March 26, 2012, through April 25, 2012.

Summary of proposal: The proposed consent special order describes a settlement with Pinnacle to resolve alleged past violations of the Virginia Stormwater Management Act and Regulations at Pinnacle's Treesdale Park construction project located off of Rio Road in Albemarle County.

How to comment: The Virginia Department of Conservation and Recreation accepts written comments from the public by mail, email, or facsimile. All comments must include the name, address, and telephone number of the person commenting. Comments must be received during the comment period. A copy of the proposed consent special

order is available on request from the person identified directly below as the contact.

Contact for public documents, documents, and additional information: Edward A. Liggett, Department of Conservation and Recreation, 900 Natural Resources Drive, Suite 800-DCR, Charlottesville, VA 22903, telephone (434) 220-9067, FAX (804) 786-1798, or email ed.liggett@dcr.virginia.gov.

STATE WATER CONTROL BOARD

2012 Water Quality Assessment Integrated Report - Webinar Date Changed

The Department of Environmental Quality (DEQ) will release the Draft 2012 Water Quality Assessment Integrated Report (Integrated Report) on March 26, 2012, for public comment.

The Integrated Report combines both the 305(b) Water Quality Assessment and the 303(d) Report on Impaired Waters. Both are required by the Federal Clean Water Act and the Virginia Water Quality Monitoring Information and Restoration Act. The report will be available for download on the DEQ website at http://www.deq.virginia.gov/wqa/ throughout the public comment period, which ends April 27, 2012.

The final report, responses to public comments, and map products will be available later this year after review and approval by the U.S. Environmental Protection Agency. Copies will be available at no charge on CD-ROM (limit one per person) by request via the DEQ webpage or by telephone at (804) 698-4191.

A public webinar is scheduled for 10 a.m. on April 9, 2012. The public is invited to submit questions pertaining to the Integrated Report during this event. All submitted questions will be addressed in a "FAQ" document that will be subsequently posted on the DEQ webpage. Further details about the webinar will also be provided on the webpage on March 26, 2012.

Written comments on the draft Integrated Report may be sent to the contact person below. Please include your name, U.S. mail address, telephone number, and email address.

Contact Information: John Kennedy, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4312, FAX (804) 698-4116, or email john.kennedy@deq.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at http://register.dls.virginia.gov/cumultab.htm.

Filing Material for Publication in the Virginia Register of Regulations: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

ERRATA

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Regulations: **12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12VAC30-50-165).**

12VAC30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12VAC30-80-30).

Publication: 28:9 VA.R. 794 January 2, 2012.

Correction to Notice of Extension of Emergency Regulation:

Page 794, Titles of Regulations, line 6, change "12VAC30-80-80" to "12VAC30-80-30"

VA.R. Doc. No. R10-2333; Filed March 6, 2012, 11:29 a.m.

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: **22VAC40-60. Standards and Regulations for Licensed Adult Day Care Centers.**

Publication: 28:14 VA.R. 1262-1266 March 12, 2012.

Correction to Final Regulation:

Page 1262, Effective Date, change "April 1, 2012" to "April 11, 2012"

VA.R. Doc. No. R12-3091; Filed March 6, 2012, 2:00 p.m.